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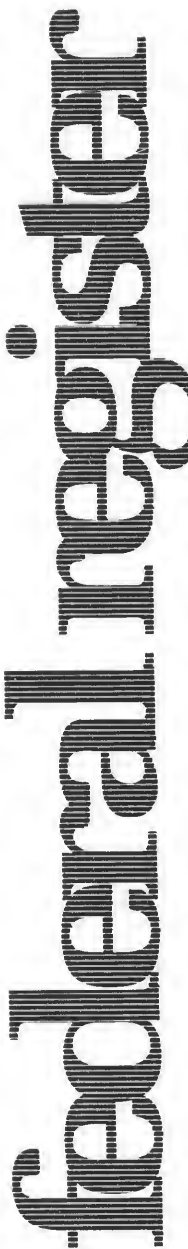

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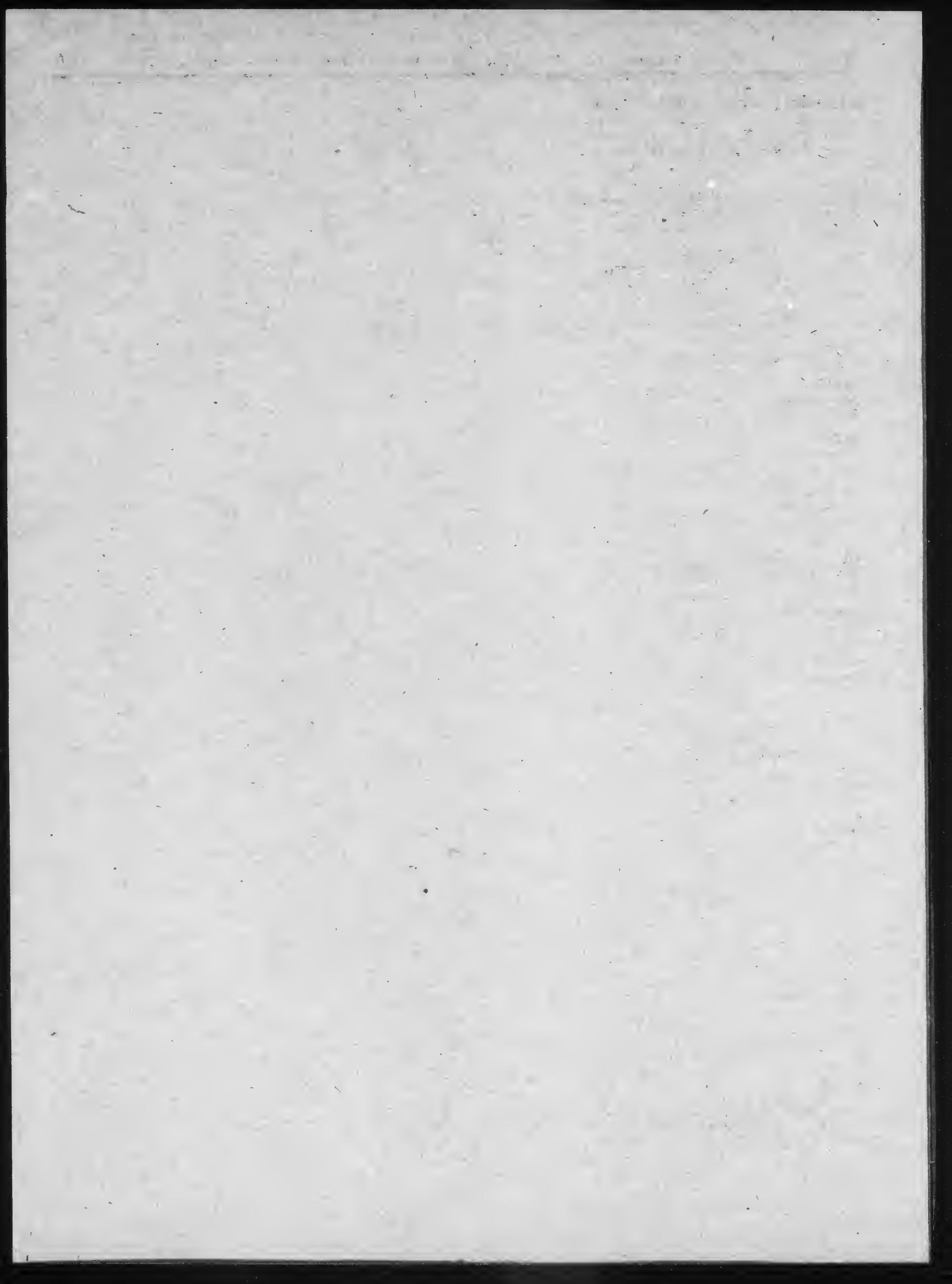

Rules and Regulations

Federal Register
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Wednesday, October 25, 1995

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.

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 831 and 842

RIN 3206–AG16

Retirement; Alternative Forms of Annuity

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations on alternative forms of annuity to establish a standard for determining what constitutes a critical medical condition to replace the standard that the Merit Systems Protection Board determined was invalid. The interim regulations also make effective the previously proposed regulations to implement the changes made by the Omnibus Budget Reconciliation Act of 1993—the alternative form of annuity is no longer available for employees whose annuities commence on or after October 1, 1994, except for employees who have a life-threatening affliction or other critical medical condition—and also to revise the list of critical medical conditions considered *prima facie* evidence of eligibility. The regulations are necessary to conform the regulations with current law.

DATES: Interim rules effective November 24, 1995.

Comments must be received on or before December 26, 1995.

ADDRESSES: Send comments to John E. Landers, Chief, Retirement Policy Division; Retirement and Insurance Service; Office of Personnel Management; P.O. Box 57; Washington, DC 20044; or deliver to OPM, Room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202) 606–0299.

SUPPLEMENTARY INFORMATION: On November 4, 1994, we published (at 59 FR 55211) proposed regulations on alternative forms of annuity (AFA) to implement the changes in sections 8343a and 8420a of title 5, United States Code, made by the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66. The Act included a provision terminating this benefit for employees whose annuities commence on or after October 1, 1994, except for employees who have a life-threatening affliction or other critical medical condition. We also proposed to revise the list of critical medical conditions considered *prima facie* evidence of eligibility. We received one comment on the proposed regulations.

The commenter expressed concern about applications for annuity who have a critical medical condition that is not on the list of conditions that constitute *prima facie* evidence of medical eligibility. The commenter stated that these applicants should be allowed to qualify based on medical condition. Sections 831.2207(c)(3)(iv) and 842.707(c)(3)(iv) of Title 5, Code of Federal Regulations, already accomplish that goal. A doctor's certification that an applicant has one of the listed conditions is sufficient for an OPM benefits specialist to approve a claim for the alternative form of annuity without review by an OPM doctor. If an applicant claims entitlement to the AFA because of a medical condition not on the list, an OPM doctor reviews the medical evidence to verify that the condition is qualifying.

Subsequent to the publication of the proposed regulations, the Merit Systems Protection Board (MSPB), in the case of *Ora L. Haywood* v. *OPM,* Docket No. DC0831930087–I–1 (Dec. 4, 1994), decided that OPM's regulation at section 831.2207(c)(3)(i) defining a "life-threatening affliction or other critical medical condition" is invalid. The regulatory standard rejected by MSPB required a "medical condition so severe as to reasonably limit an individual's probable life expectancy to less than one year."

As determined by the Board, the Congress retained the AFA for any nondisability retiree with a "life-threatening affliction or other critical medical condition." The law allows such employees to recover their retirement contributions during their lifetime. The phrase "life-threatening affliction or other critical medical condition" was first added to section 8343a by section 6001 of Public Law 100–203, December 22, 1987, 101 Stat. 1330–275. Congress had provided an exception to the deferred payment schedule for the alternative annuity lump-sum benefit to this same category annuitants, namely, nondisability annuitants who were suffering from a "life-threatening affliction or other critical medical condition" at the time of retirement.

OPM originally defined a "life-threatening affliction or other critical medical condition" in its interim regulations, published April 8, 1988, in the **Federal Register**, 53 FR 11633, after the passage of Public Law 100–203. The Supplementary Information in the rulemaking notice explained that the amendment to section 8343a changed the way the lump-sum credit was paid to certain retirees who elected the alternative form of annuity. Retirees whose annuities began after January 3, 1988, and before October 1, 1989, who elected the alternative form of annuity received the lump-sum payment in two installments. The first installment was paid at the time of retirement and the second installment 1 year after the commencing date of annuity.

A retiree who died within 1 year of the date of his retirement due to a life-threatening affliction or other critical condition would not realize the full benefit of his alternative annuity election since he or she would not be alive to receive the second installment of the lump-sum payment. Retirees in this situation were, therefore, permitted to receive the entire amount of the lump-sum benefit in one installment payable at the time of retirement. Retirees whose probable life expectancy was not less than 1 year were likely to be alive to receive payment of the second installment of the lump-sum benefit. Therefore, there would be no need to exclude them from receiving payment in two installments.

Section 7001(a)(4) of the Omnibus Budget Reconciliation Act of 1990, October 27, 1990, 104 Stat. 1388–327, Pub. L. 101–508, made several changes to the Civil Service Retirement law. Among those changes was the suspension of the alternative form of

annuity with a lump-sum payment equal to an employee's retirement contributions, for most Federal employees covered by the Civil Service Retirement System whose voluntary annuities commenced on or after December 2, 1990, but before October 1, 1995. An exception provided for in this legislation was codified at 5 U.S.C. 8343a(f)(2). This exception allowed nondisability annuitants to receive the lump-sum payment if they were suffering from a "life-threatening affliction or other critical medical condition" at the time of retirement.

OPM's interim regulations implementing Public Law 101–508 were published on February 19, 1991, using the same definition of "life-threatening affliction or other critical medical condition." The regulations implementing this provision are found at 5 CFR 831.2203(h)(1)(i) and 831.2207 (c)(2) and (3). A "life-threatening affliction or other critical medical condition" is defined at 5 CFR 831.2207(c)(3)(i) as a "medical condition so severe as to reasonably limit an individual's probable life expectancy to less than one year."

MSPB concluded that OPM's regulatory interpretation at sections 831.2207 and 831.2208 of Title 5, Code of Federal Regulations, was appropriate for the bifurcated payments in the original statute because the 1-year deferral of the lump-sum payment would be against equity and good conscience for individuals suffering from medical conditions that would likely be fatal within a year. However, in the context of continued eligibility under the 1990 (and 1993) provisions, MSPB found that standard unacceptable. MSPB stated that the purpose of the provision was to allow critically-ill employees to recover their contributions during their lifetime.

To conform our regulations with the Board determination of the purpose of the provision, we calculated the time that a newly-retired, nondisability retiree receiving the average monthly annuity must collect annuity to recover the average amount of employee contributions. On average, nondisability CSRS annuitants must receive annuity for 22 months to recover their contributions. Thus, an individual who at the time of retirement has a medical condition which is not likely to limit his or her life expectancy to less than 2 years will usually live long enough to recover all of his or her retirement contributions in the form of monthly annuity benefits. Accordingly, we are amending sections 831.2207(c)(3)(i) and 842.707(c)(3)(i) of Title 5, Code of Federal Regulations, to replace the 1-year standard with a 2-year standard.

The amendments to paragraph (e) of section 831.2203 and paragraph (b) of section 842.704 correct obsolete procedures that have become inappropriate because of statutory changes. When AFA was available to all nondisability retirees, we notified all employees of their payment options. The current law permits AFA in a very small number of cases. Notice of AFA election rights to all retiring employees is no longer appropriate. An eligible employee must notify OPM and submit qualifying medical evidence to initiate the election process. The regulations have been amended to reflect this change.

Waiver of General Notice of Proposed Rulemaking

Under section 553(b)(3)(B) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking for the change in the definition of a "life-threatening affliction or other critical medical condition." Delaying the implementation of the 2-year standard would be contrary to the public interest. Because MSPB has already invalidated the current 1-year standard in our regulations, a delay in application of the new 2-year standard serves no purpose.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect federal employees and agencies and retirement payments to retired Government employees and their survivors.

List of Subjects in 5 CFR Parts 831 and 842

Administrative practice and procedure, Air traffic controllers, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM is amending 5 CFR parts 831 and 842 as follows:

PART 831—RETIREMENT

1. The authority citation for part 831 continues to read as follows:

Authority: 5 U.S.C. 8347; § 831.102 also issued under 5 U.S.C. 8334; § 831.106 also issued under 5 U.S.C. 552a; § 831.108 also issued under 5 U.S.C. 8336(d)(2); § 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); § 831.204 also issued under section 7202(m)(2) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 105–508, 104 Stat. 1388–339; § 831.303 also issued under 5 U.S.C. 8334(d)(2); § 831.502 also issued under 5 U.S.C. 8337; § 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964–1965 Comp.; § 831.621 also issued under section 201(d) of the Federal Employees Benefits Improvement Act of 1986, Pub. L. 99–251, 100 Stat. 23; subpart S also issued under 5 U.S.C. 8345(k); subpart V also issued under 5 U.S.C. 8343a and section 6001 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203, 101 Stat. 1330–275; § 831.2203 also issued under section 7001(a)(4) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508; 104 Stat. 1388–328.

2. In section 831.2203, paragraph (e) is revised, paragraphs (h)(1) introductory text, (h)(1)(i), and (h)(1)(ii) are redesignated as paragraphs (h)(1)(i) introductory text, (h)(1)(i)(A), and (h)(1)(i)(B), respectively, and a new paragraph (h)(1)(ii) is added to read as follows:

§ 831.2203 Eligibility.

* * * * *

(e) An election of the alternative form of annuity must be in writing and received by OPM on or before the date of final adjudication. After the date of final adjudication, an election of the alternative form of annuity is irrevocable.

* * * * *

(h)(1) * * *

(ii) An individual whose annuity commences on or after October 1, 1994, may elect an alternative form of annuity only if that individual is an employee or Member who meets the conditions and fulfills the requirements described in § 831.2207(c) (2) and (3).

* * * * *

3. In section 831.2207, paragraph (c)(3)(i) is revised, paragraph (c)(3)(ii)(G) is removed and reserved, paragraph (c)(3)(ii)(V) is removed, and paragraphs (c)(3)(ii) (B), (H), (K), and (M) are revised to read as follows:

§ 831.2207 Partial deferred payment of the lump-sum credit if annuity commences after January 3, 1988, and before October 1, 1989.

* * * * *

(c) * * *

(3)(i) For the purpose of this section, *life-threatening affliction or other critical medical condition* means a medical condition so severe as to reasonably limit an individual's probable life expectancy to less than 2 years.

(ii) * * *

(B) Aortic stenosis (severe).

* * * * *

(H) Severe cardiomyopathy—Class IV.

(K) Cardiac aneurysm not amenable to surgical treatment.

* * * * *

(M) Severe hepatic failure.

* * * * *

§§ 831.2203, 831.2208 [Amended]

4. In the list below, for each section and paragraph indicated in the left two columns, remove the reference indicated in the third column where it appears in the paragraph, and add the reference indicated in the fourth column:

Section	Paragraph	Remove	Add
831.2203 ..	Newly designated (h)(1)(i) introductory text	1995	1994
831.2203 ..	(h)(2) introductory text	(h)(1)(ii)	(h)(1)(i)(B)
831.2208 ..	(a) introductory text	1995	1994
831.2208 ..	(b)	1995	1994
831.2208 ..	(c)(2)(ii)	831.2203(h)(1)(i)	831.2203(h)(1)(i)(A)

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

5. The authority citation for part 842 continues to read as follows:

Authority: 5 U.S.C. 8461(g); §§ 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); § 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); § 842.106 also issued under section 7202(m)(2) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508 and 5 U.S.C. 8402(c)(1); §§ 842.604 and 842.611 also issued under 5 U.S.C. 8417; § 842.607 also issued under 5 U.S.C. 8416 and 8417; § 842.614 also issued under 5 U.S.C. 8419; § 842.615 also issued under 5 U.S.C. 8418; § 842.703 also issued under section 7001(a)(4) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508; § 842.707 also issued under section 6001 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203; § 842.708 also issued under section 4005 of the Omnibus Budget Reconciliation Act of 1989, Pub. L. 101–239 and section 7001 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508; subpart H also issued under 5 U.S.C. 1104.

6. In section 842.703, paragraphs (d)(1) introductory text, (d)(1)(i), and (d)(1)(ii) are redesignated as paragraphs (d)(1)(i) introductory text, (d)(1)(i)(A), and (d)(1)(i)(B), respectively, and a new paragraph (d)(1)(ii) is added to read as follows:

§ 842.703 Eligibility.

* * * * *

(d)(1) * * *

(ii) An individual whose annuity commences on or after October 1, 1994, may elect an alternative form of annuity only if that individual is an employee or Member who meets the conditions and fulfills the requirements described in § 842.707(c) (2) and (3).

* * * * *

7. In section 842.704, paragraph (b) is revised to read as follows:

§ 842.704 Election requirements.

* * * * *

(b) An election of the alternative form of annuity must be in writing and received by OPM on or before the date of final adjudication. After the date of final adjudication, an election of the alternative form of annuity is irrevocable.

* * * * *

8. In section 842.707, paragraph (c)(3)(i) is revised, paragraph (c)(3)(ii)(G) is removed and reserved, paragraph (c)(3)(ii)(V) is removed, and paragraphs (c)(3)(ii) (B), (H), (K), and (M) are revised to read as follows:

§ 842.707 Partial deferred payment of the lump-sum credit if annuity commences after January 3, 1988, and before October 1, 1989.

* * * * *

(c) * * *

(3)(i) For the purpose of this section, *life-threatening affliction or other critical medical condition* means a medical condition so severe as to reasonably limit an individual's probable life expectancy to less than 2 years.

(ii) * * *

(B) Aortic stenosis (severe).

* * * * *

(H) Severe cardiomyopathy—Class IV.

* * * * *

(K) Cardiac aneurysm not amenable to surgical treatment.

* * * * *

(M) Severe hepatic failure.

* * * * *

§§ 842.703, 842.708 [Amended]

9. In the list below, for each section and paragraph indicated in the left two columns, remove the reference indicated in the third column where it appears in the paragraph, and add the reference indicated in the fourth column:

Section	Paragraph	Remove	Add
842.703	Newly designated (d)(1)(i) introductory text	1995	1994
842.703	(d)(2) introductory text	(d)(1)(ii)	(d)(1)(i)(B)
842.708	(a) introductory text	1995	1994
842.708	(b)	1995	1994
842.708	(c)(2)(ii)	842.703(d)(1)(i)	842.703(d)(1)(i)(A)

[FR Doc. 95–26233 Filed 10–24–95; 8:45 am]
BILLING CODE 6325–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 106, 109, 110, 111, 128, 129, and 144, and 48 CFR Part 2209

Lease Guarantee; Prepayment of Small Business Investment Company and Certified Development Company Debentures; Small Business Investment Company Investigations; Pollution Control; Grants for Small Business Research; Management Assistance; Discounted Prepayment of Disaster Home Loans; and Contractor Qualifications

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: In response to President Clinton's government-wide regulatory reform initiative, the Small Business Administration (SBA) has completed a page-by-page, line-by-line review of all of its existing regulations to determine which might be revised or eliminated. SBA has determined that eight Parts of its regulations should be entirely eliminated as obsolete, unnecessary or duplicative. This rule eliminates those eight Parts. The reasons for eliminating each of these Parts are set forth below in the Supplementary Information of this rule.

DATES: This rule is effective on October 25, 1995.

ADDRESSES: Written comments should be addressed to David R. Kohler, Regulatory Reform Team Leader, Office of General Counsel, U.S. Small Business Administration, 409 3rd Street, S.W., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: John W. Klein, Chief Counsel for Special Programs, Office of General Counsel, at (202) 205–6645.

SUPPLEMENTARY INFORMATION: On March 4, 1995, President Clinton issued a Memorandum to all federal agencies, directing them to simplify their regulations. In response to this directive, SBA has completed a page-by-page, line-by-line review of all of its existing regulations to determine which might be revised or eliminated. SBA has identified eight Parts of its regulations which can be completely eliminated because they are obsolete, unnecessary or duplicative. Those eight Parts are: 13 CFR Part 106, Lease Guarantee; 13 CFR Part 109, Prepayment of Small Business Investment Company and Certified Development Company Debentures; 13 CFR Part 110, Investigations; Small Business Investment Companies; 13 CFR Part 111, Pollution Control; 13 CFR Part 128, Grants for Small Business Research; 13 CFR Part 129, Management Assistance; 13 CFR Part 144, Discounted Prepayment of Disaster Home Loans; and 48 CFR Part 2209, Contractor Qualifications. Because SBA has determined that each of the Parts to be eliminated by this rule is obsolete, SBA finds that notice of proposed rulemaking and public comment thereon are unnecessary within the meaning of 5 U.S.C. 553(b). As such, this rule is published in final form.

Brief descriptions of each of these eight Parts and the reasons for their elimination are set forth below.

13 CFR Part 106, Lease Guarantee: Part 106 sets forth the Agency's policy and procedures with respect to the Lease Guarantee Program, which is authorized by 15 U.S.C. § 692. The program was designed to assist certain qualified small business concerns to obtain leases of commercial and industrial property by authorizing SBA to guarantee the payment of rentals under such leases. Congress has not appropriated funds for this program since fiscal year 1977, and no application for a guarantee has been accepted since that time. For this reason, SBA believes that the regulations pertaining to the program may be eliminated as unnecessary. Moreover, there are less than a dozen lease guarantees still in effect.

Sections 106.1 through 106.10 relate to the lease guarantee application process prior to the granting of SBA's assistance and, therefore, should be deleted. Although sections 106.11 through 106.18 relate to servicing provisions, SBA notes that to the extent legal enforceability of certain servicing rights and responsibilities may be required, the contractual documents which govern the remaining lease guarantee transactions provide such enforceability. Thus, these sections are unnecessary and may be eliminated.

13 CFR Part 109, Prepayment of Small Business Investment Company and Certified Development Company Debentures: As directed by Congress, SBA promulgated Part 109 to implement legislation allowing certain debentures to be refinanced. The regulation allowed refinancing of older debentures sold to the Federal Financing Bank by Small Business Investment Companies and Certified Development Companies. These older debentures, because they were sold when interest rates were higher, developed large prepayment premiums when interest rates fell. These premiums would be passed along to small business borrowers who attempted to prepay their loans.

In response to the problem, Congress passed the Small Business Prepayment Penalty Relief Act of 1994, Public Law. 103–403, 108 Stat. 4198, found also in 15 USC 697f. This statutory provision allowed a one-time window of opportunity for borrowers affected by the older debenture prepayment premium to request participation in a refinancing program which would eliminate the large premium. SBA gave notice of the opportunity to affected borrowers. Many borrowers took advantage of the opportunity. SBA paid the difference between the new refinanced amount and the debenture premium, from a special $30 million fund established by Congress for that purpose.

Because the purpose of the Small Business Prepayment Penalty Relief Act of 1994 and Part 109 have been accomplished and the one-time window of opportunity is now closed, SBA believes that Part 109 should be eliminated.

13 CFR Part 110, Investigations; Small Business Investment Companies: This Part concerns the investigation procedures for SBA's Small Business Investment Company (SBIC) program. These regulations were promulgated in 1962, and were authorized by Title VI of the Small Business Investment Act of 1958. The program assists small business concerns by providing venture capital through SBICs. However, the regulations contained in Part 110 have not been utilized by the program for several years. The scope of examinations and investigations has been amended by statute for the SBIC program and through the Inspector General Act of 1978, as amended, 5 U.S.C. Appendix. In part, these regulations are also now redundant because they address the same information contained in Part 134 regarding proceedings before SBA's Office of Hearings and Appeals (OHA), a regulation promulgated long after Part 110. Additionally, Part 101 of these regulations is currently under revision and will cover Inspector General investigations pertaining to agency programs.

13 CFR Part 111, Pollution Control: Part 111 sets forth the Agency's policy and procedures with respect to the Pollution Control Guarantee Program. Under the program, SBA was authorized to guarantee fully (100 percent) the periodic payments due by small businesses in connection with the purchase or lease of pollution control facilities under a "qualified contract." In 1988, funding for the program was

eliminated and financing of pollution control projects was transferred to section 7(a)(12)(B) of the Small Business Act, 15 U.S.C. 636(a)(12)(B), as a guaranteed financing program.

Sections 111.1 through 111.8 relate to the application process and, therefore, should be eliminated. Although sections 111.9 and 111.10 incorporate some servicing priorities, SBA believes that the Agency's interests will be adequately safeguarded by the rights and responsibilities incorporated into the contractual documents which govern each individual transaction. As such, these sections may also be eliminated.

13 CFR Part 128, Grants for Small Business Research: Part 128 was first promulgated in 1959 (24 FR 7063). It describes a program for SBA-awarded grants for studies, research and counseling concerning the managing, financing and operation of small business enterprises, and technical and statistical information necessary thereto. The program is no longer in operation. Thus, the regulations describing and regulating the program may be eliminated as obsolete.

13 CFR Part 129, Management Assistance: Part 129 pertains to the various management assistance programs of the Agency. Subpart A merely describes the SBA's management assistance programs. It is, however, outdated, does not take into account reorganizations that have occurred within the Agency over the last several years, and does not accurately describe the management assistance program as currently being provided by SBA. In addition, this Subpart is descriptive in nature, rather than regulatory, and can be updated and made a part of an informational pamphlet instead of regulatory text.

Subpart B deals with the reimbursement of travel expenses for Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) volunteers. SBA believes that this Subpart can be eliminated as unnecessary. The reference to ACE is obsolete. Years ago, ACE was a separate entity under the SCORE umbrella, and those volunteers that were still employed were referred to as ACE members. ACE no longer exists as a separate entity today. Today, all volunteers, whether retired or still working, are considered to be members of SCORE, and are obliged to comply with all the requirements and by-laws of the SCORE organization. The statutory authority for the reimbursement of travel expenses remains, but the authority has been delegated in a formal memorandum of understanding to the SCORE organization on behalf of its membership.

Subpart C is currently "(Reserved)" and can be eliminated as obsolete and unnecessary.

Subpart D is an informative description of SBA's Office of International Trade and the export assistance available through the SBA. It imposes no regulatory requirements or restrictions, and can be eliminated as unnecessary. SBA believes that Subpart D's provisions should more appropriately be contained in an informational brochure regarding the Agency's export assistance.

13 CFR Part 144, Discounted Prepayment of Disaster Home Loans: Part 144 covers a one-time program for fiscal year 1987 authorizing SBA to provide a discount for the prepayment of disaster home loans. This entire Part may be deleted as obsolete.

48 CFR Part 2209, Contractor Qualifications: SBA's supplement to the Federal Acquisition Regulation (FAR) is contained in Chapter 22 of Title 48 of the Code of Federal Regulations. The only substantive area of the FAR that SBA has supplemented is that dealing with the policies and procedures governing the debarment and suspension of contractors by SBA. Thus, SBA's entire supplement to the FAR is contained in Subpart 2209.4, Debarment, Suspension, and Eligibility, and corresponds to the general provisions of the FAR on this subject contained in Subpart 9.4.

SBA's FAR supplement largely repeats the debarment and suspension provisions contained in Subpart 9.4, and is, thus, unnecessary. The only portions that need to be retained from Subpart 2209.4 in SBA's regulations are (1) the identification of SBA's debarring and suspending official, and (2) the identification of SBA's Office of Hearings and Appeals (OHA) as the forum where debarment and suspension actions may be appealed. Neither need be retained in Subpart 2209.4. SBA's debarring and suspending official can be identified elsewhere in SBA's regulations at 13 CFR Part 101, and OHA's involvement in the debarment or suspension process can also be provided for elsewhere in SBA's regulations at 13 CFR Part 134. Pending such changes, the Administrator can make designations on a case-by-case basis if necessary.

Subpart 2209.4 also contains SBA's internal procedures pertaining to a debarment or suspension action. Because these are internal procedures only, they need not be set forth in regulatory form. Instead, SBA believes that such procedures would be more appropriate as part of SBA Standard Operating Procedures.

Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of Executive Order 12866 or the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* This rule eliminates eight Parts of SBA's regulations that SBA has determined to be obsolete, unnecessary or duplicative. Contracting opportunities and financial assistance for small business will not be affected by this proposed rule. Therefore, it is not likely to have an annual economic effect of $100 million or more, result in a major increase in costs or prices, or have a significant adverse effect on competition or the United States economy.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this rule contains no new reporting or record keeping requirements.

For purposes of Executive Order 12612, SBA certifies that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of that Order.

List of Subjects

13 CFR Part 106

Rent subsidies; Reporting and recordkeeping requirements; Small businesses.

13 CFR Part 109

Investment companies; Loan programs—business; Small businesses.

13 CFR Part 110

Investigations; Investment companies; Small businesses.

13 CFR Part 111

Environmental protection; Loan programs—business; Reporting and recordkeeping requirements.

13 CFR Part 128

Grant programs—business; Research; Small businesses.

13 CFR Part 129

Active Corps of Executives (ACE); Exports; Service Corps of Retired

Executives (SCORE); Small businesses; Technical assistance; Volunteers.

13 CFR Part 144

Disaster assistance; Loan programs—business; Small businesses.

48 CFR Part 2209

Administrative practice and procedure; Government procurement.

For the reasons set forth above and the authority of 15 U.S.C. 634(b)(6), SBA hereby amends Title 13 of the Code of Federal Regulations by removing parts 106, 109, 110, 111, 128, 129 and 144; and Title 48 of the Code of Federal Regulations by removing part 2209, and chapter 22, consisting of subchapter B, part 2209 is vacated.

Dated: September 14, 1995.

Philip Lader,

Administrator.

[FR Doc. 95–24826 Filed 10–24–95; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

RIN 0691–AA25

Direct Investment Surveys: Change in Reporting Requirements for the Annual Survey of U.S. Direct Investment Abroad (BE–11)

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: These final rules revise the reporting requirements for the BE–11, Annual Survey of U.S. Direct Investment Abroad. The BE–11 is a mandatory survey of U.S. direct investment abroad conducted by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce. The final rules will: Raise the overall exemption level for the survey, and the exemption level for reporting individual nonbank foreign affiliates on Forms BE–11B(LF) and BE–11C, from $15 million to $20 million; institute a short form, Form BE–11B(SF), for U.S. companies to report their majority-owned nonbank foreign affiliates with assets, sales, and net income in the $20 to $50 million range; and for fiscal year 1997 only, require the largest nonbank foreign affiliates owned between 10 and 20 percent to reported on Form BE–11C, along with affiliates owned between 20 and 50 percent. In all years, nonbank foreign affiliates owned between 20 and 50 percent by all U.S. Reporters (U.S. parent companies) of the affiliate combined must be reported on Form BE–11C if their assets, sales, or net income exceed $20 million. For fiscal year 1997 only, Form BE–11C must also be filed for nonbank foreign affiliates owned, directly and/or indirectly, at least 10 percent by one U.S. Reporter (i.e., U.S. parent company), but less than 20 percent by all U.S. Reporters of the affiliate combined, if the affiliate's total assets, sales, or net income exceed $100 million.

EFFECTIVE DATE: These rules will be effective November 24, 1995.

FOR FURTHER INFORMATION CONTACT: Betty L. Barker, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9800.

SUPPLEMENTARY INFORMATION: In the August 1, 1995 **Federal Register**, Volume 60, No. 147, 60 FR 39128, BEA published a notice of proposed rulemaking to revise the reporting requirements for the BE–11, Annual Survey of U.S. Direct Investment Abroad. No comments on the proposed rules were received. Thus, these final rules are the same as the proposed rules.

The BE–11 annual survey is part of BEA's regular data collection program for U.S. direct investment abroad. The survey is mandatory and is conducted pursuant to the International Investment and Trade in Services Survey Act (Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3101–3108, as amended).

The BE–11 survey consists of an instruction booklet, a claim for not filing the BE–11, and the following report forms:

1. Form BE–11A for reporting by a U.S. Reporter that is not a bank;
2. Form BE–11B(LF) (Long Form) for reporting majority-owned nonbank foreign affiliates with assets, sales, or net income greater than $50 million (positive or negative);
3. Form BE–11B(SF) (Short Form) for reporting majority-owned nonbank foreign affiliates with assets, sales, or net income greater than $20 million, but not greater than $50 million (positive or negative); and
4. Form BE–11C for reporting minority-owned nonbank foreign affiliates.

A Form BE–11A must be filed by each nonbank U.S. person having a foreign affiliate reportable on Form BE–11B(LF), BE–11B(SF), or BE–11C. Under these final rules, the exemption level for reporting individual foreign affiliates on Form BE–11B(LF) or (SF) or BE–11C—and, thus, for determining whether a U.S. person has to file Form BE–11A—is raised from $15 million to $20 million. The exemption level is the level of a foreign affiliate's assets, sales, or net income below which a Form BE–11B(LF) or (SF) or BE–11C is not required. Raising the exemption level lowers the number of reports that otherwise must be filed, thus reducing the reporting and processing burdens. The new exemption level of $20 million is the same as that recently approved for the related quarterly Form BE–577, Direct Transactions of U.S. Reporter With Foreign Affiliate.

In addition to raising the exemption level, these final rules will institute the BE–11B(SF) short form. Majority-owned nonbank foreign affiliates for which assets, sales, or net income is greater than $20 million (positive or negative), but for which no one of these items is greater than $50 million (positive or negative), will be required to be reported on Form BE–11B(SF). The use of a short form means that, for about 3,700 foreign affiliates, U.S. companies will now report significantly fewer data items than on the last (1993) annual survey.

For fiscal year 1997 only, these final rules will require the largest nonbank foreign affiliates owned between 10 and 20 percent to be reported on Form BE–11C, along with affiliates owned between 20 and 50 percent. In all years, reporting on Form BE–11C is required if an affiliate is owned between 20 and 50 percent by all U.S. Reporters combined and if its assets, sales, or net income exceed $20 million. Primarily to reduce reporting burden of the survey, affiliates owned less than 20 percent do not have to be reported. However, U.S. direct investment abroad is defined by law to include all foreign business enterprises owned 10 (not 20) percent or more, directly or indirectly, by a U.S. person. BEA conducts periodic benchmark surveys of U.S. direct investment abroad (the BE–10), covering all foreign affiliates owned 10 percent or more. A benchmark survey for the year 1994 is now being conducted; the next survey will cover the year 1999. In order to maintain reliable estimates of data for the universe of all foreign affiliates in nonbenchmark years, reporting for the largest affiliates owned between 10 and 20 percent is needed for at least one year between benchmark surveys. Although the U.S. ownership percentages in these affiliates are low, some of the affiliates are very large and have a sizable impact on the estimates. Under these final rules, reporting of Form BE–11(C) for nonbank foreign affiliates owned directly and/or indirectly, at least 10 percent by one U.S. Reporter, but less than 20 percent

by all U.S. Reporters of the affiliate combined, and for which assets, sales, or net income exceed $100 million would be required for fiscal year 1997 only.

These new rules will be effective with the survey covering fiscal year 1995. The 1995 forms will be mailed out in March 1996 and will be due May 31, 1996. The last BE–11 survey covered the year 1993. (A BE–11 survey is not conducted in a year, such as 1994, when a BE–10 benchmark survey is conducted.)

Executive Order 12612

These final rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

Executive Order 12866

These final rules have been determined to be not significant for purposes of E.O. 12866.

Paperwork Reduction

The collection of information in these final rules has been approved by OMB (OMB No. 0608–0053).

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

The public reporting burden for a U.S. company for this collection of information can range from 4 hours for the smallest and least complex U.S. Reporter that has one affiliate, to approximately 3,000 hours for a large U.S. Reporter that has up to 150 affiliates with a wide range of activities; the average burden per Reporter is 62 hours. The estimated burden includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments from the public regarding the burden estimate or any other aspect of this collection of information should be addressed to: Acting Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Department of Commerce (OMB Control No. 0608–0053).

Regulatory Flexibility Act

The Assistant General Counsel for Legislation and Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that these final rules will not have a significant economic impact on a substantial number of small entities. The exemption level is set in terms of the size of a U.S. company's foreign affiliates. Only if the affiliate's assets, sales, or net income exceeds $20 million must it be reported. Usually, the U.S. parent company (the one required to file the report) is many times larger.

In addition, by raising the exemption level from $15 million to $20 million, U.S. parent companies will no longer have to report for affiliates between $15 and $20 million. This change should reduce the reporting burden on smaller U.S. businesses that own these affiliates. Also, to minimize the reporting burden on smaller U.S. businesses, majority-owned affiliates with assets, sales, and net income in the range of $20 million to $50 million will be reported on the abbreviated BE–11B(SF), or short form, rather than the BE–11B(LF), or long form.

List of Subjects in 15 CFR Part 806

Balance of payments, Economic statistics, Foreign investments in United States, Reporting and recordkeeping requirements, United States investments abroad.

J. Steven Landefeld,

Acting Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, 15 CFR Part 806 is amended as follows:

PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR Part 806 continues to read as follows:

Authority: 5 U.S.C. 301; 22 U.S.C. 3101–3108; and E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12013 (3 CFR, 1977 Comp., p. 147), E.O. 12318 (3 CFR, 1981 Comp., p. 173), and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

2. Section 806.14(f)(3) introductory text, (f)(3)(i), (f)(3)(ii), (f)(e)(iii), (f)(3)(iv) (A) through (C), and (f)(3)(v) are revised to read as follows:

§ 806.14 U.S. direct investment abroad.

* * * * *

(f) * * *

(3) BE–11—Annual Survey of U.S. Direct Investment Abroad: A report, consisting of Form BE–11A and Forms(s) BE–11B(LF), BE–11B(SF), and/or BE–11C, is required of each nonbank U.S. Reporter who, at the end of the Reporter's fiscal year, had a nonbank foreign affiliate reportable on Form BE–11B(LF), BE–11B(SF), or BE–11C. Forms required and the criteria for reporting on each are as follows:

(i) Form BE–11A (Report for U.S. Reporter) must be filed by each nonbank U.S. person having a foreign affiliate reportable on Form BE–11B(LF), BE–11B(SF), or BE–11C.

(ii) Form BE–11B (LF) or (SF) (Report for Majority-owned Foreign Affiliate).

(A) A BE–11B(LF) (Long Form) is required to be filed for each majority-owned nonbank foreign affiliate of a nonbank U.S. Reporter for which any one of the three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for foreign income taxes—was greater than $50 million (positive or negative) at the end of, or for, the affiliate's fiscal year.

(B) A BE–11B(SF)(Short Form) is required to be filed for each majority-owned nonbank foreign affiliate of a nonbank U.S. Reporter for which any one of the three items listed in paragraph (f)(3)(ii)(A) of this section was greater than $20 million (positive or negative), but for which no one of these items was greater than $50 million (positive or negative), at the end of, or for, the affiliate's fiscal year.

(iii) Form BE–11C (Report for Minority-owned Foreign Affiliate) must be filed for each minority-owned nonbank foreign affiliate that is owned at least 20 percent, but not more than 50 percent, directly and/or indirectly, by all U.S. Reporters of the affiliate combined, and for which any one of the three items listed in paragraph (f)(3)(ii)(A) of this section was greater than $20 million (positive or negative) at the end of, or for, the affiliate's fiscal year. In addition, for the report covering fiscal year 1997 only, a Form BE–11C must be filed for each minority-owned nonbank foreign affiliate that is owned, directly or indirectly, at least 10 percent by one U.S. Reporter, but less than 20 percent by all U.S. Reporters of the affiliate combined, and for which any one of the three items listed in paragraph (f)(3)(ii)(A) of this section was greater than $100 million (positive or negative) at the end of, or for, the affiliate's fiscal year.

(iv) * * *

(A) None of its exemption level items is above $20 million.

(B) For fiscal year 1997 only, it is less than 20 percent owned, directly or indirectly, by all U.S. Reporters of the affiliate combined and one of its

exemption level items exceeds $100 million.

(C) For fiscal years other than 1997, it is less than 20 percent owned, directly or indirectly, by all U.S. Reporters of the affiliate combined.

* * * * *

(v) Notwithstanding paragraph (f)(3)(iv) of this section, a Form BE–11B(LF), BE–11B(SF), or BE–11C must be filed for a foreign affiliate of the U.S. Reporter than owns another nonexempt foreign affiliate of that U.S. Reporter, even if the foreign affiliate parent is otherwise exempt. That is, all affiliates upward in the chain of ownership must be reported.

* * * * *

[FR Doc. 95–26327 Filed 10–24–95; 8:45 am]

BILLING CODE 3510–EA–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 902, 906, and 944

Alaska, Colorado, and Utah Regulatory Programs and Abandoned Mine Land Reclamation (AMLR) Plans

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; technical amendment.

SUMMARY: OSM is making technical amendments to the regulations in programs for the conduct of surface mining operations within each State. Owing to an agency reorganization resulting in a change of the offices responsible for processing regulatory program and AMLR plan amendments for Alaska, Colorado, and Utah, OSM is changing the addresses for the locations of publicly available copies of the Alaska, Colorado, and Utah regulatory programs and AMLR plans. Also, OSM is creating a section for Colorado AMLR plan amendment approvals to promote consistency with the codification that OSM has used for other States.

EFFECTIVE DATE: October 25, 1995.

FOR FURTHER INFORMATION CONTACT: Gloria Prettiman, Branch of Environmental and Economic Analysis, OSM, 1951 Constitution Ave., NW., Washington, DC 20240, Telephone: (202) 208–2928.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with 30 CFR Parts 730 through 732 and 884, OSM processes regulatory programs and AMLR plans, and amendments to these programs and plans, which are submitted by the States for OSM review and approval.

OSM has reorganized and changed the offices responsible for processing regulatory program and AMLR plan amendments for Alaska, Colorado, and Utah. Previously, the Casper (Wyoming) Field Office processed Alaska amendments and housed the administrative record for them, and the Albuquerque (New Mexico) Field Office processed Colorado and Utah amendments and housed the administrative records for them. Under OSM's reorganized structure, the Western Regional Coordinating Center, Denver (Colorado) Field Division now processes the amendments for Alaska, Colorado, and Utah, and the Western Regional Coordinating Center, Technical Library houses the administrative records for these State regulatory programs and AMLR plans. Therefore, OSM is changing the addresses at 30 CFR 902.10, 902.20, 906.10, 906.20, 944.10, and 944.20 to indicate that the Alaska, Colorado, and Utah regulatory programs and AMLR plans are available for public review in the Technical Library at the Western Regional Coordinating Center.

OSM is also taking this opportunity to create 30 CFR 906.25, Approval of Amendments to the Colorado Abandoned Mine Land Reclamation Plan. Currently, 30 CFR 906.20 includes both information on OSM's original approval of the Colorado AMLR plan and information on an amendment to the plan that OSM subsequently approved. By removing the information on the amendment from 30 CFR 906.20 and placing it in newly-created 30 CFR 906.25, OSM is being consistent with the codification it has used for other State plans and plan amendments.

II. Procedural Matters

1. Administrative Procedure Act

The minor revisions contained in this rulemaking are technical in nature. Accordingly, pursuant to 5 U.S.C. 553(b)(B), it has been determined that the notice and public comment procedures of the Administrative Procedure Act are unnecessary. For the same reason, it has been determined that, in accordance with 5 U.S.C. 553(d), there is good cause to make the rule effective on the date of publication in the **Federal Register.**

2. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

3. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. This rule (1) does not preempt any State, Tribal, or local laws or regulations; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging its provisions.

4. National Environmental Policy Act

This rule has been reviewed by OSM, and it has been determined to be categorically excluded from the National Environmental Policy Act (NEPA) process in accordance with the Departmental Manual (516 DM 2 appendix 1.10) and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1507.3).

5. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

6. Regulatory Flexibility Act

The Department of the Interior has determined that this rule 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.*).

List of Subjects in 30 CFR Parts 902, 906, and 944

Abandoned mine reclamation programs, Intergovernmental relations, Surface mining, Underground mining.

Dated: October 17, 1995.

Peter A. Rutledge,

Acting Regional Director, Western Regional Coordinating Center.

For the reasons set forth in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 902—ALASKA

1. The authority citation for Part 902 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 902.10 is amended by revising paragraph (b) to read as follows:

§ 902.10 State Regulatory Program Approval.

* * * * *

(b) Office of Surface Mining Reclamation and Enforcement, Western Regional Coordinating Center, Technical Library, 1999 Broadway, Suite 3320, Denver, Colorado 80202–5733.

3. Section 902.20 is amended by revising paragraph (b) to read as follows:

§ 902.20 Approval of Alaska Abandoned Mine Land Reclamation Plan.

* * * * *

(b) Office of Surface Mining Reclamation and Enforcement, Western Regional Coordinating Center, Technical Library, 1999 Broadway, Suite 3320, Denver, Colorado 80202–5733.

PART 906—COLORADO

1. The authority citation for Part 906 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 906.10 is amended by revising paragraph (b) to read as follows:

§ 906.10 State Regulatory Program Approval.

* * * * *

(b) Office of Surface Mining Reclamation and Enforcement, Western Regional Coordinating Center, Technical Library, 1999 Broadway, Suite 3320, Denver, Colorado 80202–5733.

3. Section 906.20 is revised to read as follows:

§ 906.20 Approval of Colorado Abandoned Mine Land Reclamation Plan.

The Colorado Abandoned Mine Land Reclamation Plan, as submitted on February 16, 1982, and as subsequently revised, is approved effective June 11, 1982. Copies of the approved plan are available at:

(a) Colorado Department of Natural Resources, Division of Minerals and Geology, 1313 Sherman Street, Room 215, Denver, CO 80203.

(b) Office of Surface Mining Reclamation and Enforcement, Western Regional Coordinating Center, Technical Library, 1999 Broadway, Suite 3320, Denver, Colorado 80202–5733.

4. Section 906.25 is added to read as follows:

§ 906.25 Approval of Amendments to the Colorado Abandoned Mine Land Reclamation Plan.

(a) The amendment as submitted to OSM on April 29, 1985, to Chapter VI, Policies and Procedures, of Colorado's Abandoned Mine Land Reclamation Plan, which allows Colorado, subject to OSM grant approval, to reclaim noncoal sites that pose a direct threat to public health or safety, is approved effective January 9, 1986.

(b) [Reserved]

PART 944—UTAH

1. The authority citation for Part 944 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 944.10 is amended by revising paragraph (b) to read as follows:

§ 944.10 State Regulatory Program Approval.

* * * * *

(b) Office of Surface Mining Reclamation and Enforcement, Western Regional Coordinating Center, Technical Library, 1999 Broadway, Suite 3320, Denver, Colorado 80202–5733.

3. Section 944.20 is amended by revising paragraph (b) to read as follows:

§ 944.20 Approval of Utah Abandoned Mine Plan.

* * * * *

(b) Office of Surface Mining Reclamation and Enforcement, Western Regional Coordinating Center, Technical Library, 1999 Broadway, Suite 3320, Denver, Colorado 80202–5733.

[FR Doc. 95–26399 Filed 10–24–95; 8:45 am]
BILLING CODE 4310–05–M

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30 CFR Part 914

[SPATS No. IN–124–FOR; State Program Amendment No. 95–3]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Indiana regulatory program (hereinafter referred to as the "Indiana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Indiana proposed revisions to its regulations pertaining to the small operator assistance program (SOAP). The topics covered in the proposed amendment are definitions, eligibility for assistance, application approval and notice, program services and data requirements, qualified laboratories, and applicant liability. The amendment is intended to revise the Indiana program to be consistent with the corresponding Federal regulations and to incorporate an additional criterion under which a SOAP applicant is responsible for reimbursing Indiana for the cost of services rendered under its program.

EFFECTIVE DATE: October 25, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204, Telephone (317) 226–6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 26, 1982, **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

II. Submission of the Proposed Amendment

By letter dated May 3, 1995 (Administrative Record No. IND–1461), Indiana submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment at its own initiative. Indiana proposed to revise its SOAP regulations at 310 IAC 12–3–130, Definitions; 310 IAC 12–3–131, Eligibility for assistance; 310 IAC 12–3–132.5, Application approval and notice; 310 IAC 12–3–133, Program services and data requirements; 310 IAC 12–3–134, Qualified laboratory; and 310 IAC 12–3–135, Applicant liability.

OSM announced receipt of the proposed amendment in the May 30, 1995, **Federal Register** (60 FR 28069), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on June 29, 1995.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes or revised cross-references and paragraph notations to reflect

organizational changes resulting from this amendment.

A. Revisions to Indiana's Regulations That Are Substantively Identical to the Corresponding Federal Regulations

State regulation 310 Indiana administrative code (IAC)	Subject	Federal counterpart. 30 Code of Federal Regulations (CFR)
12–3–130	Definitions for program administrator and qualified laboratory	795.3.
12–3–131, Intro paragraph	Attributed coal production	795.6(a).
12–3–131(1)		795.6(a)(1).
12–3–131(2)		795.6(a)(2).
12–3–131(2)(B)		795.6(a)(2)(i).
12–3–131(2)(C)		795.6(a)(2)(ii).
12–3–132.5	Application approval and notice	795.8.
12–3–133(a)	Program services and data requirements	795.9 (a) and (c).
12–3–133(b)		795.9(b).
12–3–134(a)	Qualified laboratories	795.10(a).
12–3–134(a)(1)–(a)(6)		795.10(a)(1)–(a)(6).
12–3–134(b)		795.10(b).
12–3–135(a)	Applicant liability	795.12(a).
12–3–135(a)(1)–(a)(3)		795.12(a)(1)–(a)(3).
12–3–135(b)		795.12(b).

Because the above proposed revisions are identical in meaning to the corresponding Federal regulations, the Director finds that Indiana's proposed rules are no less effective than the Federal rules.

B. Revisions to Indiana's Regulations With No Corresponding Federal Regulations

310 IAC 12–3–135, Applicant Liability

At 310 IAC 12–3–135(a)(4), Indiana proposed to add a regulation to include another criterion under which a SOAP applicant is responsible for reimbursing Indiana for the cost of services rendered under its program. This criterion requires the applicant to reimburse Indiana if mining does not begin within six months after obtaining the permit. The Federal regulations at 30 CFR 795.12(a), concerning applicant liability for reimbursement of the cost of services, do not contain this specific requirement. However, the Director finds the proposed regulation is not inconsistent with the intent of the requirements of SMCRA and the Federal regulations pertaining to reimbursement for SOAP services, and the addition of this new criterion does not render the Indiana regulations at 310 IAC 12–3–135 less effective than the Federal regulations at 30 CFR Part 795.12.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearing was held,

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Indiana program. On May 30, 1995 (Administrative Record No. IND–1488), the United States Department of Agriculture, Natural Resources Conservation Service, responded that nothing in the proposed amendment would have any impact on its program areas.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Indiana proposed to make in this amendment pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. IND–1480). On June 15, 1995 (Administrative Record No. IND–1489), EPA responded that it concurred with the proposed amendment without comment.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP. No comments were received.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Indiana on May 3, 1995.

The Director approves the rules as proposed by Indiana with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR Part 914, codifying decisions concerning the Indiana program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable

standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the State must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule 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.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

List of Subjects in 30 CFR 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 13, 1995.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

AUTHORITY: 30 U.S.C. 1201 *et seq.*

2. Section 914.15 is amended by adding paragraph (nnn) to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(nnn) Revisions to the following regulations (Program Amendment Number 95–3), as submitted to OSM on May 3, 1995, are approved effective October 25, 1995:

310 IAC 12–3–130—Small operator assistance; definitions for program administrator and qualified laboratory.

310 IAC 12–3–131—Introductory paragraph, (1), (2), (2)(B), and (2)(C)—Small operator assistance; eligibility for assistance.

310 IAC 12–3–132.5—Small operator assistance; application approval and notice.

310 IAC 12–3–133—Small operator assistance; program services and data requirements.

310 IAC 12–3–134—Small operator assistance; qualified laboratories.

310 IAC 12–3–135—Small operator assistance; applicant liability.

[FR Doc. 95–26401 Filed 10–24–95; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 14–12–7054a FRL–5286–6]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revision to the California State Implementation Plan (SIP). The revision concerns the rule from Monterey Bay Unified Air Pollution Control District (MBUAPCD). This approval action will incorporate this rule into the federally approved SIP. The intended effect of approving this rule is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The rule controls VOC emissions from leather processing operations. Thus, EPA is finalizing the approval of this revision into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This action is effective on December 26, 1995, unless adverse or critical comments are received by November 24, 1995. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the rule and EPA's evaluation report is available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule is available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

FOR FURTHER INFORMATION CONTACT: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1185.

SUPPLEMENTARY INFORMATION:

Applicability

The rule being approved into the California SIP includes Monterey Bay Unified Air Pollution Control District (MBUAPCD), Rule 430, Leather Processing Operations. This rule was submitted by the California Air Resources Board (CARB) to EPA on July 13, 1994.

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included Monterey Bay. 43 FR 8964, 40 CFR 81.305. Because this area was unable to meet the statutory attainment date of December 31, 1982, California requested

under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987. (40 CFR 52.222). On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the above district's portion of the California SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP–Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.[1] EPA's SIP–Call used that guidance to indicate the necessary corrections for specific nonattainment areas. Monterey Bay is classified as moderate;[2] therefore, this area was subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many revised RACT rules for incorporation into its SIP on July 13, 1994, including the rule being acted on in this notice. This notice addresses EPA's direct-final action for MBUAPCD Rule 430, Leather Processing Operations. MBUAPCD adopted Rule 430 on May 25, 1994. This submitted rule was found to be complete on September 12, 1994 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V[3] and are being finalized for approval into the SIP.

Rule 430 controls the emissions of VOC from tanning and finishing in leather processing operations. VOCs contribute to the production of ground level ozone and smog. This rule was originally adopted as part of MBUAPCD'S effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP–Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and final action for this rule.

EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to Rule 430 is entitled, "Air Emissions and Control Technology for Leather Tanning and Finishing Operations (EPA–453/R–93–025)." Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

MBUAPCD's submitted Rule 430, Leather Processing Operations, is a new rule that will control VOC emissions from tanning and finishing operations in the leather processing industry. The significant provisions of this rule are:

1. Exemption of leather processing facilities with VOC emissions less than 100 tons per year which are subject to Rules 416 & 429.
2. Reduction in the allowable VOC content of leather treatment materials.
3. Emission restriction from the use of any specialty treatment materials, which cannot be reformulated.
4. Requirement to use of transfer efficiency application methods.
5. Prohibitions of the use of toxic air contaminants or ozone depleting compounds as substitutes for VOCs in reformulated coatings or as clean-up solvents.
6. Daily & monthly recordkeeping requirements.
7. Specification of test methods to verify VOC content and calculate combined efficiency of control equipment.

EPA has evaluated the submitted rule and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, MBUAPCD's Rule 430, Leather Processing Operations is being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

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

EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective December 26, 1995, unless, by November 24, 1995, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective December 26, 1995.

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[1] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating of VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTG's).

[2] Monterey Bay area retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

[3] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(K)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

Regulatory Process

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

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 18, 1995.

David P. Howekamp,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c) (198)(i)(F) to read as follows:

§ 52.220 Identification of Plan.

* * * * *

(c) * * *

(198) * * *

(i) * * *

(F) Monterey Bay Unified Air Pollution Control District.

(*1*) Rule 430, adopted on May 25,1994.

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[FR Doc. 95–26456 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[IA–18–1–6984a; FRL–5303–9]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: By this action the EPA gives full approval to the State Implementation Plan (SIP) submitted by the state of Iowa for the purpose of fulfilling the requirements set forth in the EPA's General Conformity rule. The SIP was submitted by the state to satisfy the Federal requirements in 40 CFR 51.852 and 93.151.

DATES: This action will be effective December 26, 1995 unless by November 24, 1995 adverse or critical comments are received. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen at (913) 551–7877.

SUPPLEMENTARY INFORMATION: Section 176(c) of the Clean Air Act, as amended (the Act), requires the EPA to promulgate criteria and procedures for demonstrating and ensuring conformity of Federal actions to an applicable implementation plan developed pursuant to section 110 and part D of the Act. Conformity to an SIP is defined in the Act as meaning conformity to an SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards (NAAQS), and achieving expeditious attainment of such standards. The Federal agency responsible for the action is required to determine if its actions conform to the applicable SIP. On November 30, 1993, the EPA promulgated the final rule (hereafter referred to as the General Conformity rule), which establishes the criteria and procedures governing the determination of conformity for all Federal actions, except Federal highway and transit actions.

The General Conformity rule also establishes the criteria for EPA approval of SIPs. See 40 CFR 51.852 and 93.151. These criteria provide that the state provisions must be at least as stringent as the requirements specified in EPA's General Conformity rule, and that they can be more stringent only if they apply equally to Federal and nonfederal entities (Section 51.851(b)).

On March 10, 1994, the EPA promulgated a nonattainment designation for part of Muscatine County, Iowa, in response to violations of the SO_2 NAAQS. Section 51.851 and section 93.151 of the General

Conformity rule require that states submit an SIP revision containing the criteria and procedures for assessing the conformity of Federal actions to the applicable SIP, within 12 months after November 30, 1993, or within 12 months of an area's designation to nonattainment, whichever is later. As a result of EPA's promulgation of the nonattainment designation, an SIP revision addressing the requirements of the General Conformity rule became due on April 11, 1995.

On January 26, 1995, the state of Iowa submitted an SIP revision meeting the requirements of §§ 51.851 and 93.151 of the General Conformity rule. The submission adopts by reference 40 CFR part 93, subpart B, except 40 CFR 93.151. The omitted section contains the criteria for EPA approval of General Conformity SIP revisions, and also states the effect of EPA approval of an SIP revision. It is not a necessary component of the state's substantive rules governing general conformity determinations.

The Iowa rule also modifies 40 CFR 93.160(f) and 40 CFR 93.160(g) to adapt the language in the Federal regulations to the state rule. It deletes the language in § 93.160(f) stating that the "implementation plan revision required in § 93.151 shall provide that," and retains the substantive requirement in paragraph (f). It also revises paragraph (g) to refer to adoption and approval of the Iowa SIP revision, in place of the reference in EPA's rule to SIP revisions generally.

A public hearing was held on November 14, 1994. The rule was filed on December 30, 1994, and became effective on January 18, 1995.

Because the Iowa rule adopts the substantive requirements of EPA's rule by reference, it meets the criteria in §§ 51.851 and 93.151 for approval of General Conformity SIP revisions.

EPA Action

By this action EPA grants full approval of Iowa's January 26, 1995, submittal. This SIP revision meets all of the requirements set forth in 40 CFR 51.851 and 93.151.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in the **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

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

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

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

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

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this SIP, the state has elected to adopt the program provided for under section 110 of the the CAA. These rules may bind state and local governments to perform certain actions, and also require the private sector to perform certain duties. To the extent that the rules being finalized for approval by this action will impose new requirements, sources are already subject to these regulations under state law. Accordingly, no additional costs to state or local governments, or to the private sector, result from this final action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to state or local governments in the aggregate or to the private sector.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 6, 1995.

William Rice,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart Q—Iowa

2. Section 52.820 is amended by adding paragraph (c)(62) to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

(62) Revised chapter 31, rule 567–31.2, submitted on January 26, 1995, incorporates by reference EPA's regulations relating to determining conformity of general Federal actions to State or Federal Implementation Plans.

(i) Incorporation by reference.

(A) Amendment to chapter 31, "Nonattainment Areas" Iowa Administrative Code, rule 567–31.2. Effective February 22, 1995.

[FR Doc. 95–26461 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[WA5–1–5539a; FRL–5309–1]

Approval and Promulgation of Implementation Plans: Washington

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: Environmental Protection Agency (EPA) approves a revision to the State implementation plan (SIP) submitted by the State of Washington for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). The implementation plan was submitted by the State to satisfy certain Federal requirements for an approvable moderate nonattainment area PM–10 SIP for Tacoma, Washington. On October 12, 1994, EPA approved certain separable sections and conditionally approved other sections of the Tacoma PM–10 SIP revision (59 FR 51506 (October 12, 1994)). In this action, EPA finds the State has fulfilled the terms of the conditional approval and that the SIP submitted fully satisfies the requirements of the Federal Clean Air Act.

DATES: This action is effective on December 26, 1995 unless adverse or critical comments are received by November 24, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Air & Radiation Branch (AT–082), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Air & Radiation Branch, 1200 Sixth Avenue (AT–082), Seattle, Washington 98101, and Washington State Department of Ecology, 4450 Third Avenue SE., Lacey, Washington 98504.

FOR FURTHER INFORMATION CONTACT: Claire Hong, Air & Radiation Branch (AT–082), EPA, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–1813.

SUPPLEMENTARY INFORMATION:

I. Background

The Tacoma, Washington, area was designated nonattainment for PM–10 and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Clean Air Act (CAA), upon enactment of the Clean Air Act Amendments (CAAA) of 1990.[1] *See* 56 FR 56694 (November 6, 1991) (official designation codified at 40 CFR 81.348). The air quality planning requirements for moderate PM–10 nonattainment areas are set out in subparts 1 and 4 of Part D, Title I of the Act.[2] EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under Title I of the Act, including those State submittals containing moderate PM–10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in this document and the supporting rationale. In this rulemaking action on the State of Washington's moderate PM–10 SIP for the Tacoma nonattainment area (referred to as Tacoma or the Tacoma Tideflats), EPA is applying its interpretations taking into consideration the specific factual issues presented. Additional information supporting EPA's action on this particular area is available for inspection at the addresses indicated above. Those States containing initial moderate PM–10 nonattainment areas (those areas designated nonattainment under CAA section 107(d)(4)(B)) were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to ensure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented no later than December 10, 1993;
2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;
3. Quantitative milestones which are to be achieved every three years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and
4. Provisions to ensure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area (see sections 172(c), 188, and 189 of the Act).

Additional provisions are due at a later date. States with initial moderate PM–10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM–10 by June 30, 1992 (see CAA section 189(a)). The Washington State Department of Ecology (WDOE) submitted the new source review requirements for this area, which were approved by EPA on August 29, 1994 (59 FR 44385).

Such States also were required to submit contingency measures by November 15, 1993, which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline (see CAA section 172(c)(9) and 57 FR 13510–13512 and 13543–13544). EPA addresses the contingency measures the State has submitted for Tacoma below.

II. This Action

In this action, EPA is granting full approval of the plan revisions submitted to EPA for Tacoma, Washington on

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[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. No. 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. sections 7401, *et seq.*

[2] Subpart 1 contains provisions applicable to nonattainment areas generally and subpart 4 contains provisions specifically applicable to PM–10 nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. EPA has attempted to clarify the relationship among these provisions in the "General Preamble" and, as appropriate, in today's notice and supporting information.

November 15, 1991, June 30, 1994 and May 2, 1995 (hereafter generally referred to as a single submittal). On October 12, 1994, EPA approved certain separable sections and conditionally approved other sections of the Tacoma PM–10 SIP revision (59 FR 51506 (October 12, 1994)). At that time, EPA fully approved the separable exclusion from precursor controls, the monitoring network, the procedures for consultation and public notification, the provisions for revising the plan and the adequacy of funding and authority. As such, those portions of the submittal will not be discussed in this **Federal Register**. In that same document, EPA granted conditional approval of other major portions of the submission on the condition that Washington adopt and submit to EPA specific industrial control orders with enforceable emission limits by January 1, 1995 for the following facilities located in the Tacoma nonattainment area: Simpson Tacoma Kraft Company (Simpson), Kaiser Aluminum and Chemical Corporation (Kaiser), Buffelen Woodworking, Continental Grain, Continental Lime, Domtar Gypsum, Puget Sound Plywood, USG Interiors, US Oil & Refining, and Woodworth. In May 1995, the State submitted a Supplement to the PM–10 State Implementation Plan which included these enforceable emission limits, demonstrations of attainment and maintenance and contingency measures, thus fulfilling the conditions of the conditional approval. In this document, EPA finds the SIP submittal meets the requirements established under the Clean Air Act.

Analysis of State Submission

1. Procedural Background

Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[3] Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing. The EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see CAA section 110(k)(1) and 57 FR 13565). EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V.

The State of Washington Department of Ecology (WDOE) conducted a public hearing to receive public comment on a supplement to the State implementation plan revision for PM–10 in Tacoma on February 8, 1995. WDOE adopted the implementation plan for the area and submitted it to EPA on May 2, 1995. A letter dated May 11, 1995 was forwarded to the WDOE indicating the completeness of the submittal.

2. PM–10 Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate and current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. The emissions inventory should also include a comprehensive, accurate and current inventory of allowable emissions in the area. *See*, e.g., CAA section 110(a)(2)(K). Because the submission of such inventories is necessary to an area's attainment demonstration (or demonstration that the area cannot practicably attain), the emissions inventories must be received with the attainment/nonattainment demonstration submission (see 57 FR 13539).

In the submissions previous to 1995, WDOE submitted an emissions inventory that was based on estimated actual emissions for the base year of 1987, the attainment year of 1994, and maintenance year of 1997. However, this emissions inventory reflected estimated actual emissions, not allowable limits. As was discussed in the October 12, 1994 **Federal Register** document and the associated Technical Support Document, the use of estimated actual rather than allowable emissions means that these emission levels in the emissions inventory are not enforceable, and thus the emissions inventory was not approvable (59 FR 51506).

The May 1995 submission included consent orders that established allowable emission limits for major point sources in the Tacoma Tideflats. The 1995 submission also included a revised emissions inventory that based its 1994 and 1997 attainment and maintenance demonstrations on the emission levels in these consent orders. Thus, the emissions inventory evaluated here includes the 1987 base year inventory (based on estimated actual emissions) included in the 1991 submission, and the revised 1994 attainment and 1997 maintenance demonstrations (based on the new allowable emission limits) included the 1995 submission. For sources within the nonattainment area, the emissions inventory provides a comprehensive list of particulate sources and utilizes appropriate factor and estimations that were available at the time the SIP revision was prepared. The emissions inventory cites industrial point sources and area sources as the largest contributors of PM–10 in the area. The emissions inventory shows no growth in industrial point or fugitive sources between 1994 and 1997 due to the new emission limits imposed on those sources. Mobile source emissions are estimated to increase approximately eight percent between 1994 and 1997. This increase is slightly offset by reductions due to lower sulfur fuel content and implementation of an inspection and maintenance program for diesel engines.

As discussed in the October 12, 1994 **Federal Register** document and in the Technical Support Document accompanying that document, EPA found that there is a substantial weight of evidence that residential wood combustion imported into the nonattainment area is a significant contributor to PM–10 in the Tacoma Tideflats. WDOE included an increased estimate of imported residential wood combustion in its attainment and maintenance demonstrations, although WDOE did not specifically list it as a source category in the 1995 emissions inventory. EPA has reviewed and approves the emissions inventory for the Tacoma Tideflats.

3. RACM (Including RACT)

As noted, the initial moderate PM–10 nonattainment areas must submit provisions to ensure that RACM (including RACT) are implemented no later than December 10, 1993 (see CAA sections 172(c)(1) and 189(a)(1)(C)). The General Preamble contains a detailed discussion of EPA's interpretation of the RACM (including RACT) requirement (see 57 FR 13539–45 and 13560–61).

In broad terms, the State should identify available control measures evaluating them for their reasonableness in light of the feasibility of the controls and the attainment needs of the area. A State may reject available control measures if the measures are technologically infeasible or the cost of the control is unreasonable. In addition, RACM, does not require controls on emissions from sources that are insignificant (i.e. de minimis) and RACM does not require the implementation of all available control measures where an area demonstrates timely attainment of the NAAQS and the implementation of additional controls would not expedite attainment. 57 FR 13540–44.

Washington's control strategy for the Tacoma area provides for attainment of the 24-hour standard based on control of industrial emissions, fugitive industrial

[3] Also Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

emissions including resuspended road dust, and residential wood combustion. The Tacoma PM–10 plan includes enforceable consent orders that establish allowable emission limits for industrial point sources as well as fugitive emissions.

a. Industrial Controls

At first glance, the emissions inventory shows an apparent increase of 481 kg/day of PM–10 emissions from industrial point sources from 1987 to 1994. In reviewing these numbers, however, it should be remembered that this apparent increase is based on a comparison of unlike numbers: that is, the 1987 numbers are the estimated historical "actual" emission rates while the 1994 numbers are the current "allowable" emission limits as reflected in enforceable orders. Had the emissions inventory compared 1987 allowable limits to 1994 allowable limits, there would have been a decrease in the allowable emissions of several thousand kilograms of PM–10 per day. Therefore, contrary to its initial appearance, the emissions inventory reflects a decrease in allowable emissions. Additionally, two facilities, Woodworth and Puget Sound Plywood, located in the Tideflats have permanently ceased operation after the 1987 emissions were calculated without banking any emission reduction credits, resulting in an unquestionable decrease in these point source emissions. This issue of "actuals" versus "allowables" is discussed in the October 12, 1994 **Federal Register** document on the Tacoma Tideflats and its associated Technical Support Document (59 FR 51506 (October 12, 1994)).

The consent orders included in the May 1995 submission and in previous submissions establish enforceable emission limits for the major point sources in the Tideflats. Emission units regulated by these orders include baghouses, dryers, oil burners and major ducts and vents. In addition to specifying emission limits, these orders also establish test methods for compliance.

b. Industrial Fugitive and Resuspended Road Dust

The Tacoma emission inventory identified industrial fugitive emissions and resuspended road dust as significant contributors of particulate matter to the airshed. The Puget Sound Air Pollution Control Agency (PSAPCA) is a local air pollution control agency that has jurisdiction over four counties in Washington State; PSAPCA's jurisdiction includes the Tacoma Tideflats. PSAPCA's fugitive dust regulation (Regulation I, section 9.15) was designed to reduce fugitive dust from commercial and industrial activities and also to reduce dust emissions from paved and unpaved roads and parking lots.

PSAPCA requires "Best Available Control Technology (BACT)" under section 9.15 for all fugitive emissions from all incinerators, boilers, manufacturing equipment and air pollution control equipment. For the reasons described in the October 12, 1994 **Federal Register** and accompanying Technical Support Document, EPA finds that these area controls are reasonable and appropriate (59 FR 51508).

c. Residential Wood Combustion

There is a substantial body of evidence indicating that imported residential wood combustion is a large source of Tacoma's PM–10 (See 59 FR 51506 and the accompanying Technical Support Document for further discussion of imported residential wood combustion). In the May 1995 submission, WDOE modified its demonstrations of attainment and maintenance to account for the significant influx of residential wood combustion. WDOE also claimed a 70 percent reduction credit for imposition of a mandatory residential woodstove ban in PSAPCA's four-county jurisdiction. (See 59 FR 51509 and the accompanying Technical Support Document for a description of the specifics of the mandatory woodstove curtailment program). In the October 12, 1994 conditional approval, EPA evaluated and accepted the 70 percent emission reduction credit associated with the woodstove curtailment program.

The Tacoma SIP identifies industrial point sources, industrial fugitives, residential wood combustion and re-entrained road dust as significant sources of PM–10 in the airshed. The SIP then provides emissions limits for the industrial sources, and cites regulatory programs with a broad array of controls to address area sources.

In the Tacoma situation, EPA believes the significant sources, as well as several less significant sources, of PM–10 in the area have been reasonably controlled. EPA believes implementation of additional controls in this area would not expedite attainment.

4. Demonstration

As noted, the initial moderate PM–10 nonattainment areas must submit a demonstration (including air quality modeling) showing that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994 (see section 189(a)(1)(B) of the Act). The General Preamble sets out EPA's guidance on the use of modeling for moderate area attainment demonstrations (57 FR 13539). Alternatively, if the State does not submit a demonstration of attainment, the State must show that attainment by December 31, 1994, is impracticable (CAA section 189(a)(1)(B)(ii)).

The May 1995 submission included revised demonstrations of attainment and maintenance. WDOE's demonstrations used rollback, a modified demonstration of attainment or maintenance. The guidelines for using rollback are outlined in EPA guidance (Attachment 5 of "PM–10 Moderate Area SIP Guidance: Final Staff Work Product," April 2, 1990). As discussed in the Technical Support Document associated with the October 12, 1994 action, Tacoma's SIP meets the criteria for using rollback. This action reviews the adequacy of the rollback analysis included in the 1995 submission.

In the October 12, 1994 action granting conditional approval to the Tacoma PM–10 SIP, EPA noted that WDOE had not adequately addressed the evidence indicating that residential wood combustion was a significant source of particulate matter in the Tideflats (59 FR 51510). Therefore, in the 1995 submission, WDOE relied on a rollback demonstration to account for the impact of imported residential wood combustion. WDOE estimates that approximately 40 percent of the PM–10 in the Tacoma Tideflats on the design day is attributable to imported residential wood combustion. As mentioned above, EPA has found that the mandatory residential wood combustion curtailment program, implemented by PSAPCA throughout a four county area, is approximately 70 percent effective (See 59 FR 51509 and the accompanying Technical Support Document for further discussion). Therefore, granting an emission reduction credit for a residential woodstove curtailment program is appropriate since the curtailment program applies to the Tideflats and all contiguous and surrounding areas. After accounting for the reduction in particulate matter due to the efficiency of the curtailment program, the rollback analysis presented in the 1995 submission shows that the limits in the emissions inventory for 1994 would be sufficient to attain the PM–10 NAAQS in 1994 and to maintain the standard in 1997. Further, there has been no

measured exceedance of the PM–10 NAAQS for nearly five years. EPA approves the demonstrations of attainment and maintenance submitted in the Tacoma PM–10 SIP.

5. Quantitative Milestones and Reasonable Further Progress (RFP)

The PM–10 nonattainment area plan revisions demonstrating attainment must contain quantitative milestones which are to be achieved every three (3) years until the area is redesignated attainment and which demonstrate RFP, as defined in section 171(1), toward attainment by December 31, 1994 (see section 189(c) of the Act). Reasonable further progress is defined in CAA section 171(1) as such annual incremental reductions in emissions of the relevant air pollutant as are required by Part D of the Act or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable NAAQS by the applicable date.

While section 189(c) plainly provides that quantitative milestones are to be achieved until an area is redesignated attainment, it is silent in indicating the starting point for counting the first 3-year period or how many milestones must be initially addressed. In the General Preamble, EPA addressed the statutory gap in the starting point for counting the 3-year milestones, indicating that it would begin from the due date for the applicable implementation plan revision containing the control measures for the area (i.e., November 15, 1991 for initial moderate PM–10 nonattainment areas). See 57 FR 13539. As to the number of milestones, EPA believes that at least two milestones must be initially addressed. Thus, submittals to address the SIP revisions due on November 15, 1991 for the initial moderate PM–10 nonattainment areas must demonstrate timely attainment of the PM–10 NAAQS, the second milestone should, at a minimum, provide for continued maintenance of the standards.[4]

In implementing RFP for this initial moderate area, EPA has reviewed the attainment demonstration and control strategy for the area to assess whether the initial milestones have been satisfied and to determine whether annual incremental reductions, different from those provided in the SIP, should be required in order to ensure attainment of the PM–10 NAAQS by December 31, 1994 (see CAA section 171(1)). As indicated, the State of Washington's PM–10 SIP for Tacoma demonstrates attainment in 1994 and maintenance through 1997, and therefore satisfies RFP and initial quantitative milestones (see 57 FR 13539). CAA section 110(k)(4).

6. Enforceability Issues

All measures and other elements in the SIP must be enforceable by WDOE and EPA (see CAA sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556). EPA criteria addressing the enforceability of SIP's and SIP revisions were stated in a September 23, 1987, memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, et al. (see 57 FR 13541). Nonattainment area plan provisions must also contain a program that provides for enforcement of the control measures and other elements in the SIP (see CAA section 110(a)(2)(C)).

WDOE's control measures and regulations for control of particulate matter, which are contained in the SIP, are addressed above under the section headed "RACM (including RACT)." These control measures apply to the types of activities identified in that discussion including, for example, point source emissions; fugitive emissions from point sources; vehicle resuspended road dust; and residential wood combustion. The SIP provides that the affected activities will be controlled throughout the entire nonattainment area. For measures controlling area source emissions, the control measures apply in the entire nonattainment area as well as in the four-county jurisdiction of PSAPCA, as in the case of the residential woodstove curtailment program.

The Technical Support Document accompanying the October 12, 1994 **Federal Register** document provides a description of the rules contained in the SIP and the source types subject to them; test methods and compliance schedules; malfunction provisions; excess emission provisions; correctly cited references of incorporated methods/rules; and reporting and recordkeeping requirements.

Both WDOE and PSAPCA have responsibilities in the implementation and enforcement of control measures in the Tacoma nonattainment area. PSAPCA retains authority over all area sources and all but the two stationary sources in Tacoma that are regulated by WDOE. EPA considers PSAPCA's staffing level adequate to ensure that the Tacoma attainment plan is fully implemented. As a necessary adjunct of its enforcement program, PSAPCA also has broad powers to adopt rules and regulations, issue orders, assess penalties, require access to records and information, and receive and disburse funds. WDOE has adequate authority to implement and enforce the plan in the event PSAPCA fails to make a good faith effort to implement and/or enforce the regulations.

The two point sources in the Tacoma nonattainment area not under PSAPCA's jurisdiction are the Simpson Tacoma Kraft Company and Kaiser Aluminum and Chemical Corporation. These sources are regulated by WDOE. WDOE's legal authorities, personnel and funding sources are discussed in the Technical Support Document that accompanies the October 12, 1994 **Federal Register**. EPA finds these authorities and funding mechanisms adequate to ensure that the State will be able to enforce the control measures in the Tacoma nonattainment area.

7. Contingency Measures

As provided in section 172(c)(9) of the Act, all moderate nonattainment area SIP's that demonstrate attainment must include contingency measures (see generally 57 FR 13510–13512 & 13543–44). These measures must be submitted by November 15, 1993, for the initial moderate nonattainment areas. Contingency measures should consist of other available measures that are not part of the area's core control strategy. These measures must take effect without further action by the State or EPA, upon a determination by EPA that the area has failed to make RFP or attain the PM–10 NAAQS by the applicable statutory deadline.

The May 1995 submission of the Tacoma PM–10 SIP changed the contingency measures submitted to EPA for inclusion in the SIP. Previous submissions included two contingency measures related to mobile sources: a sulfur reduction in fuels program and the inspection and maintenance program for diesel engines as the contingency measures for the Tacoma Tideflats. These contingency measures

[4] Section 189(c) provides that quantitative milestones are to be achieved "until the area is redesignated attainment." However, this endpoint for quantitative milestones is speculative because redesignation of an area as attainment is contingent upon several factors and future events.

EPA believes it is unreasonable to require planning for each nonattainment area to cover quantitative milestones years into the future because of the possibility that such time may elapse before an area is in fact redesignated attainment. On the other hand, EPA believes it is reasonable for States initially to submit a sufficient number of milestones to ensure that there is continuing air quality protection beyond the attainment deadline. Addressing two milestones will ensure that the State continues to maintain the NAAQS beyond the attainment date for at least some period during which an area could be redesignated attainment. However, in all instances, additional milestones must be addressed if an area is not redesignated attainment within the time period covered by the initial milestones.

were not fully approved because their adequacy could not be fully evaluated in the absence of an approved attainment demonstration. Therefore, EPA conditionally approved these measures based on the WDOE's commitment to submit enforceable emission limits for the stationary sources in the nonattainment area and to demonstrate attainment without relying on the reductions to be achieved from the implementation of the contingency measures (59 FR 51513).

In the May 1995 submission, WDOE acknowledged that the establishment of an inspection and maintenance program and the reduction in sulfur content of on-highway diesel fuel were already in place. Therefore, WDOE used the emission reduction credits associated with these measures as part of their attainment and maintenance demonstrations, and submitted a new contingency measure, a geographic ban on uncertified woodstoves.

The new contingency measure is the implementation of a year-round prohibition on the use of uncertified woodstoves in an area to be defined by PSAPCA. This ban on uncertified woodstoves is authorized by the Washington Clean Air Act, 70.94.473 and PSAPCA's Regulation I section 13.07. Pursuant to those authorities, if EPA makes written findings that an area has failed to attain or maintain the national ambient air quality standard and, in consultation with WDOE, finds that the emissions from solid fuel burning devices are a contributing factor to such failure to attain or maintain the standard, then the use of woodstoves not meeting the standards set forth in RCW 70.94.457 shall be prohibited within the area that PSAPCA has determined contributed to the violation.

The SIP states that the contingency measure would be "activated" one year after the EPA makes its findings that the standard has been violated and that woodstoves are a contributing factor. EPA recognizes that this language would seem to contradict the requirement that the contingency measure be implemented immediately. However, EPA believes this to be a semantic difference. In order for the ban to be in place and fully operational within one year, PSAPCA would initiate implementation of the ban immediately. In light of the severity and extent of this ban, a one year phase-in period is reasonable.

This contingency measure is authorized by both the State and PSAPCA's regulations and will take effect immediately upon EPA finding that the standard has been violated and that woodstoves are a contributing factor. EPA approves the contingency measure.

III. Implications of this Action

EPA fully approves the plan revisions submitted to EPA for the Tacoma, Washington, PM–10 nonattainment area on November 15, 1991, June 30, 1994, and May 1995. In a previous **Federal Register** document, EPA approved the separable exclusion from precursor controls; the monitoring network; the procedures for consultation and public notification; the provisions for revising the plan and the adequacy of funding and authority. 59 FR 51506 (October 12, 1994) In this action, EPA fully approves the control measures for industrial sources, residential wood combustion and industrial and road fugitives; the emissions inventory; the attainment demonstration; the maintenance demonstration; the enforceability of control measures; the contingency measures and the quantitative milestones and reasonable further progress provisions.

IV. Administrative Review

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

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

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

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

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements.

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

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

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective December 26, 1995 unless, by November 24, 1995 adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective December 26, 1995.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 26, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2), 42 U.S.C. 7607(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: September 22, 1995.

Charles Findley,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(57) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(57) On May 2, 1995, WDOE submitted to EPA revisions to the Washington SIP addressing the conditional approval of the State Implementation Plan (SIP) for particulate matter (PM10) in the Tacoma TIdeflats PM10 Nonattainment Area.

(i) Incorporation by reference.

(A) May 2, 1995 letter from WDOE to EPA Region submitting the SIP revision for Particulate Matter in the Tacoma Tideflats, A Plan for Attaining and Maintaining the National Ambient Air Quality Standard for PM10, Supplement May 1995, adopted on May 4, 1995.

[FR Doc. 95–26466 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 180

[PP 4E4311 and 4E4358/R2178; FRL–4981–5]

RIN 2070–AB78

2-(2-Chlorophenyl)Methyl-4,4-Dimethyl-3-Isoxazolidinone; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes tolerances for residues of the herbicide 2-(2-chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone (also referred to in this document as clomazone) in or on the raw agricultural commodities cabbage, cucumbers, and summer squash. The Interregional Research Project No. 4 (IR-4) submitted petitions pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA) that requested the regulation to establish maximum permissible levels for residues of the herbicide.

EFFECTIVE DATE: This regulation becomes effective October 25, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 4E4311 and 4E4358//R2178], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 4E4311 and 4E4358/R2178]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), 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; e-mail: jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 30, 1995 (60 FR 45116), EPA issued a proposed rule that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brusnwick, NJ 08903, had submitted pesticide petitions (PP) 4E4311 and 4E4358 to EPA on behalf of the named Agricultural Experiment Stations. These petitions requested that the Administrator, pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, amend 40 CFR 180.425 by establishing tolerances for residues of the herbicide clomazone in or on certain raw agricultural commodities as follows:

1. *PP 4E4311*. Petition submitted on behalf of Agricultural Experiment Stations of Arkansas, California, Florida, Georgia, Kentucky, New York, North Carolina, Oregon, Texas, Washington, and Wisconsin proposing a tolerance for cabbage at 0.1 part per million (ppm).

2. *PP 4E4358*. Petition submitted on behalf of Agricultural Experiment Stations of Arkansas, Kentucky, Michigan, New Jersey, North Carolina, Tennessee, Virginia, Washington, and Wisconsin proposing a tolerance for

cucumber and summer squash at 0.1 ppm.

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

The data submitted with the proposal 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 will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is 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).

A record has been established for this rulemaking under docket number [PP 4E4311 and 4E4358/R2178] (including any objections and hearing requests submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and hearing requests, identified by the document control number [PP 4E4311 and 4E4358/R2178], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and hearing requests filed with the Hearing Clerk must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

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

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

Dated: October 18, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.425, by adding and alphabetically inserting in the table the entries for cabbage, cucumber, and squash, summer, to read as follows:

§ 180.425 2-(2-Chlorophenyl)methyl-4,4-dimethyl-3-isoxazolidinone; tolerances for residues.

* * * * *

Commodity	Parts per million
Cabbage	0.1
* * * * *	
Cucumber	0.1
* * * * *	
Squash, summer	0.1
* * * * *	

[FR Doc. 95-26474 Filed 10-24-95; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[OPP-300395A; FRL-4976-7]

RIN 2070-AB78

Cellulose Acetate; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document exempts cellulose acetate (CAS Reg. No. 9004-35-

7) when used as an inert ingredient (pesticide rate-release regulating agent) in pesticide formulations applied to growing crops only. Consep, Inc., requested this regulation pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA).

EFFECTIVE DATE: This regulation becomes effective October 25, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [OPP-300395A], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [OPP-300395A]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Mary Waller, Registration Support Branch, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, 2800 Crystal Drive, North Tower, Arlington, VA 22202, (703)-308-8811; e-mail: waller.mary@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 23, 1995 (60 FR 43738), EPA issued a proposed rule that gave notice that Consep, Inc., 213 Southwest Columbia St., Bend, OR 97702-1013, had submitted pesticide petition (PP) 4E04401 to EPA requesting that the Administrator, pursuant to section 408(e) of the FFDCA (21 U.S.C. 346a(e)), propose to amend 40 CFR 180.1001(d) by exempting cellulose acetate from the requirement of a tolerance. Cellulose acetate, when used as an inert ingredient (pesticide rate-release reglating agent) in pesticide formulations applied to growing crops only, under 40 CFR 180.1001(d), meets the definition of a polymer under 40 CFR 723.250(b) and the criteria in 40 CFR 723.250(e) that define a chemical substance that poses no unreasonable risk under section 5 of the Toxic Substance Control Act (TSCA).

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceouse earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

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

The data submitted with the proposal 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 tolerance exemption will protect the public health. Therefore, the tolerance exemption is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is 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).

A record has been established for this rulemaking under docket number [OPP-300395A] (including any objections and hearing requests submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and hearing requests, identified by the document control number [OPP-300395A], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and hearing requests filed with the Hearing Clerk must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all objections and hearing

requests submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

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

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

Dated: September 28, 1995.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.1001(d) is amended in the table therein by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredient	Limits	Uses
* *	* * *	* *
Cellulose acetate (CAS Reg. No. 9004-35-7), minimum number average molecular weight 28,000.	....	Pesticide rate-release regulating agent.
* *	* * *	* *

* * * * *

[FR Doc. 95–26061 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 180

[PP 4F4391/R2180; FRL–4982–8]

RIN 2070–AB78

Pyrithiobac Sodium Salt; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a time-limited tolerance, to expire on September 30, 1997, for residues of the herbicide pyrithiobac sodium salt (sodium 2-chloro-6-[(4,6-dimethoxypyrimidin-2-yl)thio]benzoate) in or on the raw agricultural commodity cottonseed at 0.02 part per million (ppm). E.I. du Pont de Nemours & Co., Inc., submitted a petition pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA) requesting the regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity.

EFFECTIVE DATE: This regulation becomes effective October 25, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP4F4391/R2180], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM 1B2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 4F4391/R2180]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Theresa A. Stowe, Acting Product Manager (PM 22), Registration Division (7505C), Office of Pesticide Programs, Enviromental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm.

229, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6117; e-mail: stowe.theresa@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of June 15, 1995 (60 FR 31466), which announced that E. I. du Pont de Nemours Co., Inc., Barley Mill Plaza, Walker's Mill, P.O. Box 80038, Wilmington, DE 19880-0038, had submitted a pesticide petition, PP 4F4391, to EPA requesting that the Administrator, pursuant to section 408(d) of the FFDCA (21 U.S.C. 346a(d)), amend 40 CFR part 180 by establishing a regulation to permit residues of pyrithiobac sodium salt (sodium 2-chloro-6-[(4,6-dimethoxypyrimidin-2-yl)thio]benzoate) in or on the raw agricultural commodity cottonseed at 0.02 part per million (ppm).

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

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

1. A rat acute oral study with a LD_{50} of 3,300 milligrams (mg)/kilogram (kg) for males and a LD_{50} of 3,200 mg/kg for females.

2. A 90-day rat feeding study with a no-observed-effect level (NOEL) of 500 ppm (31.8 mg/kg/day for males and 40.5 mg/kg/day for females) and a lowest-observed-effect level (LOEL) of 7,000 ppm (466 m/kg/day for males and 58.8 mg/kg/day for females), based on decrease body weight gains and increased rate of hepatic B-oxidation in males.

3. A 90-day mouse feeding study with a NOEL of 500 ppm (83.1 mg/kg/day for males and 112 mg/kg/day for females) and a LOEL of 1,500 ppm (263 mg/kg/day for males and 384 mg/kg/day for females) based on increased liver weight and an increased incidence of hepatocellular hypertrophy in males and decreased neutrophil count in females.

4. A 3-month dog feeding study with a NOEL of 5,000 ppm (165 mg/kg/day) and a LOEL of 20,000 ppm (626 mg/kg/day), based on decrease red blood cell count, hemoglobin, and hematocrit in females and increased liver weight in both sexes.

5. A 21-day rat dermal study with a dermal irritation NOEL of 50 mg/kg/day and a dermal irritation LOEL of 500 mg/kg/day based on increased incidence of erythema and edema, and with a systemic dermal NOEL of 500 mg/kg/day and a systemic dermal LOEL of 1,200 mg/kg/day based on body weight gain inhibition.

6. A 90-day rat neurotoxicity screening battery with a systemic NOEL of 7,000 ppm (466 mg/kg/day for males and 588 mg/kg/day for females) and a systemic LOEL of 20,000 ppm (1,376 mg/kg/day for males and 1,609 mg/kg/day for females), based on decreased hind grip strength and increased foot spay in males, and a neurotoxicity NOEL of 20,000 ppm [highest dose tested (HDT)].

7. A 78-week dietary carcinogenicity study in mice with a NOEL of 1,500 ppm [217 mg/kg/day (males) and 319 mg/kg/day (females)] and a LOEL of 5,000 ppm [745 mg/kg/day (males) and 1,101 m/kg/day (females)] based on decreased body weight/gain in both sexes, treatment related increase in the incidence of foci/focus of hepatocellular alternation in males, and increased incidence of glomerulonephropathy [murine] in both sexes, and an increased incidence of infarct in the kidney and keratopathy of the eyes in 1.43 mg/kg/day and a LOEL of 28.6 mg/kg/day (males) and 92.9 mg/kg/day (females) based on hepatocellular enlargement and a greater incidence and severity of hepatocellular vacuolation. There was evidence of carcinogenicity based on significant differences in the pair-wise comparisons of the liver tumors in the 150 and 1,500 dose groups (but not at the high dose of 5,000 ppm). The carcinogenic effects observed are discussed below.

8. A 24-month rat chronic feeding/carcinogenicity study with a systemic NOEL of 1,500 ppm (58.7 mg/kg/day) for males and 5,000 ppm (278 mg/kg/day) for females and a systemic LOEL of 5,000 ppm (200 mg/kg/day) for males and 1,500 ppm (918 mg/kg/day) for females based on decreases in body weight, body weight gains and food efficiency in females, increased incidence of eye lesions in males and females, mild changes in hematology and urinalysis in both sexes, clinical signs suggestive of urinary tract dysfunction in males and females, increased incidence of focal cystic degeneration in the liver and renal tubular adenomas and adenocarcinomas in males, increased rate of hepatic peroxisomal B-oxidation in males and an increased incidence of inflammatory, degenerative, and neoplastic microscopic lesions in the kidney in females. There was evidence of carcinogenicity based on the increasing trend in kidney tubular combined adenoma/carcinoma in male rats and an increasing trend in kidney tubular bilateral and/or unilateral adenomas in females. The carcinogenic effects observed are discussed further below.

9. A 1-year dog chronic feeding study with a NOEL of 5,000 ppm (143 mg/kg/day for males and 166 mg/kg/day for females) and a LOEL of 20,000 ppm (580 mg/kg/day for males and 647 mg/kg/day for females) based on decreases in body weight gain and increased liver weight.

10. A two generation reproduction study in rats with a maternal NOEL of 1,500 ppm (103 mg/kg/day) and a maternal LOEL of 7,500 ppm (508 mg/kg/day ppm), based on decreased body weight/gain and food efficacy. The reproductive and offspring NOEL is 7,500 ppm (508 mg/kg/day) and the reproductive and offspring LOEL is 20,000 ppm (1,551 mg/kg/day), based on decreased pup body weight.

11. A developmental toxicity study in rabbits with a maternal and developmental NOEL of 300 mg/kg and a maternal LOEL of 1,000 mg/kg based on deaths, decreased body weight gain and feed consumption, increased incidence of clinical signs, and an increase in early resorptions and a developmental LOEL of 1,000 mg/kg, based on decreased fetal body weight gain.

12. A developmental toxicity study in rats with a maternal NOEL 200 mg/kg and a maternal LOEL of 600 mg/kg due to increased incidence of salivation. The developmental NOEL is 600 mg/kg and the developmental LOEL is 1,800 mg/kg based on the increased incidence of skeletal variations .

13. No evidence of gene mutation was observed in a test for induction of forward mutations at the HGPRT locus in Chinese hamster ovary cells. No evidence was observed for inducing reverse gene mutation in two independent assays with *Salmonella typhimurium* with and without mammalian metabolic activation. Pyrithiobac-sodium was negative for the induction of micronuclei in the bone marrow cells of mice, and negative for induction of unscheduled DNA synthesis in rat primary hepatocytes. Pyrithiobac-sodium was positive for inducing chromosome aberrations assay in human lymphocytes.

14. A rat metabolism study showed that radiolabeled pyrithiobac-sodium is excreted in urine and feces with greater than 90 percent being eliminated within 48 hours. A sex difference was observed in the excretion and biotransformation. Females excreted a greater amount of the radiolabel in the urine than males following all dosing regimens, with a corresponding lower amount being eliminated in the feces compared to the males.

The Health Effects Division Carcinogenicity Peer Review Committee has concluded that the available data provide limited evidence of the carcinogenicity of pyrithiobac sodium salt in mice and rats and has classified pyrithiobac sodium salt as a Group C (possible human carcinogen with limited evidence of carcinogenicity in animals) in accordance with Agency guidelines, published in the **Federal Register** in 1986 (51 FR 33992, Sept. 24, 1986) and recommended that for the purpose of risk characterization a low-dose extrapolation model should be applied to the experimental animal tumor data for quantification for human risk ($Q1^*$). This decision was based on liver adenomas, carcinomas and combined adenoma/carcinomas in the male mouse and rare kidney tubular adenomas, carcinomas and combined adenoma/carcinomas in male rat. The unit risk, $Q1^*$ $(mg/kg/day)^{-1}$, of pyrithiobac- sodium is 1.05×10^{-3} $(mg/kg/day)^{-1}$ in human equivalents based on male kidney tumors.

Based on assumption that 100% of the crop is treated with pyrithiobac-sodium, the upper-bound limit of the dietary carcinogenic risk is calculated in the range of 1 incidence in a billion (1.0×10^{-9}).

Processing studies for cotton have shown that pyrithiobac-sodium does not concentrate in cottonseed processed commodities. Therefore, food/feed additive tolerances are not needed in conjunction with these uses.

Using the NOEL of 58.7 mg/kg/day from the most sensitive species in the rat chronic feeding study with a 100-fold safety factor, the Reference Dose (RfD) for systemic effects is 0.58 mg/kg/day. The theoretical maximum residue contribution (TMRC) from the established and proposed tolerances is 0.000001 mg/kg/day and utilizes less than 1 percent of the RfD for the overall U.S. population. For exposure of the most highly exposed subgroup in the population, children aged 1 through 6 years of age, the TMRC is 0.000001 mg/kg/day, which is still less than 1 percent of the RfD.

The metabolism of pyrithiobac-sodium in plants is adequately understood. Due to the following chemistry data gap, Magnitude of Residue Data for cotton gin byproducts [GLN 171-4], EPA believes it is inappropriate to establish permanent tolerances for the uses of pyrithiobac-sodium at this time. However, since the pesticide labeling accepted under the Federal Insecticide Fungicide and Rodenticide Act (FIFRA), as amended, bears a restriction against feeding cotton gin byproducts from treated fields to livestock, EPA believes that the existing data support time-limited tolerances to September 30, 1997.

The nature of the residue in plants is adequately understood for the purposes of these time-limited tolerances. An analytical method, high- pressure liquid chromatography, is available for enforcement purposes. The enforcement methodology has been submitted to the Food and Drug Administration for publication in the Pesticide Analytical Manual, Vol. II (PAM II). Because of the long lead time for publication of the method in PAM II, the analytical methodology is being made available in the interim to any one interested in pesticide enforcement when requested from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-305-5232).

There is no reasonable expectation that secondary residues will occur in milk, eggs or meat of livestock and poultry since, due to the label restriction against feeding cotton gin byproducts from treated fields to livestock, there are no livestock feed items associated with this action. The pesticide is considered useful for the purpose for which the tolerance is sought.

Based on the information and data considered, the Agency has determined that the amending of 40 CFR part 180 will be safe. Therefore, the regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is 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).

A record has been established for this rulemaking under docket number [PP 4F4391/R2180] (including any objections and hearing requests submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall 1B2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and hearing requests, identified by the document control number [PP 4F4391/R2180], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to EPA at:

opp@docket@epamail.epa.gov

A copy of electronic objections and hearing requests filed with the Hearing Clerk must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f),

the order defines a "significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of the Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

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

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

Dated: September 29, 1995.

Penelope A. Fenner-Crisp,

Deputy Director, Office of Pesticide Programs.

Therefore, title 40 of the Code of Federal Regulations is amended in part 180 as follows:

PART 180—[AMENDED]

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

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

2. By adding new § 180.487, to read as follows:

§ 180.487 Pyrithiobac sodium salt (sodium 2-chloro-6-[(4,6-dimethoxypyrimidin-2-yl)thio]benzoate); tolerances for residues.

A time-limited tolerance is established for residues of the herbicide pyrithiobac sodium salt (sodium 2-chloro-6-[(4,6-dimethoxypyrimidin-2-yl)thio]benzoate) in or on the following raw agricultural commodity:

Commodity	Parts per million	Expiration date
Cottonseed	0.02	Sept. 30, 1997.

[FR Doc. 95–26472 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Parts 185 and 186

[FAP 3H5678/R2176; FRL–4980–1]

RIN 2070–AB78

Tralomethrin; Food and Feed Additive Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes food/feed additive regulations for the combined residues of the pyrethroid tralomethrin and its metabolites *cis*-deltamethrin and *trans*-deltamethrin in or on food and feed items as a result of the application of this pesticide in food/feed handling establishments. The regulation to establish maximum permissible levels for residues of the pesticide in food/feed as a result of application of this insecticide in food/feed handling establishments was requested in a petition submitted by AgrEvo Environmental Health (formerly Roussel UCLAF Corp.).

EFFECTIVE DATE: This regulation becomes effective October 25, 1995.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [FAP 3H5678/R2176], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [FAP 3H5678/R2176]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: George T. LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 204, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-6100; e-mail: larocca.george@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of October 21, 1993 (58 FR 54356), which announced that AgrEvo Environmental Health had submitted a food/feed additive petition (FAP) 3H5678 to EPA requesting that the Administrator, pursuant to section 409(e) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 348(e), amend 40 CFR parts 185 and 186 by establishing a food/feed additive regulation to permit residues of the synthetic pyrethroid tralomethrin ((*S*)-*alpha*-cyano-3-phenoxybenzyl-(1*R*,3*S*)-2,2-dimethyl-3-[(*RS*)-1,2,2,2-tetrabromoethyl] cyclopropanecarboxylate) and its metabolites *cis*-deltamethrin [(*S*)-*alpha*-cyano-3-phenoxybenzyl-(1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate] and *trans*-deltamethrin [(*S*)-*alpha*-cyano-3-phenoxybenzyl (1*S*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate] in or on food and feed as a result of use in food/feed-handling establishments at 0.02 part per million (ppm). Treatments may be made by general surface, spot, and/or crack and crevice application.

There were no comments received in response to the notice of filing. The scientific data submitted in support of the food and feed additive regulations and other relevant material have been evaluated. The toxicological data considered in support of these regulations are discussed in detail in

related documents published in the Federal Register of September 18, 1985 (50 FR 37581).

A chronic dietary exposure/risk assessment was performed for tralomethrin using a reference dose (RfD) of 0.0075 mg/kg bwt/day based on the no-observable-effect level (NOEL) of 0.75 mg/kg bwt/day in the 2-year rat-feeding study with an uncertainty factor of 100. The endpoint of concern was decreased body weight gain in males and increase food and water consumption in both sexes. The Theoretical Maximum Residue Contribution (TMRC) from established tolerances utilizes less than 1% of the RfD for the U.S. population and nonnursing infants less than 1 year of age (the subgroup with the highest estimated exposure to tralomethrin residues). The current action would increase exposure to 0.000478 mg/kg bwt/day or 6.4% of the RfD for the U.S. population and increase exposure to 0.001890 mg/kg bwt/day or 25.5% of the RfD for nonnursing infants less than 1 year. Generally speaking, EPA has no cause for concern if total residue contribution for published and proposed tolerances is less than the RfD. EPA concludes that the chronic dietary risk of tralomethrin does not appear to be of concern.

The nature of the residues of tralomethrin and metabolism in plants and animals are adequately understood for the establishment of a permanent tolerance in food/feed handling establishments. The residues of concern are tralomethrin and its metabolites. There is no reasonable expectation of secondary residues in animal commodities, i.e., meat, milk, poultry, and eggs from this use, pursuant to 40 CFR 180.6(a)(3).

An adequate analytical method, capillary gas chromatography equipped with electron capture detector, is available for enforcement purposes. The enforcement methodology has been submitted to the Food and Drug Administration for publication in the Pesticide Analytical Manual, Vol. II (PAM II). Because of the long lead time for publication of the method in PAM II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency 401 M St., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5232.

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

The pesticide is considered useful for the purposes for which it is sought and capable of achieving its intended physical and technical effect. Based on the information and data considered, the Agency has determined that the establishment of a food/feed additive regulation by amending 40 CFR parts 185 and 186 would protect the public health and that use of the pesticide in accordance with the food/feed additive regulations would be safe. Therefore, the food/feed additive regulations are 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 notice in the Federal Register that this rulemaking be referred to an Advisory Committee in accordance with section 409 of the FFDCA.

Interested persons are invited to submit written objections on this regulation. Comments must bear a notation indicating the document control number, [FAP 3H5678/R2176]. All written objections 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 4:30 p.m., Monday through Friday, except legal holidays.

A record has been established for this rulemaking under docket number [FAP 3H5678/R2176] (including objections and hearing requests submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and hearing requests, identified by the document control number [FAP 3H5678/R2176], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

A copy of electronic objections and hearing requests filed with the Hearing Clerk must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

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, 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 185 and 186

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

Dated: September 28, 1995.

Stephen L. Johnson,
Director, Registration Division, Office of Pesticide Programs.

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

PART 185—[AMENDED]

1. In part 185:

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

Authority: 21 U.S.C. 346a and 348.

b. In § 185.5450, by adding new paragraph (c) to read as follows:

§ 185.5450 Tralomethrin.

* * * * *

(c) A food additive tolerance of 0.02 part per million is established for the combined residues of the insecticide tralomethrin ((*S*)-*alpha*-cyano-3-phenoxybenzyl-(1*R*,3*S*)-2,2-dimethyl-3-[(*RS*)-1,2,2,2-tetrabromoethyl] cyclopropanecarboxylate) and its metabolites *cis*-deltamethrin [(*S-alpha*-cyano-3-phenoxybenzyl-(1*R*,3*R*)-3-[2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate] and *trans*-deltamethrin [(*S*)-*alpha*-cyano-3-phenoxybenzyl (1*S*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate] as follows:

(1) In or on all food items (other than those covered by a higher tolerance as a result of use on growing crops) in food-handling establishments.

(2) The insecticide may be present as a residue from application of tralomethrin in food-handling establishments, including food service, manufacturing, and processing establishments, such as restaurants, cafeterias, supermarkets, bakeries, breweries, dairies, meat slaughtering and packing plants, and canneries in accordance with the following prescribed conditions:

(i) Application shall be limited to a general surface and spot and/or crack and crevice treatment in food-handling establishments where food and food products are held, processed, prepared, and served. General surface application may be used only when the facility is not in operation provided exposed food has been covered or removed from the area being treated. All food-contact surfaces and equipment must be thoroughly cleaned after general surface applications. Spot and/or crack and crevice application may be used while the facility is in operation provided exposed food is covered or removed from the area being treated prior to application. Spray concentration shall be limited to a maximum of 0.06 percent active ingredient. Contamination of food and food-contact surfaces shall be avoided.

(ii) To assure safe use of the insecticide, its label and labelling shall conform to that registered with the U.S. Environmental Protection Agency and shall be used in accordance with such label and labelling.

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. In § 186.5450, by redesignating paragraphs (b) and (c) as paragraphs (a)(1) and (2), respectively, and by adding new paragraph (b), to read as follows:

§ 186.5450 Tralomethrin.

* * * * *

(b) A feed additive tolerance of 0.02 part per million is established for the combined residues of the insecticide tralomethrin ((*S*)-*alpha*-cyano-3-phenoxybenzyl-(1*R*,3*S*)-2,2-dimethyl-3-[(*RS*)-1,2,2,2-tetrabromoethyl] cyclopropanecarboxylate) and its metabolites *cis*-deltamethrin [(*S*)-*alpha*-cyano-3-phenoxybenzyl-(1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate] and *trans*-deltamethrin [(*S*)-*alpha*-cyano-3-phenoxybenzyl (1*S*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate as follows:

(1) In or on all feed items (other than those covered by a higher tolerance as a result of use on growing crops) in feed-handling establishments.

(2) The insecticide may be present as a residue from application of tralomethrin in feed-handling establishments, including feed manufacturing and processing establishments in accordance with the following prescribed conditions:

(i) Application shall be limited to a general surface and spot and/or crack and crevice treatment in feed-handling establishments where feed and feed products are held or processed. General surface application may be used only when the facility is not in operation provided exposed feed has been covered or removed from the area being treated. All feed-contact surfaces and equipment must be thoroughly cleaned after general surface applications. Spot and/or crack and crevice application may be used while the facility is in operation provided exposed feed is covered or removed from the area being treated prior to application. Spray concentration shall be limited to a maximum of 0.06 percent active ingredient. Contamination of feed and feed- contact surfaces shall be avoided.

(ii) To assure safe use of the insecticide, its label and labelling shall conform to that registered with the U.S. Environmental Protection Agency and shall be used in accordance with such label and labelling.

[FR Doc. 95–26475 Filed 10–24–95; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7628]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and

administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

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

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows: §

State/location	Community No.	Effective date of eligibility	Current effective map date
New Eligibles—Emergency Program			
Kentucky: Breckinridge County, unincorporated areas	210025	September 5, 1995	October 21, 1977.
Indiana: Brookston, town of, White County	180512	September 7, 1995	Do.
Illinois: Williamsville, village of, Sangaman County	171041	September 14, 1995	Do.
Indiana: Greentown, town of, Howard County	180513	......do	Do.
Iowa: Wellman, city of, Washington County	190276	September 18, 1995	April 30, 1976.
Georgia:			
Dooly County, unincorporated areas	130532	September 22, 1995, 1995	Do.
Jefferson County, unincorporated areas	130538	......do	Do.
Michigan: Meyer, township of, Menominee County	260458	......do	Do.
Arkansas: Aubrey, city of, Lee County	050123	September 29, 1995	December 6, 1974.
New Eligibles—Regular Program			
Idaho: Custer County, Unincorporated Areas	160211	September 5, 1995, 1995	March 4, 1988.
Reinstatements			
Missouri: Moline Acres, city of, St. Louis County	290370	September 17, 1974, Emerg,; May 19, 1981, Reg.; August 2, 1995, Susp.; September 5, 1995, Rein.	August 2, 1995.
New York: Providence, town of, Saratoga County	361190	October 5, 1984, Emerg.; December 2, 1985, Reg., August 15, 1995, Susp.; September 5, 1994, Rein.	August 16, 1995.
Kentucky:			
Hawesville, city of, Hancock County	210239	May 19, 1975, Emerg.; November 5, 1986, Reg.; January 19, 1995, Susp.; September 5, 1995, Rein.	November 5, 1986.
Sebree, city of, Webster County	210224	July 7, 1975, Emerg.; August 19, 1986, Reg.; January 19, 1995, Susp.; September 5, 1995, Rein.	August 19, 1986.
New York: Galway, town of, Saratoga County	360716	July 16, 1975, Emerg.; May 1, 1985, Reg.; November 4, 1992, Susp.; September 7, 1995, Rein.	August 17, 1995.
Missouri: Black Jack, city of, St. Louis County	290336	July 2, 1974, Emerg.; August 2, 1995, Reg.; August 2, 1995, Susp.; September 15, 1995, Rein.	August 2, 1995.
Tennessee: Polk County, unincorporated areas	470261	April 9, 1993, Emerg.; June 16, 1995, Reg.; June 16, 1995, Susp.; September 15, 1995, Rein.	June 16, 1995.
New York: Alabama, town of, Oneida County	361067	June 18, 1976, Emerg.; November 18, 1983, Reg.; November 4, 1992, Susp.; September 22, 1995, Rein.	November 18, 1983.
Ava, town of, Oneida County	360518	April 10, 1984, Emerg.; February 1, 1985, Reg.; November 4, 1992, Susp.; September 22, 1995, Rein.	February 1, 1985.
Moreau, town of, Saratoga County	360723	August 11, 1975, Emerg.; June 18, 1984, Reg.; August 16, 1995, Susp.; September 22, 1995, Rein.	August 16, 1995.

State/location	Community No.	Effective date of eligibility	Current effective map date
Illinois: Joliet, city of, Will County	170702	April 13, 1973, Emerg.; February 4, 1981, Reg.; September 6, 1995, Susp.; September 29, 1995, Rein.	September 6, 1995.
Louisiana: Merryville, town of, Beauregard Parish	220028	November 1, 1974, Emerg.; February 1, 1987, Reg.; August 16, 1988, Susp.; September 29, 1995, Rein.	February 1, 1987.
Pennsylvania: Coal Center, borough of, Washington County.	422131	April 17, 1995, Emerg.; September 30, 1981, Reg.; September 6, 1995, Susp.; September 29, 1995, Rein.	September 6, 1995.
Regular Program Conversions			
Region I			
Connecticut: Clinton, Town of, Middlesex County	090061	September 6, 1995, suspension withdrawn	September 6, 1995.
Region III			
Pennsylvania:			
Washington, township of, Fayette County	421641	......do	Do.
West Brownsville, borough of, Washington County.	425391	......do	Do.
Region V			
Illinois:			
Beecher, village of, Will County	170696	......do	Do.
Bolingbrook, village of, Will County	170812	......do	Do.
Braidwood, city of, Will County	170848	......do	Do.
Channahon, village of, Will County	170698	......do	Do.
Crest Hill, city of, Will County	170699	......do	Do.
Elwood, village of, Will County	170849	......do	Do.
Frankfort, village of, Will County	170701	......do	Do.
Lockport, city of, Will County	170703	......do	Do.
Manhattan, village of, Will County	170704	......do	Do.
Minooka, village of, Will County	171019	......do	Do.
Mokena, village of, Will County	170705	......do	Do.
Plainfield, village of, Will County	170771	......do	Do.
Romeoville, village of, Will County	170711	......do	Do.
Shorewood, village of, Will County	170712	......do	Do.
Symerton, village of, Will County	170714	......do	Do.
Unviersity Park, village of, Will County	170708	......do	Do.
Wilmington, city of, Will County	170715	......do	Do.
Will County, unincorporated areas	170695	......do	Do.
Michigan: Brownstown, charter township, Wayne County.	260218	......do	Do.
Region VI			
New Mexico:			
Dona Ana County, unincorporated areas	350012	......do	Do.
Las Cruces, city of, Dona Ana County	355332	......do	Do.
Texas: Hunt County, unincorporated areas	480363	......do	September 4, 1991.
Region VIII			
Utah:			
Riverdale, city of, Weber County	490190	......do	September 6, 1995.
Weber County, unincorporated areas	490187	......do	Do.
Regular Program Conversions			
Region I			
Massachusetts: Avon, town of, Norfolk County	250231	September 20, 1995, suspension withdrawn	September 20, 1995.
Region II			
New Jersey:			
Allendale, borough of, Bergen County	340019	......do	Do.
Bergenfield, borough of, Bergen County	340020	......do	Do.
Bogota, borough of, Bergen County	340021	......do	Do.
Carlstadt, borough of, Bergen County	340022	......do	Do.
Closter, borough of, Bergen County	340023	......do	Do.
Cresskill, borough of, Bergen County	340024	......do	Do.
Demarest, borough of, Bergen County	340025	......do	Do.
Dumont, borough of, Bergen County	340026	......do	Do.
East Rutherford, borough of, Bergen County	340028	......do	Do.
Edgewater, borough of, Bergen County	340029	......do	Do.
Elmwood Park, borough of, Bergen County	340500	......do	Do.
Emerson, borough of, Bergen County	340030	......do	Do.

State/location	Community No.	Effective date of eligibility	Current effective map date
Englewood, city of, Bergen County	340031	......do	Do.
Fair Lawn, borough of, Bergen County	340033	......do	Do.
Franklin Lakes, borough of, Bergen County	340036	......do	Do.
Glen Rock, borough of, Bergen County	340038	......do	Do.
Hackensack, city of, Bergen County	340039	......do	Do.
Hackensack Meadowlands District, Bergen County.	340570	......do	Do.
Harrington Park, borough of, Bergen County	340040	......do	Do.
Hasbrouck Heights, borough of, Bergen County	340041	......do	Do.
Haworth, borough of, Bergen County	340042	......do	Do.
Hillsdale, borough of, Bergen County	340043	......do	Do.
Ho-Ho-Kus, borough of, Bergen County	340044	......do	Do.
Little Ferry, borough of, Bergen County	340046	......do	Do.
Lodi, borough of, Bergen County	340047	......do	Do.
Lyndhurst, township of, Bergen County	340048	......do	Do.
Mahwah, township of, Bergen County	340049	......do	Do.
Maywood, borough of, Bergen County	340050	......do	Do.
Montvale, borough of, Bergen County	340052	......do	Do.
Moonachie, borough of, Bergen County	340053	......do	Do.
New Milford, borough of, Bergen County	340054	......do	Do.
Northvale, borough of, Bergen County	340056	......do	Do.
Norwood, borough of, Bergen County	340057	......do	Do.
Oakland, borough of, Bergen County	345309	......do	Do.
Old Tappan, borough of, Bergen County	340059	......do	Do.
Oradell, borough of, Bergen County	340060	......do	Do.
Paramus, borough of, Bergen County	340062	......do	Do.
Park Ridge, borough of, Bergen County	340063	......do	Do.
Ramsey, borough of, Bergen County	340064	......do	Do.
Ridgefield, borough of, Bergen County	340065	......do	Do.
Ridgefield Park, village of, Bergen County	340066	......do	Do.
Ridgewood, village of, Bergen County	340067	......do	Do.
River Edge, borough of, Bergen County	340068	......do	Do.
River Vale, township of, Bergen County	340069	......do	Do.
Rochelle Park, township of, Bergen County	340070	......do	Do.
Rockleigh, borough of, Bergen County	340071	......do	Do.
Rutherford, borough of, Bergen County	340072	......do	Do.
Saddle Brook, township of, Bergen County	340074	......do	Do.
Saddle River, borough of, Bergen County	340073	......do	Do.
South Hackensack, township of, Bergen County	340515	......do	Do.
Teaneck, township of, Bergen County	340075	......do	Do.
Upper Saddle River, borough of, Bergen County	340077	......do	Do.
Waldwick, borough of, Bergen County	340078	......do	Do.
Wallington, borough of, Bergen County	340079	......do	Do.
Washington, township of, Bergen County	340080	......do	Do.
Westwood, borough of, Bergen County	340081	......do	Do.
Wood-Ridge, borough of, Bergen County	340083	......do	Do.
Woodcliff Lake, borough of, Bergen County	340082	......do	Do.
Wyckoff, township of, Bergen County	340084	......do	Do.
Virgin Islands: Island of St. John	780000	......do	Do.
Region III			
Pennsylvania:			
Dunkard, township of, Greene County	422431	......do	Do.
Lnzerner, township of, Fayette County	421631	......do	Do.
Monongahela, city of, Washington County	420856	......do	Do.
Rivesville, town of, Marion County	540105	......do	Do.
Region V			
Ohio: Bluffton, village of, Allen County	390004	......do	Do.
Regular Program Conversions			
Region IX			
California: Shasta County, unincorporated areas	060358	......do	Do.
Region I			
Connecticut: New Britain, city of, Hartford County	090032	September 30, 1995 suspension withdrawn	September 30, 1995.
Massachusetts: Mattapoisett, town of, Plymouth County.	255214	......do	Do.
Rhode Island:			
Charlestown, town of, Washington County	445395	......do	Do.
New Shoreham, town of, Washington County	440036	......do	Do.
Portsmouth, town of, Newport County	445405	......do	Do.
South Kingstown, town of, Washington County	445407	......do	Do.
Tiverton, town of, Newport County	440012	......do	Do.

State/location	Community No.	Effective date of eligibility	Current effective map date
Region II			
New Jersey: Monroe, township of, Middlesex County	340269	......do	Do.
Region III			
Pennsylvania:			
Donora, borough of, Washington County	420851	......do	Do.
Jefferson, township of, Fayette County	421629	......do	Do.
Orange County, unincorporated areas	510203	......do	Do.
Monongalia County, township of, unincorporated areas.	540139	......do	Do.
Region IV			
Tennessee:			
Franklin County, unincorporated areas	470344	......do	Do.
Hamilton County, unincorporated areas	470071	......do	Do.
Region V			
Michigan: Port Austin, township of, Huron County	260290	......do	Do.
Minnesota: Brooklyn Park, city of, Hennepin County	270152	......do	Do.
Ohio: Highland Heights, city of Cuyahoga County	390110	......do	Do.
Region VII			
Kansas:			
Dodge City, city of, Ford County	205184	......do	Do.
Ford County, unincorporated areas	200101	......do	Do.
Region IX			
Arizona:			
Avondale, city of, Maricopa County	040038	......do	Do.
Buckeye, town of, Maricopa County	040039	......do	Do.
Carefree, town of, Maricopa County	040126	......do	Do.
Cave Creek, town of, Maricopa County	040129	......do	Do.
Chandler, city of, Maricopa County	040040	......do	Do.
Coconino County unincorporated areas	040019	......do	Do.
El Mirage, city of, Maricopa County	040041	......do	Do.
Flagstaff, city of, Maricopa County	040020	......do	Do.
Gila Bend, town of, Maricopa County	040043	......do	Do.
Gilbert, town of, Maricopa County	040044	......do	Do.
Glendale, city of, Maricopa County	040045	......do	Do.
Goodyear, city of, Maricopa County	040046	......do	Do.
Guadalupe, town of, Maricopa County	040011	......do	Do.
Litchfield Park, city of, Maricopa County	040128	......do	Do.
Maricopa County, unincorporated areas	040037	......do	Do.
Paradise Valley, town of, Maricopa County	040049	......do	Do.
Phoenix, city of, Maricopa County	040051	......do	Do.
Scottsdale, city of, Maricopa County	045012	......do	Do.
Surprise, town of, Maricopa County	040053	......do	Do.
Tempe, city of, Maricopa County	040054	......do	Do.
Hawaii:			
Honolulu, city and county of, Honolulu County	150001	......do	Do.
Kauai County, unincorporated areas	150002	......do	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With. Withdrawn.

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

Issued: October 19, 1995.

Robert H. Volland,

Acting Deputy Associate Director, Mitigation Directorate.

[FR Doc. 95–26452 Filed 10–24–95; 8:45 am]

BILLING CODE 6718–05–P–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 95–101; RM–8646]

Radio Broadcasting Services; Viola, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 232C3 to Viola, Arkansas, as that community's first local aural transmission service, in response to a petition for rule making filed on behalf of Fulton County Broadcasters. *See* 60 FR 35372, July 7, 1995. Coordinates used for Channel 232C3 at Viola are North Latitude 36–19–00 and West Longitude 91–57–00. With this action, the proceeding is terminated.

DATES: Effective December 1, 1995. The window period for filing applications will open on December 1, 1995, and close on January 2, 1996.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process for Channel 232C3 at Viola, Arkansas, should be addressed to the Audio

Services Division, FM Branch, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–101, adopted October 5, 1995, and released October 17, 1995. 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 contractors, International Transcription Service, Inc., (202) 857–3800, located at 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.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by adding Viola, Channel 232C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–26370 Filed 10–24–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 91–56; RM–7350]

Radio Broadcasting Services; Karnes City, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Karnes Broadcasting Company, allots Channel 276C2 to Karnes City, Texas. *See* 56 FR 11141, March 15, 1991. Channel 276C2 can be allotted to Karnes City, Texas, in compliance with the Commission's minimum distance separation requirements with a site restriction of 16.4 kilometers (10.2 miles) east in order to avoid a short-spacing to the reference coordinates of Channel 275C2, Alice, Texas, and to the proposed allotment of Channel 276A at Bandera, Texas. The coordinates for the allotment of Channel 276C2 to Karnes City are North Latitude 28–55–37 and West Longitude 97–44–19. Mexican concurrence has been obtained for the allotment of Channel 276C2 at Karnes City. With this action, this proceeding is terminated.

DATES: Effective December 1, 1995. The window period for filing applications will open on December 1, 1995, and close on January 2, 1996.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 91–56, adopted October 6, 1995, and released October 17, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Karnes City, Channel 276C2.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–26368 Filed 10–24–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 950206040–5040–01; I.D. 101995B]

Groundfish of the Bering Sea and Aleutian Islands Area; Pollock in the Bering Sea Subarea by the Offshore Component

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock by vessels catching pollock for processing by the offshore component in the Bering Sea subarea (BS) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the allowance of the total allowable catch (TAC) for vessels catching pollock for processing by the offshore component in the BS.

EFFECTIVE DATE: 12 noon, Alaska local time, (A.l.t.), October 23, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Michael L. Sloan, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The allowance of pollock TAC for vessels catching pollock for processing by the offshore component in the BS was established by the Final 1995 Specifications of Groundfish (60 FR 8479, February 14, 1995) and a subsequent reserve apportionment (60 FR 32278, June 21, 1995) as 751,563 metric tons (mt).

The Director, Alaska Region, NMFS (Regional Director), determined, in accordance with § 675.20(a)(8), that the allowance of pollock TAC for vessels catching pollock for processing by the offshore component in the BS soon will be reached. Therefore, the Regional Director established a directed fishing allowance of 751,063 mt after determining that 500 mt will be taken as incidental catch in directed fishing for

other species in the BS. Consequently, NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the offshore component in the BS.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and is exempt from review under E.O. 12866.

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

Dated: October 19, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95-26469 Filed 10-20-95; 2:25 pm]

BILLING CODE 3510-22-F

Proposed Rules

Federal Register
Vol. 60, No. 206
Wednesday, October 25, 1995

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

FEDERAL TRADE COMMISSION

16 CFR Part 260

Review of the Environmental Marketing Guides; Date Change for the Public Workshop-Conference

AGENCY: Federal Trade Commission.

ACTION: Date change for the Public Workshop-Conference held as a part of the Environmental Marketing Guides review.

SUMMARY: The Federal Trade Commission previously had announced plans to conduct a Public Workshop-Conference on November 13 and 14, 1995 as part of its review of the Environmental Marketing Guides, 16 CFR part 260. (60 FR 38978, July 31, 1995). Please note that the dates of the Public Workshop-Conference have been changed.

DATES: December 7 and 8, 1995, from 8:30 a.m. until 5 p.m.

ADDRESSES: The Public Workshop-Conference will be held in Room 432 of the Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Kevin Bank, (202) 326–2675, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580.

List of Subjects in 16 CFR Part 260

Environmental marketing claims; Advertising.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–26470 Filed 10–24–95; 8:45 am]

BILLING CODE 6750–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2615

RIN 1212–AA77

Reportable Events

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of meetings.

SUMMARY: This notice announces the place and times of the meetings of the Reportable Events Negotiated Rulemaking Advisory Committee.

DATES: The Committee will meet at 10:00 a.m. on the following dates:

November 9, 1995 (Thursday)
December 13, 1995 (Wednesday)
January 10, 1996 (Wednesday)
February 14, 1996 (Wednesday)
March 13, 1996 (Wednesday)

ADDRESSES: Meetings will be held at the PBGC's offices at 1200 K Street, N.W., Washington, D.C. 20005–4026.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or James L. Beller, Attorney, Office of the General Counsel, PBGC, 1200 K Street, N.W., Washington, D.C. 20005–4026, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: On October 5, 1995, the PBGC announced the establishment of the Reportable Events Negotiated Rulemaking Advisory Committee (60 FR 52135). The Committee will develop proposed amendments to the PBGC's regulations governing reportable events, *i.e.*, events that may be indicative of a need to terminate a pension plan. The first meeting of the Committee was held on October 11, 1995. At that meeting, the Committee established the schedule for future meetings as described above. The agenda for the first meeting includes reports from working groups and identification of issues to be considered by the Committee. At the end of each meeting, the Committee will set the agenda for the next meeting. The meetings will be open to the public.

Issued in Washington, D.C., this 19th day of October, 1995.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 95–26416 Filed 10–24–95; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH–229; Amendment Number 66R]

Ohio Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM is reopening the public comment period for a revised amendment to the Ohio regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977. The amendment was initiated by Ohio and is intended to make the Ohio program as effective as the corresponding Federal regulations concerning the number and frequency of premining water quality samples required for previously mined permit areas.

This document sets forth the times and locations that the Ohio program and the proposed amendment to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4:00 p.m., E.D.T. on November 9, 1995. If requested, a public hearing on the proposed amendments will be held at 1:00 p.m., E.D.T. on November 6, 1995. Requests to speak at the hearing must be received by 4:00 p.m., E.D.T. on November 1, 1995.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Daniel L. Schrum, Acting Director, Columbus Field Office, at the address listed below.

Copies of the Ohio program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free

copy of the proposed amendment by contacting OSM's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 4480 Refugee Road, Suite 201, Columbus, Ohio 43232, Telephone: (614) 866–0578.

Ohio Department of Natural Resources, Division of Reclamation, 1855 Fountain Square Court, Building H–3, Columbus, Ohio 43224, Telephone: (614) 265–6675.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel L. Schrum, Acting Director, Columbus Field Office, (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982, **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendment are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Discussion of the Proposed Amendment

The Ohio Department of Natural Resources, Division of Reclamation (Ohio) submitted proposed Program Amendment Number 66 (PA 66) by letter dated July 3, 1995 (Administrative Record No. OH–2143). In this amendment, Ohio proposed to revise one rule at Ohio Administrative Code (OAC) section 1501:13–4–15 to make the Ohio program as effective as the corresponding Federal regulations concerning the number and frequency of premining water quality samples required for previously mined permit areas. Also as part of PA 66, Ohio proposed to revise two of its Policy/Procedure Directives (PPD's) to reflect the rule changes described above. Ohio proposed to revise PPD Regulatory 93–4 to clarify that pollution abatement areas can include contiguous undisturbed areas which must be affected to improve the baseline pollutional load, to clarify the definition of "no longer exceeding," and to change the name of Ohio's Remining Program contact person.

OSM announced receipt of PA 66 in the July 25, 1995, **Federal Register** (60 FR 37972), and, in the same document, opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on August 24, 1995.

On September 8, 1995, OSM notified Ohio of its comments about PA 66 (Administrative Record No. OH–2156). OSM and Ohio staff met on September 19, 1995, to discuss those comments. In response to OSM's comments, Ohio submitted Revised Program Amendment Number 66 (PA 66R) by letter dated September 27, 1995 (Administrative Record No. OH–2157). In PA 66R, Ohio is proposing two changes to PPD Regulatory 93–4. Ohio is deleting the earlier proposed provision in the PPD which would have allowed the inclusion of "contiguous undisturbed areas" within pollution abatement areas. Ohio is also revising the PPD to provide that, as part of the demonstration that the untreated pre-existing discharges from the pollution abatement area have not exceeded the modified effluent limitations for the required 12 months, the operator must notify the Division's district office in writing at the beginning of the 12-month period prior to the Phase II bond release.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Ohio satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Ohio program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., E.D.T. on November 1, 1995. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions. The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the Columbus Field Office by contacting the person listed under **FOR FURTHER INFORMAITON CONTACT.** All such meetings shall be open to the public and, if possible, notices of the meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each public meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 12, 1995.

Joseph F. Rogozinski,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 95–26400 Filed 10–24–95; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 943

[SPATS No. TX–017–FOR]

Texas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed Rule; Reopening and Extension of Public Comment Period on Proposed Amendment.

SUMMARY: OSM is announcing receipt of revisions pertaining to a previously proposed amendment to the Texas regulatory program (hereinafter, the "Texas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions of Texas' proposed rules pertain to authority, responsibility and applicability, definitions, restrictions of financial interests of state employees, exemption for coal extraction incidental the

extraction of other minerals; areas designated by act of congress; general requirements for permit and exploration procedure systems under regulatory programs; general requirements for coal exploration; hydrology and geology requirements; operation plans; reclamation plans; alluvial valley floors; public availability of information; approval or denial of permits; bonding requirements; performance standards for coal exploration, use of explosives; coal processing mine waste; protection of fish and wildlife and related environmental values; backfilling and grading; revegetation success; road design, construction, maintenance, and restoration; individual civil penalties; blaster training and certification; and revegetation guidelines. Texas also proposed minor changes in wording, numbering, and punctuation of its rules. The amendment is intended to revise the State program to be consistent with the corresponding Federal regulations.

This notice sets forth the times and locations that the Texas program and revisions to the proposed amendment to that program are available for public inspection, and the reopened comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments must be received by 4:00 p.m., c.s.t. November 9, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Mr. Jack R. Carson, Acting Director, Tulsa Field Office, at the address listed below.

Copies of the Texas program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Tulsa Field Office.

Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma, 74135–6547, Telephone: (918) 581–6430.

Railroad Commission of Texas, Surface Mining and Reclamation Division, 1701 North Congress Avenue, P.O. Box 12967, Austin, Texas, 78711–2967, Telephone: (512) 463–6900.

FOR FURTHER INFORMATION CONTACT:

Mr. Jack R. Carson, Acting Director, Tulsa Field Office, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. General background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval, can be found in the February 27, 1980, **Federal Register** (45 FR 12998). Subsequent actions concerning the Texas program and program amendments can be found at 30 CFR 943.10, 943.15, and 943.16.

II. Proposed Amendment

By letter dated May 13, 1993 (Administrative Record No. TX–551), Texas submitted a proposed amendment to its program pursuant to SMCRA. Texas submitted the proposed amendment in response to letters dated May 20, 1985; June 9, 1987; October 20, 1988; February 7, 1990; and February 21, 1990 (Administrative Record Nos. TX–358, TX–388, TX–417, TX–472, and TX–476) that OSM sent to Texas in accordance with 30 CFR 732.17(c) and in response to the required program amendments at 30 CFR 943.16(k) through (q). The provisions of the Texas Administrative Code (TAC) at 16 TAC 11.221, Texas Coal Mining Regulations (TCMR), that Texas proposed to amend were: (1) TCMR 700.002(b)(4), TCMR Part 702, and TCMR 787.222(a) pertaining to mining of coal incidental to the extraction of other minerals; (2) TCMR 700.002(f) pertaining to termination of jurisdiction; (3) TCMR 701.008(4), 701.008(16), 701.008(19), and 701.008(71), TCMR 705.011(2) and 705.011(3) pertaining to definitions for "affected area," "coal mine waste," "coal processing waste,", "road," "coal mining operation," and "employee"; (4) TCMR 705.010(a)(3) and 705.010(c), TCMR 705.013(a), TCMR 705.014(a), TCMR 705.015(a), TCMR 705,016(a), and TCMR 705.014(b) pertaining to employee financial interests; (5) TCMR 761.072(b)(2) pertaining to lands unsuitable for mining procedures; (6) TCMR 770.101 pertaining to permitting procedures; (7) TCMR 776.111(a)(3)(E), TCMR 815.327(a), and TCMR 815.328 pertaining to coal exploration; (8) TCMR 779.127(b) and (c), TCMR 779.128(a)(4), and 783.174(a)(4), TCMR 779.129(b)(2) and 783.175(b)(2), TCMR 780.146(b) and (c) and 784.118(b) and (c), TCMR 780.148(c) and 748.190(c), TCMR 783.173, TCMR 816.342(a)(4), TCMR 816.344(g), (h), (i), and (k) and 817.514(g), (h), (i), and (k), TCMR 816.344(r) and 817.514(r), TCMR 816.347(a)(1) and 817.517(a)(1), TCMR 816.347(a)(4) and 817.517(a)(3), TCMR 816.347(a)(5) and 817.517(a)(5), TCMR 816.347(a)(6) and 817.517(a)(6), TCMR 816.347(a)(7) and 817.517(a)(7), TCMR 816.347(b)(8) and 817.517(b)(8), TCMR 816.347(c) and 817.517(c), TCMR 816.347(d) and 817.517(d), TCMR 816.347(e) and 817.517(e), TCMR 816.347(i) and 817.517(i), TCMR 816.347(k) and 817.517(k), TCMR 816.350(b) and 817.519(b), TCMR 816.355(a), TCMR 817.509(a), and TCMR 817.522(f) pertaining to geologic and hydrologic information, reclamation plans, and hydrologic balance standards; (9) TCMR 780.142(c) and 784.197(c) and TCMR 780.142(d) and 784.197(d) pertaining to maps and plans; (10) TCMR 780.154 and 784.198, TCMR 816.401(b) and 817.570(b), TCMR 816.402(d)(9) and 817.571(d)(9), TCMR 816.405 and 817.574, TCMR 816.406(a)(4) and 817.575(a)(4), TCMR 816.408(b) and 817.577(b), TCMR 816.409(d)(9) and 817.578(d)(9), TCMR 816.412 and 817.581, TCMR 816.413(a)(4) and 817.582(a)(4), TCMR 816.415(b) and 817.584(b), TCMR 816.419 and 817.588, and TCMR 816.420(d) and 817.589(d) pertaining to transportation facilities and roads; (11) TCMR 785.202(b)(1)(i) and (b)(3) pertaining to alluvial valley floors; (12) TCMR 786.210(a)(3) pertaining to archaeological resources; (13) TCMR 786.216(e), TCMR 786.216(p), and TCMR 786.220(d) pertaining to approval of permits; (14) TCMR 800.301(b)(2) pertaining to bonding requirements; (15) TCMR 816.330(f) and 817.500(f), TCMR 816.357(c) and 817.526(c), TCMR 816.357(d) and 817.526(d), TCMR 816.358(a) and 817.527(a), TCMR 816.360(a) and 817.528(a), TCMR 816.362(d) and 817.530(d), TCMR 817.526(b), TCMR 850.703(b)(1)(A), TCMR 850.704(b), and TCMR 850.706(a) pertaining to use of explosives and blaster training and certification; (16) TCMR 816.385(b)(3) and 817.552(b)(3) pertaining to backfilling and grading; (17) TCMR 816.376(d), TCMR 816.378(a) and (c) and 817.545(a) and (c), TCMR 817.538(c)(3), and TCMR 817.543 pertaining to coal processing waste disposal; (18) TCMR 816.380(e)(10) and 817.547(e)(10) pertaining to protection of fish and wildlife and related environmental values; (19) TCMR 816.395(a) and 817.560(a), TCMR 816.395(b) and 817.560(b), TCMR 816.395(c) and 817.560(c), and TCMR 816.396 and 817.561 pertaining to revegetation success; and (20) TCMR 846.001(2) and TCMR 846.004(c) pertaining to individual civil penalties.

OSM announced receipt of the proposed amendment in the June 21,

1993, **Federal Register** (58 FR 33785), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on the adequacy of the amendment (Administrative Record No. TX–556). The public comment period would have closed July 21, 1993. However, by letter dated July 16, 1993, the Texas Mining and Reclamation Association requested a 30-day extension of time in which to review and provide comments on the proposed amendment (Administrative Record No. TX–563). OSM announced receipt of the extension request and reopened the comment period in the August 16, 1993, **Federal Register** (58 FR 43308). The extended public comment period ended August 20, 1993.

During its review of the amendment, OSM identified concerns relating to (1) TCMR 700.002(b)(4), concerning authority, responsibility and applicability for the extraction of coal incidental to the extraction of other minerals and TCMR 700.002(f) concerning authority, responsibility and applicability for termination of jurisdiction; (2) TCMR 702.5(a) relating to the definition of "cumulative measurement period"; (3) TCMR 702.11 relating to permit application requirements and procedures for an exemption for coal extraction incidental to the extraction of other minerals; (4) TCMR 702.13(a) relating to public availability of information; (5) TCMR 702.15(a), (d), and (e) concerning conditions of exemption and right of inspection and entry; (6) TCMR 702.17(d)(3) relating to direct enforcement; (7) TCMR 705.010(c) concerning responsibility relating to restrictions of financial interest of State employees; (8) TCMR 705.016(a) relating to State employee reporting of financial information; (9) TCMR 770.101 relating to definitions applicable to subchapter G; (10) TCMR 779.127 and 783.173 concerning geology descriptions; (11) TCMR 780.142(c) and 784.197(c) relating to maps and plans; (12) TCMR 780.146 and 784.188 relating to protection of the hydrologic balance; (13) TCMR 780.148 and 784.190 concerning pond, impoundment, bank, dam, and embankment plans; (14) TCMR 780.154(a) and 784.198(a) concerning transportation facilities; (15) TCMR 785.202(b) relating to alluvial valley floors; (16) TCMR 786.210(a) relating to public availability of information in permit applications on file with the Commission; (17) TCMR 786.216(e) relating to criteria for permit approval or denial; (18) TCMR 816.341 and 816.342 and TCMR 817.511 and 817.512 relating to diversions; (19) TCMR 816.344 and 817.514 relating to sedimentation ponds; (20) TCMR 816.347 and 817.517 concerning permanent and temporary impoundments; (21) TCMR 816.350(b) and 817.519(b) relating to surface-water monitoring; (22) TCMR 816.355(a)(1) and (2) concerning stream buffer zones; (23) TCMR 816.357(a) and 817.526(b) pertaining to use of explosives; (24) TCMR 816.358(b) and 817.527(b) concerning preblast surveys; (25) TCMR 816.360 and 817.528 relating to control of adverse effects of explosives; (26) TCMR 816.376(a) and (b) and 817.543(a) and (b) pertaining to general requirements for coal processing waste dams and embankments; (27) TCMR 816.378 and 817.545 relating to design and construction of coal processing waste and dams and embankments; (28) TCMR 816.390 and 817.555 concerning general requirements for revegetation; (29) TCMR 816.395 and 817.560 pertaining to standards for revegetation success; (30) TCMR 816.401(b), (d) and 817.570(b), (d), TCMR 816.408(b), (d) and 817.577(b), (d), TCMR 816.415(b), (d) and 817.584(b), (d) relating to location of roads; (31) TCMR 816.405 and 817.574, TCMR 816.412 and 817.581, TCMR 816.419 and 817.588 pertaining to maintenance of roads; (32) TCMR 816.406 and 817.575, TCMR 816.413 and 817.582, TCMR 816.420 and 817.589 concerning restoration of roads; (33) TCMR 846 relating to individual civil penalties; (34) TCMR 850.702(e) concerning general requirements for blaster certification; and (35) relating to typographical errors and omissions. OSM notified Texas of its concerns by letter dated July 25, 1994 (Administrative Record No. TX–578). Further clarification of OSM's concerns were provided to Texas by letters dated November 4, 1994, November 21, 1994, and January 18, 1995 (Administrative Record Nos. TX–581, TX–589, and TX–585).

Texas responded in a letter dated September 18, 1995, by submitting a revised amendment package (Administrative Record No. TX–598). Specifically, Texas proposes the following revisions to its proposed amendment.

1. TCMR 700.002, Authority, Responsibility, and Applicability

a. At TCMR 700.002(b)(4), Texas proposes to remove the phrase "or coal explorations subject to the Act" and to require that the incidental extraction of coal be conducted in accordance with the rules proposed under Part 709.

b. Texas proposes to add a new provision at TCMR 700.002(b)(5) that requires coal exploration on lands be subject to the requirement of 43 CFR Parts 3480–3487.

c. At proposed TCMR 700.002(f), which sets forth the conditions under which Texas may terminate its jurisdiction over the reclaimed site of a completed surface coal mining and reclamation operation, Texas proposes to remove the phrase "in accordance with the Administrative Procedure and Texas Register Act."

2. TCMR 701.008 Definitions

At TCMR 701.008, Texas proposes additional revisions to its definition section by adding new definitions and revising one additional existing definition. Texas also proposes to renumber the definitions in TCMR 701.008 because of these revisions.

a. At TCMR 701.008(4), Texas proposes to define "administratively complete application" to mean an application for permit approval or approval for coal exploration where required, which the Commission determines to contain information addressing each application requirement of the regulatory program and to contain all information necessary to initiate processing and public review.

b. Texas proposes to remove the definition for "applicant" at existing TCMR 701.008(8) and redefine "applicant" at TCMR 701.008(9) to mean any person seeking a permit, permit revision, renewal, and transfer, assignment, or sale of permit rights from the Commission to conduct surface coal mining and reclamation operations or, where required, seeking approval for coal exploration.

c. Texas proposes to define "application" at TCMR 701.008(10) to mean the documents and other information filed with the Commission under this Chapter for the issuance of permits; revisions; renewals; and transfer, assignment, or sale of permit rights for surface coal mining and reclamation operations or, where required, for coal exploration.

d. At TCMR 701.008(18), Texas proposes to define "coal mine waste" to mean coal processing waste and underground development waste.

e. At TCMR 701.008(19), Texas proposes to define "coal preparation" to mean chemical or physical processing and cleaning, concentrating, or other processing or preparation of coal.

f. At TCMR 701.008(24), Texas proposes to define a "complete and accurate application" to mean an application for permit approval or approval for coal exploration where required, which the Commission determines to contain all information required under the Act, this Chapter,

and the regulatory program that is necessary to make a decision on permit issuance.

g. At TCMR 701.008(26), Texas proposes the following new definition for "cumulative impact area."

(26) "Cumulative impact area" means the area, including the permit area, within which impacts resulting from the proposed operation may interact with impacts of all anticipated mining on surface and ground-water systems. Anticipated mining shall include, at a minimum, the entire projected lives through bond release of: (a) the proposed operation, (b) all existing operations, (c) any operation for which a permit application has been submitted to the Commission, and (d) all operations required to meet diligent development requirements for leased Federal coal for which there is actual mine development information available.

h. Texas proposes to define "experimental practice" at TCMR 701.008(34) to mean the use of alternative surface coal mining and reclamation operation practices for experimental or research purposes.

i. At TCMR 701.008(55), Texas proposes to define "other treatment facility" to mean any chemical treatments, such as flocculation or neutralization, or mechanical structures, such as clarifiers or precipitators, that have a point source discharge and are utilized: (a) To prevent additional contributions of dissolved or suspended solids to streamflow or runoff outside the permit area, or (b) To comply with all applicable State and Federal water-quality laws and regulations.

j. Texas proposes to define "principal shareholder" at TCMR 701.008(68) to mean any person who is the record or beneficial owner of 10 percent or more of any class of voting stock.

k. At TCMR 701.008(69), Texas proposes to define "professional specialist" to mean a person whose training, experience, and professional certification or licensing are acceptable to the Commission for the limited purpose of performing certain specified duties under this Chapter.

l. Texas proposes to define "property to be mined" at TCMR 701.008(70) to mean both the surface estates and mineral estates within the permit area and the area covered by underground workings.

m. At TCMR 701.008(82), Texas proposes to define "siltation structure" to mean a sedimentation pond, a series of sedimentation ponds, or other treatment facility.

n. At TCMR 701.008(104), Texas proposes to define "violation notice" to mean any written notification from a governmental entity of a violation of law, whether by letter, memorandum, legal or administrative pleading, or other written communication.

3. TCMR 705.016 Restrictions of Financial Interests of State Employees, What To Report

At TCMR 705.016(a), Texas proposes to change the Section .013 citation to 705.013 and to change the OSM Form number from 705–1 to 23 for reporting information required on the statement of employment and financial interests.

4. TCMR 709 Exemption for Coal Extraction Incidental to the Extraction of Other Minerals

a. Texas proposes tochange its proposed regulations for exemption for coal extraction incidental to the extraction of other minerals from TCMR Part 702 to Part 709.

b. At TCMR 709.026(a)(2) (i) and (ii) [originally TCMR 702.5(a)(2) (i) and (ii)], Texas is proposing to revise its proposed definition of "cumulative measurement period" by removing the April 1, 1990, date specified for the end of the cumulative measurement period.

c. At TCMR 709.027(a) [originally proposed as TCMR 702.11(a)], Texas proposes to remove the language "under a Federal program or on Indian lands or after the effective date of Commission adoption of Part 702" from the first sentence. The revised sentence now reads.

Any person who plans to commence or continue coal extraction after xxxxx x, 1995, in reliance on the incidental mining exemption shall file a complete application for exemption with the Commission for each mining area.

d. At TCMR 709.027(b) [originally proposed as TCMR 702.11(b)], Texas proposes to revise the provisions pertaining to persons who have commenced coal extraction at a mining area in reliance upon obtaining an incidental mining exemption by removing the language "prior to the effective date of Commission adoption of Part 702" and replacing it with the language "prior to xxxxx x, 1995"; by providing that coal extraction may not continue after 60 days unless a person files an administratively complete application for exemption with the Commission; and by clarifying that an application will be determined to be administratively complete when it contains the information responsive to the requirements of Section 709.018.

e. At TCMR 709.029(a) [originally proposed as TCMR 702.13(a)], Texas is clarifying that information submitted to the Commission shall be made immediately available for public inspection and copying at the Division's central and local offices closest to the mining operations claiming exemption.

f. At TCMR 709.031 (a), (d), and (e) [originally proposed as 702.15 (a), (d), and (e)], Texas proposes to clarify that only *authorized* representatives of the Secretary have access to the information necessary to verify an exemption and have the authority to enter and inspect operations claiming an exemption.

5. TCMR 709.033 Revocation and Enforcement

At TCMR 709.033(d)(3) [originally proposed as TCMR 702.17(d)(3)], Texas proposes to move the word "applicable" to modify the reference to "reclamation standards" rather than the reference to TSCMRA.

6. TCMR 770.101 Definitions Concerning General Requirements for Permit and Exploration Procedure Systems Under Regulatory Programs

The proposed definitions at TCMR 770.101 (1) through (7) were removed. The proposed definitions for "applicant," "application," "complete application," and "cumulative impact area" were redefined at TCMR 701.008 (9), (10), (4), and (26), respectively. The definitions for "principal shareholder," "property to be mined," and "violation notice" were moved to TCMR 701.008 (68), (70), and (104), respectively, without revision.

7. TCMR 779.126 (Surface) and TCMR 783.172 (Underground) Description of Hydrology and Geology: General Requirements

At TCMR 779.126 and 783.172, Texas proposes to add new subsection (d) which provides that all water quality analyses performed to meet the requirements of Chapter IV of the Texas Surface Coal Mining Regulations be conducted according to the methodology in the 15th edition of "Standard Method for the Examination of Water and Wastewater" or the methodology in 40 CFR Parts 136 and 434.

8. TCMR 779.127 Geology Description for Surface Mining Applications

Texas proposes to revise TCMR 779.127(b) by adding the phrase "The geologic description shall include" at the beginning of the first sentence and deleting the word "geologic" in the proposed phrase "[t]he geologic analyses shall result in the following."

9. TCMR 779.127 (Surface) and TCMR 783.174 (Underground) Ground Water Information

a. At TCMR 779.127(a) and 783.174(a), Texas proposes to remove

the term "mine plan" and replace with the term "permit."

b. At TCMR 779.127(a)(3) and 783.174(a)(3), Texas proposes to remove the existing requirement and add the requirement for a description of the location and ownership of existing wells, springs, and other ground-water resources.

c. At TCMR 779.127(a)(4) and 783.174(a)(4), Texas proposes to remove the existing provision and add the following new provision.

Seasonal quality and quantity of ground water and usage. Water quality descriptions shall include, at a minimum, total dissolved solids or specific conductance corrected to 25° C, Ph, total iron, and total manganese. Ground water quantity descriptions shall include, at a minimum, approximate rates of discharge or usage and depth to the water in the coal seam, and each water-bearing stratum above and potentially impacted stratum below the coal seam.

(d) At TCMR 779.128(b) and 783.174(b), Texas proposes to revise the existing provision by removing the requirements that the application contain additional information which describes the discharge characteristic of aquifers and the quality and quantity of ground water, according to the parameters and in the detail required by the Commission.

10. TCMR 779.129 (Surface) and TCMR 783.174 (Underground) Surface Water Information

At TCMR 779.129(a) and 783.174(a), Texas proposes to replace the term "mine plan" with the term "permit" in the requirement for "descriptions of surface drainage systems sufficient to identify, in detail, the seasonal variations in water quantity and quality within the proposed mine plan and adjacent areas."

11. TCMR 780.142 Operation Plan: Maps and Plans for Surface Mining Applications

At TCMR 780.142(b)(11), Texas proposes to replace the reference to Section .145 with a reference to Section .148.

12. TCMR 780.146 (Surface) and TCMR 784.188 (Underground) Reclamation Plan: Protection of Hydrologic Balance

a. At TCMR 780.146(a), Texas proposes to revise the first sentence to read as follows.

The application shall include a hydrologic reclamation plan, with appropriate maps and descriptions, indicating how the relevant requirements of Part 816, including Sections 816.339, 816.346, 816.348–.349, and 816.350–.354 will be met.

b. At TCMR 780.188(a), Texas proposes to revise the first sentence by removing the language "[e]ach plan shall contain a detailed description" and replacing it with the language "[t]he application shall include a hydrologic reclamation plan."

c. Texas proposes to remove existing TCMR 780.146 (a)(9) and (b) and 784.188 (a)(9) and (b), and to add new TCMR 780.146(b) (1) and (2) 784.188 (b) (1) and (2) to read as follows.

(b) Ground water monitoring plan. (1) The application shall include a ground-water monitoring plan based upon the PHC determination required under Paragraph (d) of this Section and the analysis of all baseline hydrologic, geologic, and other information in the permit application. The plan shall provide for the monitoring of parameters that relate to the suitability of the ground water for current and approved postmine land uses and to the objectives for protection of the hydrologic balance as set forth in Paragraph (a) of this Section. It shall identify the quantity and quality parameters to be monitored, sampling frequency, and site locations. It shall describe how the data may be used to determine the impacts of the operation upon the hydrologic balance. At a minimum, total dissolved solids or specific conductance corrected to 25 °C, Ph, total iron, total manganese, and water levels shall be monitored and data submitted to the Commission at least every 3 months for each monitoring location.

The Commission may require additional monitoring. (2) If the applicant can demonstrate by the use of the PHC determination and other available information that a particular water-bearing stratum in the proposed permit and adjacent areas is not one which serves as an aquifer which significantly ensures the hydrologic balance within the cumulative impact area, then monitoring of that stratum may be waived by the Commission.

d. Texas proposes to remove the existing and proposed language in TCMR 780.146(c) and 784.188(c) and to replace it with the following language.

(c) Surface water monitoring plan. (1) The application shall include a surface-water monitoring plan based upon the PHC determination required under Paragraph (d) of Section and the analysis of all baseline hydrologic, geologic, and other information in the permit application. The plan shall provide for the monitoring of parameters that relate to the suitability of the surface water for current and approved postmine land uses and to the objectives for protection of the hydrologic balance as set forth in Paragraph (a) of Section, as well as the effluent limitations found at 40 CFR Part 434. (2) The plan shall identify the surface-water quantity and quality parameters to be monitored, sampling frequency, and site locations. It shall describe how the data may be used to determine the impacts of the operation upon the hydrologic balance. (i) At all monitoring locations in the surface-water bodies such as streams, lakes, and impoundments that are potentially impacts or into which water will be discharged and at upstream monitoring locations, the total dissolved solids or specific conductance corrected to 25 °C, total suspended solids, pH, total iron, total manganese, and flow shall be monitored. (ii) For point-source discharges, monitoring shall be conducted in accordance with 40 CFR Parts 122, 123 and 434 and as required by the National Pollutant Discharge Elimination System permitting authority. (3) The monitoring reports shall be submitted to the Commission every 3 months. The Commission may require additional monitoring.

e. At TCMR 780.146(d)(1) and 784.188(d)(1), Texas proposes to replace the word "description" with the word "application" in the first sentence.

f. Texas proposes to add a new provision at TCMR 780.146(d)(5) and 784.188(d)(5) that reads as follows.

(5) If the determination of the probable hydrologic consequences (PHC) required by Paragraph (d) of this Section indicates adverse impacts on or off the proposed permit area may occur to the hydrologic balance, or that acid-forming or toxic-forming material is present that may result in the contamination of ground-water or surface-water supplies, then information supplemental to that required under Paragraphs (b) and (c) of this Section shall be provided to evaluate such probable hydrologic consequences and to plan remedial and reclamation activities. Such supplemental information may be based upon drilling, aquifer tests, hydrogeologic analysis of the water-bearing strata, flood flows, or analysis of other water quality and quantity characteristics.

13. TCMR 780.148 (Surface) and TCMR 784.190 (Underground) Reclamation Plan: Ponds, Impoundments, Banks, Dams, and Embankments

a. At TCMR 780.148(a)(3)(i) and 784.190(a)(3)(i), Texas proposes to remove the language "or registered land surveyor except that all coal processing waste dams and embankments covered by Section .376–.378 shall be certified by a qualified registered professional engineer."

b. At TCMR 780.148(c)(2) and 784.190(c)(2), Texas proposes to add the following new language in a second sentence.

The plan required to be submitted to the District Manager of MSHA under 30 CFR 77.216 shall be submitted to the Commission as part of the permit application in accordance with Paragraph (a) of this section.

14. TCMR 780.154 (Surface) and TCMR 784.198 (Underground) Transportation Facilities

a. Texas proposes to remove the existing language in TCMR 780.154(a) (1) through (6) and 784.198(a) (1) through (6) and replace it with the following language. Any differences between the surface and underground mining regulations are shown with the underground language bracketed.

(a) Each applicant for a surface [underground] coal mining and reclamation permit shall submit plans and drawings for each road, as defined in Section 701.008 of this Chapter, to be constructed, used, or maintained within the proposed permit area. The plans and drawings shall—(1) Include a map, appropriate cross sections, design drawings and specifications for road widths, gradients, surfacing materials, cuts, fill embankments, culverts, bridges, drainage ditches, low-water crossings, and drainage structures; (2) Contain the drawings and specifications of each proposed road that is located in the channel of an intermittent or perennial stream, as necessary for approval of the road by the Commission in accordance with Sections 816.401(b), 816.408(b), or 816.415(b) [817.570(b), 817.577(b), or 817.584(b)]; (3) Contain the drawings and specifications for each proposed ford of perennial or intermittent streams that is used as a temporary route, as necessary for approval of the ford by the Commission in accordance with Sections 816.401(b), 816.408(b), or 816.415(b) [817.570(c), 817.577(c), or 817.584(c)]; (4) Contain a description of measures to be taken to obtain approval of the Commission for alteration or relocation of a natural stream channel under Sections 816.403(d), 816.410(d), or 816.417(c) [817.572(d), 817.579(d), or 817.586(c)]; (5) Contain the drawings and specifications for each low-water crossing of perennial or intermittent stream channels so that the Commission can maximize the protection of the stream in accordance with Sections 816.401(c), 816.408(c), or 816.415(c) [817.570(c), 817.577(c), or 817.584(c); and

b. Texas proposes to revise the proposed language at TCMR 780.154(b) and 784.198(b) to read as follows.

The plans and drawings for each Class I and Class II road shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer with experience in the design and construction of roads, as meeting the requirements of this Chapter; current, prudent engineering practices; and any design criteria established by the Commission.

15. TCMR 783.173 Geology Description for Underground Mining Applications

At TCMR 783.173, Texas proposes to remove the existing and proposed language and add the following language.

(a) A description of the geology of the proposed permit and adjacent areas down to and including the deeper of either the stratum immediately below the lowest coal seam to be mined or any aquifer below the lowest coal seam to be mined which may be adversely impacted by mining. This description shall include the areal and structural geology of the permit and adjacent areas, and other parameters which influence the required reclamation and it shall also show how the areal and structural geology may affect the occurrence, availability, movement, quantity and quality of potentially impacted surface and ground water. It shall be based on—(1) The cross sections, maps, and plans required by Section 783.183 of this Chapter; (2) The information obtained under Paragraphs (b), (c) and (d) of this Section; and (3) Geologic literature and practices.

(b) For any portion of a permit area in which the strata down to the coal seam to be mined will be removed or are already exposed, samples shall be collected and analyzed from test borings; drill cores; or fresh, unweathered, uncontaminated samples from rock outcrops down to and including the deeper of either the stratum immediately below the lowest coal seam to be mined or any aquifer below the coal seam to be mined which may be adversely impacted by mining. The analyses shall result in the following: (1) Logs showing the lithologic characteristics including physical properties and thickness of each stratum and location of ground water where occurring; (2) Chemical analyses identifying those strata that may contain acid- or toxic-forming, or alkalinity-producing materials and to determine their content except that the Commission may find that the analysis for alkalinity-producing material is unnecessary; and (3) Chemical analysis of the coal seam for acid- or toxic-forming materials, including the total sulfur and pyritic sulfur, except that the Commission may find that the analysis of pyritic sulfur content is unnecessary.

(c) For lands within the permit and adjacent areas where the strata above the coal seam to be mined will not be removed, samples shall be collected and analyzed from test borings or drill cores to provide the following data: (1) Logs of drill holes showing the lithologic characteristics, including physical properties and thickness of each stratum that may be impacted, and location of ground water where occurring; (2) Chemical analyses for acid- or toxic-forming materials and their content in the strata immediately above and below the coal seam to be mined; (3) Chemical analyses of the coal seam for acid- or toxic-forming materials, including the total sulfur and pyritic sulfur, except that the Commission may find the analysis of pyritic sulfur content is unnecessary; and (4) For standard room and pillar mining operations, the thickness and engineering properties of clays or soft rock such as clay shale, if any, in the stratum immediately above and below each coal seam to be mined.

(d) If determined to be necessary to protect the hydrologic balance, to minimize or prevent subsidence, or to meet the performance standards of this Chapter, Commission may require the collection, analysis and description of geologic information in addition to that required by Paragraphs (a), (b), and (c) of this Section.

(e) An applicant may request the Commission to waive in whole or in part the requirements of Paragraph (b) and (c) of this Section. The waiver may be granted only if the Commission finds in writing that the collection and analysis of such data is unnecessary because other information having equal value or effect is available to the Commission in a satisfactory form.

16. TCMR 784.197. Operation Plan: Maps and Plans for Underground Mining Applications

At TCMR 784.197(c), proposes to add a reference to paragraph (b)(4) and to require that the maps, plans, and cross-sections be certified by a qualified *registered* professional engineer.

17. TCMR 786.210 Public Availability of Information in Permit Applications on File With the Commission

a. At TCMR 786.210(a), Texas proposes to remove the existing language and to add the following language.

Except as provided by Paragraph (c) of this section, all applications for permits; revisions; renewals; and transfers; assignments or sales of permit rights on file with the Commission shall be available, at reasonable times, for public inspection and copying.

b. Texas proposes to renumber existing TCMR 786.210 (a)(1) to (b) and add the phrase "[e]xcept as provided by Paragraph (c)(1) of this section" to the beginning of the sentence. The semicolon and the word "and" were, also, removed at the end of the sentence.

c. Texas proposes to remove existing TCMR 786.210(a)(2) and proposed TCMR 786.210(a)(3).

d. Texas proposes to add confidential information limitations at new TCMR 786.210(c) as follows.

(c) Confidential information is limited to—(1) Information that pertains only to the analysis of the chemical and physical properties of the coal to be mined, except information on components of such coal which are potentially toxic in the environment; (2) Information required under Section 15 of the Act that is not on public file and that applicant has requested in writing to be held confidential; (3) Information on the nature and location of archeological resources on public land and Indian and shall be kept confidential as required under the Archeological Resources Protection Act of 1979 (Pub. L. 96–95, 93 Stat. 721, 16 U.S.C. 470).

e. Texas proposes to reletter existing Paragraph (b) to (d) and change the paragraph reference to (c). Texas, also, proposes to reletter existing Paragraph (c) to (e).

18. TCMR 786.216 Criteria for Permit Approval or Denial

a. At TCMR 786.216(c). Texas proposes to replace the word "general" with the words "cumulative impact" in the phrase "in the general area."

b. At TCMR 786.216(e), Texas proposes to replace the phrase "publicly-owned parks or spaces included or" with the phrase "properties listed on and."

19. TCMR 816.340 (Surface) and TCMR 817.510 (Underground) Hydrologic Balance: Water Quality Standards and Effluent Limitations

Texas proposes to remove the existing provisions in TCMR 816.340(a) (1) through (7) and 817.510(a) (1) through (7) and replace them with the following language. Any differences between the surface and underground mining regulations are shown with the underground language bracketed.

Discharge of water from areas disturbed by surface [underground] mining activities shall be made in compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining promulgated by the U.S. Environmental Protection Agency set forth in 40 CFR 434.

20. TCMR 816.341 (Surface) and TCMR 817.511 (Underground) Hydrologic Balance: Diversions

Texas proposes to change the Section title from "Hydrologic Balance: Diversions and Conveyance of Overland Flow and Shallow Ground Water Flow, and Ephemeral Streams" to "Hydrologic Balance: Diversions." Texas, also, proposes to remove the existing provisions in TCMR 816.341 (a) through (g) and 817.511 (a) through (g) and replace them with the following new provisions in Paragraphs (a) through (c). Any differences between the surface and underground mining regulations are shown with the underground language bracketed.

(a) General Requirements. (1) With the approval of the Commission, any flow from mined areas abandoned before May 3, 1978, and any flow from undisturbed areas or reclaimed areas, after meeting the criteria of Section 816.344 [817.344] for siltation structures removal, may be diverted from disturbed areas by means of temporary or permanent diversions. All diversions shall be designed to minimize adverse impacts to the hydrologic balance within the permit and adjacent areas, to prevent material damage outside the permit area and to assure the safety of the public. Diversions shall not be used to divert water into underground mines without approval of the Commission under Section 816.353 [817.522]. (2) The diversion and its appurtenant structures shall be designed, located, constructed, maintained and used to—(i) Be stable; (ii) Provide protection against flooding and resultant damage to life and property; (iii) Prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow outside the permit area; and (iv) Comply with all applicable local, State, and Federal laws and regulations. (3) Temporary diversions shall be removed when no longer needed to achieve the purpose for which they were authorized. The land disturbed by the removal process shall be restored in accordance with this Part. Before diversions are removed, downstream water-treatment facilities previously protected by the diversion shall be modified or removed, as necessary, to prevent overtopping or failure of the facilities. This requirement shall not relieve the operator from maintaining water-treatment facilities as otherwise required. A permanent diversion or a stream channel reclaimed after the removal of a temporary diversion shall be designed and constructed so as to restore or approximate the remaining characteristics of the original stream channel including the natural riparian vegetation to promote the recovery and the enhancement of aquatic habitat. (4) Diversion designs shall incorporate the following: (i) Be constructed with gentle sloping banks that are stabilized by vegetation. Asphalt, concrete or other similar linings shall be used only when approved by the Commission to prevent seepage or to provide stability. Channel linings shall be designed using standard engineering practices to pass safely the design velocities and shall be approved for permanent diversions only where they are stable and will require infrequent maintenance. (ii) Erosion protection shall be provided for transition of flows and for critical areas such as swales and curves. (iii) Energy dissipators shall be installed when necessary at discharge points, where diversions intersect with natural streams and exit velocities of the diversion ditch flow is greater than that of the receiving stream. (iv) Excess excavated material not necessary for diversion channel geometry or regrading of the channel shall be disposed of in accordance with Sections 816.363–816.366 [817.531–817.534]. (v) Topsoil shall be handled in compliance with Sections 816.334–816.338 [817.504–817.508].

(b) Diversions of Perennial and Intermittent Streams. (1) Diversions of perennial and intermittent streams within the permit area may be approved by the Commission after making the finding relating to stream buffer zones [called for in Section 817.524] that the diversion will not adversely affect the water quantity and quality and related environmental resources of the stream. (2) The design capacity of channels for temporary and permanent stream channel diversions shall be at least equal to the capacity of the unmodified stream channel immediately upstream and downstream from the diversion. (3) The requirements of Paragraph (a)(2)(ii) of this Section shall be met when the temporary and permanent diversions for perennial and intermittent streams are designed so that the combination of channel, bank and floodplain configuration is adequate to pass safely the peak runoff of a 10-year, 6-hour precipitation event for a temporary diversion and a 100-year, 6-hour precipitation event for a permanent diversion. (4) The design and construction of all stream channel diversions of perennial and intermittent streams shall be certified by a qualified registered professional engineer as meeting the performance standards of this part and any design criteria set by the Commission.

(c) Diversion of Miscellaneous Flows. (1) Miscellaneous flows, which consists of all flows except for perennial and intermittent streams, may be diverted away from disturbed areas if required or approved by the Commission. Miscellaneous flows shall include ground-water discharges and ephemeral

streams. (2) The design, location, construction, maintenance, and removal of diversions of miscellaneous flows shall meet all of the performance standards set forth in Paragraph (a) of this Section. (3) The requirements of Paragraph (a)(2)(ii) of this Section shall be met when the temporary and permanent diversions for miscellaneous flows are designed so that the combination of channel, bank and flood-plain configuration is adequate to pass safely the peak runoff of a 2-year, 6-hour precipitation event for a temporary diversion and a 10-year, 6-hour precipitation event for a permanent diversion.

21. TCMR 816.342 (Surface) and TCMR 817.512 (Underground) Hydrologic Balance: Stream Channel Diversion

Texas proposes to remove TCMR 816.342 (a) through (e) and 817.512 (a) through (e) pertaining to hydrologic balance with relation to stream channel diversions.

22. TCMR 816.344 (Surface) and TCMR 817.514 (Underground) Hydrologic Balance: Sedimentation Ponds

Texas proposes to remove TCMR 816.344 (a) through (u) and 817.514 (a) through (u) pertaining to the hydrologic balance with relation of sedimentation ponds.

23. TCMR 816.344 (Surface) and TCMR 817.514 (Underground) Hydrologic Balance: Siltation Structures

Texas proposes to add TCMR 816.344 (a) through (e) and 817.514 (a) through (e) pertaining to the hydrologic balance with relation to siltation structures as shown below. Any differences between the surface and underground mining regulations are shown with the underground language bracketed.

(a) For the purposes of this Section only, disturbed areas shall not include those areas—(1) In which the only surface mining activities include diversion ditches, siltation structures, or roads that are designed, constructed and maintained in accordance with this part; and (2) For which the upstream area is not otherwise disturbed by the operator.

(b) General requirements. (1) Additional contributions of suspended solids sediment to streamflow or runoff outside the permit area shall be prevented to the extent possible using the best technology currently available. (2) All surface drainage from the disturbed area shall be passed through a siltation structure before leaving the permit area, except as provided in Paragraph (b)(5) or (e) of this Section. (3) Siltation structures for an area shall be constructed before beginning any surface mining activities in that area, and upon construction shall be certified by a qualified registered professional engineer to be constructed as designed and as approved in the reclamation plan. (4) Any siltation structure which impounds water shall be designed, constructed and maintained in accordance with Section 816.347 [817.517]. (5) Siltation structures shall be maintained until the disturbed area has been stabilized and revegetated and removal is authorized by the Commission. In no case shall the structure be removed sooner than 2 years after the last augmented seeding. (6) When a siltation structure is removed, the land on which the siltation structure was located shall be regraded and revegetated in accordance with the reclamation plan and Sections 816.390–816.395 [817.555–817.560]. Sedimentation ponds approved by the Commission for retention as permanent impoundments may be exempted from this requirement.

(c) Sedimentation ponds. (1) When used, sedimentation ponds shall—(i) Be used individually or in series; (ii) Be located as near as possible to the disturbed area and out of perennial streams unless approved by the Commission, and (iii) Be designed, constructed, and maintained to—(A) Provide adequate sediment storage volume. The minimum sediment storage volume shall be equal to the three year accumulated sediment volume from the drainage area to the pond. The sediment volume shall be determined using the Universal Soil Loss Equation, gully erosion rates, and the sediment delivery ratio converted to sediment volume, using either the sediment density or other empirical methods approved by the Commission; (B) Provide adequate detention time to allow the effluent from the ponds to meet State and Federal effluent limitations. The minimum detention time without a chemical treatment process shall be 10 hours; (C) Contain or treat the 10-year, 24-hour precipitation event ("design event") unless a lesser design event is approved by the Commission based on terrain, climate, other site-specific conditions and on a demonstration by the operator that the effluent limitations of Section 816.340 [817.510] will be met; (D) Provide a nonclogging dewatering device adequate to maintain the detention time required under Paragraph (c)(1)(iii)(B) of this Section; (E) Minimize, to the extent possible, short circuiting; (F) Provide periodic sediment removal sufficient to maintain adequate volume for the design event; (G) Ensure against excessive settlement; (H) Be free of sod, large roots, frozen soil, and acid- or toxic-forming coal-processing waste; and (I) Be compacted properly. (2) A sedimentation pond shall include either a combination of principal and emergency spillways or single spillway configured as specified in Section 816.347(a)(9) [precipitation event specified in Paragraph (c)(2)(ii) of this section, except as set forth in Section 817.517(a)(9)].

(d) Other treatment facilities. (1) Other treatment facilities shall be designed to treat the 10-year, 24-hour precipitation event unless a lesser design event is approved by the Commission based on terrain, climate, other site-specific conditions and a demonstration by the operator that the effluent limitations of Section 816.340 [817.510] will be met. (2) Other treatment facilities shall be designed in accordance with the applicable requirements of Paragraph (c) of this Section.

(e) Exemptions. Exemptions to the requirements of this Section may be granted if—(1) The disturbed drainage area within the total disturbed area is small; and (2) The operator demonstrates that siltation structures and alternate sediment control measures are not necessary for drainage from the disturbed area to meet the effluent limitations under Section 816.340 [817.510] and the applicable State and Federal water quality standards for the receiving waters.

24. TCMR 816.347 (Surface) and TCMR 817.517 (Underground) Hydrologic Balance: Permanent and Temporary Impoundments

Texas proposes to remove the existing provisions in TCMR 816.347 (a) through (k) and 817.517 (a) through (k) and add the following new provisions in Paragraphs (a) through (c). Any differences between the surface and underground mining regulations are shown with the underground language bracketed.

(a) General Requirements. The requirements of this Paragraph apply to both temporary and permanent impoundments. (1) Impoundments meeting the Class B or C criteria of dams in the U.S. Department of Agriculture, Soil Conservation Service Technical Release No. 60 (210–VI–TR60, Oct. 1985), "Earth Dams and Reservoirs," 1985 shall comply with "Minimum Emergency Spillway Hydrologic Criteria" table in TR–60 and the requirements of this section. Technical Release No. 60 is hereby incorporated by reference. Copies may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road,

Springfield, Virginia 22161, order No. PB 87–157509/AS. Copies can be inspected at the Commission's Surface Mining and Reclamation Division Office at 1701 N. Congress Avenue, Austin, Texas. (2) An impoundment meeting the size or other criteria of 30 CFR 77.216(a) shall comply with the requirements of 30 CFR 77.216 and of this section. (3) The design of impoundments shall be certified in accordance with Section 780.148(a) [784.190(a)] as designed to meet the requirements of this part using current, prudent engineering practices and any design criteria established by the Commission. The qualified, registered professional engineer shall be experienced in the design and construction of impoundments. (4) Stability. (i) An impoundment meeting the Class B or C criteria for dams in TR–60, or the size or other criteria of 30 CFR 77.216(a) shall have a minimum static factor of 1.5 for a normal pool with steady state seepage saturation conditions, and a seismic safety factor of at least 1.2. (ii) An impoundment not included in Paragraph (a)(4)(i) of this Section, except for a coal mine waste impounding structure, shall have a minimum static safety factor of 1.3 for a normal pool with steady state seepage saturation conditions or meet the requirements of Section 780.148(c) [784.190(c)]. (5) Impoundments meeting the Class B or C criteria for dams in TR–60 shall comply with the freeboard hydrograph criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR–60. (6) Foundations. (i) Foundations and abutments for an impounding structure shall be stable during all phases of construction and operation and shall be designed based on adequate and accurate information on the foundation conditions. For an impoundment meeting the Class B or C criteria for dams in TR–60, or the size or other criteria of 30 CFR 77.216(a), foundation investigation, as well as any necessary laboratory testing of foundation material, shall be performed to determine the design requirements for foundation stability. (ii) All vegetative and organic materials shall be removed and foundations excavated and prepared to resist failure. Cutoff trenches shall be installed if necessary to ensure stability. (7) Slope protection shall be provided to protect against surface erosion at the site and protect against sudden drawdown. (8) Faces of embankments and surrounding areas shall be vegetated, except that faces where water is impounded may be riprapped or otherwise stabilized in accordance with accepted design practices. (9) An impoundment shall include either a combination of principal and emergency spillways or a single spillway configured as specified in Paragraph (a)(9)(i) of this Section, designed and constructed to safely pass the applicable design precipitation event specified in Paragraph (a)(9)(ii) of this Section. (i) The Commission may approve a single open-channel spillway that is of nonerodible construction and designed to carry sustained flows or earth- or grass-lined and designed to carry short-term, infrequent flows at non-erosive velocities where sustained flows are not expected. (ii) Except as specified in Paragraph (c)(2) of this Section, the required design precipitation event for an impoundment meeting the spillway requirements of Paragraph (a)(9) of this Section is: (A) For an impoundment meeting the Class B or C criteria for dams in TR–60, the emergency spillway hydrograph criteria in the "Minimum Emergency Spillway Hydrologic Criteria" table in TR–60, or greater event as specified by the Commission. (B) For an impoundment meeting or exceeding the size or other criteria of 30 CFR 216(a), a 100-year 6-hour event, or greater event as specified by the Commission. (C) For an impoundment not included in Paragraph (a)(9)(ii)(A) and (B) of this Section, a 25-year 6-hour or greater event as specified by the Commission. (10) The vertical portion of any remaining highwall shall be located far enough below the low-water line along the full extent of the highwall to provide adequate safety and access for the proposed water users. (11) A qualified registered professional engineer or other qualified professional specialist under the direction of a professional engineer, shall inspect each impoundment as provided in Paragraph (a)(11)(i) of this Section. The professional engineer or specialist shall be experienced in the construction of impoundments. (i) Inspections shall be made regularly during construction, upon completion of the construction, and at least yearly until removal of the structure or release of the performance bond. (ii) The qualified registered professional engineer shall promptly after each inspection required in Paragraph (a)(11)(i) of this section provide the Commission a certified report that the impoundment has been constructed and/or maintained as designed and in accordance with the approved plan of this chapter. The report shall include discussion of any appearance of instability, structural weakness or other hazard condition, depth and elevation of any impoundment waters, existing storage capacity, any existing or required monitoring procedures and instrumentation, and any other aspects of the structure affecting stability. (iii) A copy of the report shall be retained at or near the minesite. (12) Impoundments meeting the SCS Class B or C criteria for dams in TR–60, or the size or other criteria of 30 CFR 77.217 must be examined in accordance with 30 CFR 77.216–3. Impoundments not meeting the SCS Class B or C criteria for dams in TR–60, or subject to 30 CFR 216, shall be examined at least quarterly. A qualified person designated by the operator shall examine impoundments for the appearance of structural weakness and other hazardous conditions. (13) If any examination or inspection discloses that a potential hazard exists, the person who examined the impoundment shall promptly inform the Commission of the finding and of the emergency procedures formulated for public protection and remedial action. If adequate procedures cannot be formulated or implemented, the Commission shall be notified immediately. The Commission shall then notify the appropriate agencies that other emergency procedures are required to protect the public.

(b) Permanent Impoundments. A permanent impoundment of water may be created, if authorized by the Commission in the approved permit based upon the following demonstration: (1) The size and configuration of such impoundment will be adequate for its intended purposes. (2) The quality of impounded water will be suitable on a permanent basis for its intended use and, after reclamation, will meet applicable State and Federal water quality standards, and discharges from the impoundment will meet applicable effluent limitations and will not degrade the quality of receiving water below applicable State and Federal water quality standards. (3) The water level will be sufficiently stable and be capable of supporting the intended use. (4) Final grading will provide for adequate safety and access for proposed users. (5) The impoundment will not result in the diminution of the quality and quantity of water utilized by adjacent or surrounding landowners or agricultural, industrial, recreational, or domestic users. (6) The impoundment will be suitable for the approved postmining land use.

(c) Temporary Impoundments. (1) The Commission may authorize the construction of temporary impoundments as part of a surface coal mining operation. (2) In lieu of meeting

the requirements of paragraph (a)(9)(i) of this Section, the Commission may approve an impoundment that relies primarily on storage to control the runoff from the design precipitation event when it is demonstrated by the operator and certified by a qualified registered professional engineer that the impoundment will safely control the design precipitation event, the water shall be safely removed in accordance with current, prudent engineering practices. Such an impoundment shall be located where failure would not be expected to cause loss of life or serious property damage, except where: (i) Impoundments meeting the SCS Class B or C criteria for dams in TR–60, or the size or other criteria of 30 CFR 77.216(a), shall be designed to control the precipitation of the probable maximum precipitation of a 6-hour event, or greater event as specified by the Commission. (ii) Impoundments not included in Paragraph (c)(2)(i) of this section shall be designed to control the precipitation of the 100-year 6-hour event, or greater event as specified by the Commission.

25. TCMR 816.348 Hydrologic Balance: Groundwater Protection

Texas proposes to remove the exiting provisions at TCMR 816.348 (a) and (b) and to add the following provisions.

In order to protect the hydrologic balance, surface mining activities shall be conducted according to the plan approved under Section 780.146 of this Chapter and the following:

(a) Ground-water quality shall be protected by handling earth materials and runoff in a manner that minimizes acidic, toxic, or other harmful infiltration to ground-water systems and by managing excavations and other disturbances to prevent or control the discharge of pollutants into the ground water.

(b) Ground-water quantity shall be protected by handling earth materials and runoff in a manner that will restore the approximate premining recharge capacity of the reclaimed area as a whole, excluding coal mine waste disposal areas and fills, so as to allow the movement of water to the ground-water system.

26. TCMR 816.349 Hydrologic Balance: Surface Water Protection

Texas proposes to change the title of TCMR 816.349 from "Hydrologic Balance: Protection of Ground Water Recharge Capacity" to "Hydrologic Balance: Surface Water Protection." Texas, also, proposes to remove the existing provisions at TCMR 816.349 and to add the following provisions.

In order to protect the hydrologic balance, surface mining activities shall be conducted according to the plan approved under Section 781.146 of this Chapter, and the following:

(a) Surface-water quality shall be protected by handling earth materials, ground-water discharges, and runoff in a manner that minimizes the formation of acidic or toxic drainage; prevents, to the extent possible using the best technology currently available, additional contribution of suspended solids to streamflow outside the permit area; and otherwise prevents water pollution. If drainage control, restabilization and revegetation of disturbed areas, diversion of runoff, mulching, or other reclamation and remedial practices are not adequate to meet the requirements of this section and Section 816.340, the operator shall use and maintain the necessary water-treatment facilities or water controls.

(b) Surface-water quality and flow rates shall be protected by handling earth materials and runoff in accordance with the steps outlined in the plan approved under Section 780.146 of this Chapter.

27. TCMR 816.350 (Surface) and TCMR 817.519 (Underground) Hydrologic Balance: Surface and Ground Water Monitoring

Texas proposes to remove the existing provisions at TCMR 816.350 (a) and (b) and 817.519 (a) and (b) and to add the following new provisions. Any differences between the surface and underground mining regulations are shown with the underground language bracketed.

(a) Ground water. (1) Ground-water monitoring shall be conducted according to the ground water monitoring plan approved under Section 780.146(b) [784.188(b)] of this Chapter. The Commission may require additional monitoring when necessary. (2) Ground-water monitoring data shall be submitted every 3 months to the Commission or more frequently as prescribed by the Commission. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analysis of any ground-water sample indicates noncompliance with the permit conditions, then the operator shall promptly notify the Commission and immediately take the action provided for in Section 786.221(a) and 780.146(a) [786.221(a) and 784.188(a)] of this Chapter. (3) Ground-water monitoring shall proceed through mining and continue during reclamation until bond release. Consistent with the procedures of Part 786 of this Chapter, the Commission may modify the monitoring requirements, including the parameters covered and the sampling frequency, if the operator demonstrates, using the monitoring data obtained under this Paragraph, that—(i) The operation has minimized disturbance to the hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance outside the permit area; water quantity and quality are suitable to support approved postmining land uses; and the water rights of other users have been protected or replaced; or (ii) Monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under Section 780.146(b) [784.188(b)] of this Chapter. (4) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of ground water onsite and offsite shall be properly installed, maintained, and operated and shall be removed when no longer needed.

(b) Surface water. (1) Surface water monitoring shall be conducted according to the surface water monitoring plan approved under Section 780.146(c) [784.188(c)] of this Chapter. The Commission may require additional monitoring when necessary. (2) Surface water monitoring data shall be submitted every 3 months to the Commission or more frequently as prescribed by the Commission. Monitoring reports shall include analytical results from each sample taken during the reporting period. When the analysis of any surface water sample indicates noncompliance with the permit conditions, then the operator shall promptly notify the Commission and immediately take the action provided for in Section 786.221(a) and 780.146(a) [784.188(a)] of this Chapter. The reporting requirements of this paragraph do not exempt the operator from meeting any National Pollutant Discharge Elimination System (NPDES) requirements. (3) Surface water monitoring shall proceed through mining and continue during reclamation until bond release. Consistent with the procedures of Part 786 of this Chapter, the Commission may modify the monitoring requirements, except those required by the NPDES permitting authority, including the parameters covered and the sampling frequency, if the operator demonstrates, using the monitoring data obtained under this paragraph, that—(i) The operation has minimized disturbance to the hydrologic balance in the permit and adjacent areas and prevented material damage to the hydrologic balance

outside the permit area; water quantity and quality are suitable to support approved postmining land uses; and the water rights of other users have been protected or replaced; or (ii) monitoring is no longer necessary to achieve the purposes set forth in the monitoring plan approved under Section 780.146(c) [784.188(c)] of this Chapter. (4) Equipment, structures, and other devices used in conjunction with monitoring the quality and quantity of surface water onsite and offsite shall be properly installed, maintained, and operated and shall be removed when no longer needed.

28. TCMR 816.355 (Surface) and TCMR 817.524 (Underground) Hydrologic Balance: Stream Buffer Zones

Texas proposes to remove the existing provisions at TCMR 816.355 (a) through (c) and 817.524 (a) through (c) and to replace them with the following provisions. Any differences between the surface and underground mining regulations are shown with the underground language bracketed.

(a) No land within 100 feet of a perennial stream or an intermittent stream shall be disturbed by surface mining activities, unless the Commission specifically authorizes surface mining activities closer to, or through, such a stream. The Commission may authorize such activities only upon finding that—(1) Surface mining activities will not cause or contribute to the violation of applicable State or Federal water quality standards, and will not adversely affect the water quantity and quality or other environmental resources of the stream; and (2) If there will be a temporary or permanent stream-channel diversion, it will comply with Section 816.341 [817.511].

(b) The area not to be disturbed shall be designated as a buffer zone, and the operator shall mark it as specified in Section 816.330 [817.500].

29. TCMR 816.358 Use of Explosives: Pre-Blasting Survey

Texas proposes to add the italicized language shown in the following existing provision: Assessments of structures such as pipelines, pipes, cables, transmission lines, cisterns, wells and other water systems warrant special attention; however, assessment of these structures may be limited to surface conditions and other readily available data.

30. TCMR 816.376 Coal Mine Waste: Dams and Embankments: General Requirements

a. Texas proposes to change the title of TCMR 816.376 from "Coal Processing Waste: Dams and Embankments: General Requirements" to Coal Mine Waste: Dams and Embankments: General Requirements."

b. At TCMR 816.376(a), Texas proposes to replace the word "processing" with the word "mine" in two places.

c. At TCMR 816.376(b), Texas proposes to add the term "coal mine" before the term "waste" in two places, and to replace the reference to "Section .378(a)" with a reference to "this Part."

31. TCMR 816.377 Coal Mine Waste: Dams and Embankments: Site Preparation

a. Texas proposes to change the title of TCMR 816.377 from "Coal Processing Waste: Dams and Embankments: Site Preparation" to "Coal Mine Waste: Dams and Embankments: Site Preparation."

b. Texas proposes to replace the word "processing" with the word "mine" in the introductory sentence of TCMR 816.377.

32. TCMR 816.378 Coal Mine Waste: Dams and Embankments: Design and Construction

a. Texas proposes to change the title of TCMR 816.378 from "Coal Processing Waste: Dams and Embankments: Design and Construction" to "Coal Mine Waste: Dams and Embankments: Design and Construction."

b. At TCMR 816.378(a), Texas proposes to replace the word "processing" with the word "mine" and to change the Section reference to ".347(a) and (c)."

33. TCMR 816.390 Revegetation: General Requirements

At TCMR 816.390, Texas added new Paragraph (b)(5) which requires that the reestablished plant species (i) [b]e capable of self-generation and plant succession; (ii) [b]e compatible with the plant and animal species of the area; and (iii) [m]eet the requirements of applicable State and Federal seed, poisonous and noxious plant, and introduced species laws or regulations.

34. TCMR 816.395 (Surface) and TCMR 817.560 (Underground) Revegetation: Standards for Success

a. Texas proposes to revise the previously proposed provision at TCMR 816.395(a)(1) and 817.560(a)(1) by requiring that standards for success and statistically valid sampling techniques for measuring success be selected by the Commission.

b. Texas proposes to remove the previously proposed language at TCMR 816.395(c)(4) and 817.560(c)(4) and to add the following new language.

(4) The Commission may approve selective husbandry practices, excluding augmented seeding, fertilization, or irrigation, provided it obtains prior approval from the Director, Office of Surface Mining Reclamation and Enforcement in accordance with CFR 732.17 that the practices are normal husbandry practices, without extending the period of responsibility for revegetation success and bond liability if such practices can be expected to continue as part of the postmining land use or if the discontinuance of the practices will not reduce the probability of permanent revegetation success. Approved practices shall be normal husbandry practices within the region for unmined land uses similar to the approved postmining land use of the disturbed area, including such practices as disease, pest, and vermin control; and any pruning, reseeding, and transplanting, specifically necessary by such actions.

35. TCMR 816.405 (Surface) and TCMR 817.574 (Underground) Roads: Class I: Maintenance

a. At TCMR 816.405(a) and 817.574(a), Texas proposes to remove the previously proposed revisions to the existing provision and to add the phrase "and any additional criteria specified by the Commission" at the end of the existing provision.

b. At TCMR 816.405(b) and 817.574(b), Texas proposes to replace the existing second sentence with the following language.

This includes maintenance to control or prevent erosion, siltation, and the air pollution attendant to erosion, including road dust as well as dust occurring on other exposed surfaces, by measures such as vegetating, watering, using chemical or other dust suppressants, or otherwise stabilizing all exposed surfaces in accordance with prudent engineering practices.

36. TCMR 816.406 (Surface) and TCMR 817.575 (Underground) Roads: Class I: Restoration

a. Texas proposes to revise the previously proposed language of TCMR 816.406(a)(4) and 817.575(a)(4) as follows.

(4) Removing or otherwise disposing of road-surfacing materials that are incompatible with the postmining land use and revegetation requirements;

b. At TCMR 816.406(a)(10) [existing (a)(9)], Texas proposes to change the

Section reference from .337(b) to .334–.338.

37. TCMR 816.412 (Surface) and TCMR 817.581 (Underground) Roads: Class II: Maintenance

At TCMR 816.412(a) and 817.581(a), Texas proposes to remove the previously proposed revisions and to add the language "entire transportation" before the word "facility" and to add the language "and any additional criteria specified by the Commission" at the end of the provision.

38. TCMR 816.413 Roads: Class II: Restoration

a. Texas proposes to revise the previously proposed language of TCMR 816.413(a)(4) as follows:

(4) Removing or otherwise disposing of road-surfacing materials that are incompatible with the postmining land use and revegetation requirements;

b. At TCMR 816.413(a)(10) [existing (a)(9)], Texas proposes to change the Section reference from .337(b) to .334–.338.

39. TCMR 816.420 Roads: Class III: Restoration

a. Texas proposes to revise the previously proposed language of TCMR 816.420(d) as follows.

(d) Removing or otherwise disposing of road-surfacing materials that are incompatible with the postmining land use and revegetation requirements;

b. At TCMR 816.420(i) [exiting (h)], Texas proposes to change the Section reference from .337(b) to .334–.338.

40. TCMR 817.535 Coal Mine Waste Banks: General Requirements

a. Texas proposes to change the title of TCMR 817.535 from "Coal Processing Waste Banks: General Requirements" to Coal Mine Waste Banks: General Requirements."

b. Texas proposes to add the following new provision at TCMR 817.535(c).

The disposal facility shall be designed using current, prudent engineering practices and shall meet any design criteria established by the Commission. A qualified registered professional engineer, experienced in the design of similar earth and waste structures, shall certify the design of the disposal facility.

41. TCMR 817.538 Coal Mine Waste Banks: Construction Requirements

Texas proposes to change the title of TCMR 817.538 from "Coal Processing Waste Banks: Construction Requirements" to Coal Mine Waste Banks: Construction Requirements."

42. TCMR 817.543 Coal Mine Waste: Dams and Embankments: General Requirements

a. Texas proposes to change the title of TCMR 817.543 from "Coal Processing Waste: Dams and Embankments: General Requirements" to Coal Mine Waste: Dams and Embankments: General Requirements."

b. At TCMR 817.543(a), Texas proposes to replace the word "processing" with the word "mine" in two places.

c. At TCMR 817.543(b), Texas proposes to add the term "coal mine" before the term "waste" in two places, and to replace the reference to "Section .545(a)" with a reference to "this Part."

43. TCMR 817.544 Coal Mine Waste: Dams and Embankments: Site Preparation

a. Texas proposes to change the title of TCMR 817.544 from "Coal Processing Waste: Dams and Embankments: Site Preparation" to "Coal Mine Waste: Dams and Embankments: Site Preparation."

b. Texas proposes to replace the word "processing" with the word "mine" in the introductory language.

44. TCMR 817.545 Coal Mine Waste: Dams and Embankments: Design and Construction

a. Texas proposes to change the title of TCMR 817.545 from "Coal Processing Waste: Dams and Embankments: Design and Construction" to "Coal Mine Waste: Dams and Embankments: Design and Construction."

b. At TCMR 817.545(a), Texas proposes to replace the word "processing" with the word "mine" and to change the Section reference to ".517(a) and (c)."

45. TCMR 817.555 Revegetation: General Requirements

At TCMR 817.555, Texas added new Paragraph (b)(5) which requires that the reestablished plant species (i) [b]e capable of stabilizing the soil surface erosion; (ii) [b]e compatible with the plant and animal species of the area; and (iii) [m]eet the requirements of applicable State and Federal seed, poisonous and noxious plant, and introduced species laws or regulations.

46. TCMR 817.575 Roads: Class I: Restoration

a. Texas proposes to revise the previously proposed language of TCMR 817.575(a)(4) as follows.

(4) Removing or otherwise disposing of road-surfacing materials that are incompatible with the postmining land use and revegetation requirements;

b. At TCMR 817.575(a)(10) [existing (a)(9)], Texas proposes to change the Section references from .507(b) to 817.504–817.508 and from .561 to .555–.560.

47. TCMR 817.582 Roads: Class II: Restoration

a. Texas proposes to revise the previously proposed language of TCMR 817.582(a)(4) as follows.

Removing or otherwise disposing of road-surfacing materials that are incompatible with the postmining land use and revegetation requirements;

b. At TCMR 817.582(a)(10) [existing (a)(9)], Texas proposes to change the Section references from .507(b) to 817.504–817.508 and from .561 to .555–.560.

48. TCMR 817.584 Roads: Class III: Location

At TCMR 817.584(d), Texas proposes to replace the word "constructed" with the word "located."

49. TCMR 817.589 Roads: Class III: Restoration

a. Texas proposes to revise the previously proposed language of TCMR 817.589(d) as follows.

Removing or otherwise disposing of road-surfacing materials that are incompatible with the postmining land use and revegetation requirements;

b. At TCMR 817.589(i) [existing (h)], Texas proposes to change the Section references from .507(b) to .504–.508 and from .561 to .555–.560.

50. TCMR 846.001 Definitions—Individual Civil Penalties

At TCMR 846.001(2), Texas proposes to add the language "except an order incorporated in a decision issued under Section 30(b) of the Act" at the end of the sentence.

51. TCMR 850.702 General Requirements

Texas proposes to remove existing TCMR 850.702(e).

52. TCMR 850.704 Training Courses

At TCMR 850.704(b), Texas proposes to replace the word "courses" with the word "subjects."

53. Revegetation Guidelines

Texas submitted a proposed technical guidance document entitled "Field Sampling Procedures for Determining Groundcover, Productivity, and Woody-Plant Stocking Success of Reclaimed Surface Mined Land Uses; Revegetation Success Standards for Reclaimed Surface Mined Land Uses; and Normal Husbandry Practices on Unmined Land"

dated August 31, 1995. The document contains the following sections.

Procedures for Determining Ground Cover and Woody-Plant Stocking

This section contains a description of the process for establishing transects; a description for determining the placement and measurement of sample points for herbaceous vegetation; and a description for determining the placement and measurement of sample plots for woody plants (trees, shrubs, half shrubs, and vines). It also requires that all permanent ground cover and woody-plant count evaluations be conducted during the growing season.

Methods To Measure Herbaceous and Crop Productivity

This section contains four methods for measuring herbaceous and crop productivity. These include whole-field harvest; clipping method; double sampling method; and grazing method.

Success Standards for Ground Cover, Productivity, and Stocking

This section contains standards for ground cover; forage and herbaceous productivity for pastureland, grazingland, and undeveloped land use; crop productivity; prime farmland productivity; and woody-plant stocking.

Normal Husbandry Practices

This section contains the following language.

Approved husbandry practices for postmine lands bonded under the extended liability period are the normal husbandry practices within the region for unmined lands having the same land uses as the approved postmining land uses. Normal husbandry practices are the normal conservation practices that can be expected to continue as part of the approved postmine land use after final bond release.

Normal husbandry practices for unmined lands within the region having the same land uses as the approved postmine land use may include management practices at levels recommended by the U.S. Department of Agriculture Natural Resource Conservation Service (NRCS), the Texas Forest Service, and the Texas Parks and Wildlife Department.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Texas program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.s.t., on November 9, 1995. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collections requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule 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.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 17, 1995.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 95–26402 Filed 10–24–95; 8:45 am]

BILLING CODE 4310–05–M

National Park Service

36 CFR Part 7

RIN 1024–AC34

Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway; Snowmobile and Snowplane Routes and Regulations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule

SUMMARY: The National Park Service (NPS) proposes to change the special regulations relating to the use, and designated routes for snowmobiles and snowplanes within Grand Teton National Park and John D. Rockefeller, Jr. Memorial Parkway. The proposed rule change will more clearly define the use of snowmobiles, snowplanes, and designated routes. This rule change would allow for the closure of the Potholes—Baseline Flats area to snowmobiles at the discretion of the Superintendent and establish the special regulation allowing snowmobile use on the Continental Divide Snowmobile Trail (CDST). The proposed rule change will also establish a requirement for operators of snowmobiles within Grand Teton National Park to have a valid State driver's license or learner's permit.

DATES: Written comments will be accepted through December 26, 1995.

ADDRESSES: Comments should be addressed to: Jack Neckels, Superintendent, Grand Teton National Park, P.O. Box 170, Moose, Wyoming 83012.

FOR FURTHER INFORMATION CONTACT: Colin W. Campbell, Chief Ranger, Grand Teton National Park, Moose, Wyoming 83012, Telephone: 307–739–3472.

SUPPLEMENTARY INFORMATION:

Background

The Winter Use Plan of 1990 authorized the Continental Divide Snowmobile Trail (CDST) within the road prism from the east entrance of Grand Teton National Park through John D. Rockefeller, Jr. Parkway to the south entrance of Yellowstone National Park. In 1993, a joint task force of the two national parks developed and approved a Visitor Use Management Work Plan for implementing the Winter Use Plan. One major action item, the CDST, required promulgation of a special regulation prior to full implementation.

The proposed trail through Grand Teton National Park and the Parkway would link the existing completed CDST in the State of Wyoming with the snowmobile trail network in Yellowstone National Park. Currently, the only incomplete portion of the CDST between State lands and Yellowstone occurs within Grand Teton National Park. Snowmobile users must transport their machines from the east boundary of Grand Teton National Park to the south gate of Yellowstone National Park through the John D. Rockefeller Memorial Parkway. By designating the proposed trail, CDST users will have a continuous trail system for travel through State land as well as a trail linking Grand Teton with Yellowstone.

Furthermore the proposed CDST rule will likely affect snowmobile use within the area known as the Potholes—Baseline Flats area. This area is proposed wilderness and currently designated as an area open for snowmobiling. With the successful completion and opening of the CDST within Grand Teton National Park, the proposed rule will give the Superintendent the discretion to close the Potholes—Baseline Flats area to snowmobiling.

The proposed rule provides for a licensing requirement, in accordance with State law, for operators to provide for safer operation of snowmobiles within the Park.

This rule change will more clearly define the use of snowmobiles within Grand Teton National Park, and make snowmobiling on the CDST consistent with the practices of both State and Federal agencies, Forest Service and Fish and Wildlife Service, whose lands are contiguous with Grand Teton National Park.

Section-by-Section Analysis

36 CFR 7.22 Grand Teton National Park

In November of 1990, a Winter Use Plan was completed for Yellowstone and Grand Teton National Parks, and the John D. Rockefeller, Jr. Memorial Parkway. The proposed changes to the regulations implement components of the Plan that affect Grand Teton National Park.

(g) Snowmobiles. (1) The wording was changed in this section to differentiate snowmobiles from snowplanes, because the Winter Use Plan eliminates snowplane use on designated routes open to snowmobiles, and limits snowplane use to the frozen surface of Jackson Lake. Reference to paragraph (g)(6) was deleted because no exception applies to that paragraph.

(2)(i) The Spread Creek Road was deleted from the list of designated routes open to snowmobiling. The Spread Creek Road is less than 2 miles long, is adjacent to an area closed to all use in winter to protect wintering wildlife, and does not connect to areas open to snowmobiling on adjacent Forest Service lands. Other language in this section was changed to open only the unplowed portion of the Teton Park Road, and to give the Superintendent the discretion to close the Potholes-Baseline Flats areas to snowmobiles. The Lizard Creek Campground Road was deleted as a designated route, because it has been largely unused, and it lacks adequate trailhead parking space. Sufficient alternative access to Jackson Lake is provided at Signal Mountain and Colter Bay.

(2)(ii) This paragraph was added to allow the use of snowmobiles within Grand Teton National Park along the State proposed CDST. This trail follows existing roads in Grand Teton National Park and is consistent with NPS policy that states that snowmobiles are allowed only on designated routes. Traffic lanes along this route will continue to be plowed for cars and trucks, and snowmobiles will be permitted on a groomed trail adjacent to the traffic lanes. Connections from the trail to other snow roads (i.e., the unplowed portion of the Teton Park Road) are also permitted in the Winter Use Plan. The trail and connections to the trail will use the width of the existing roadway (ditches, cut slopes, fill slopes and other areas disturbed by road construction) immediately adjacent to the plowed vehicular traffic lanes.

(2)(iii) This language was added to permit snowmobiles to cross the highway only at designated points, in order to make connections to rest stops, fuel, meals, lodging and other related visitor services; to permit snowmobiles to use portions of highway bridges where it is difficult or environmentally improper to use alternate routes; to permit snowmobile travel within parking and staging areas; and to connect to and/or travel within developed areas in a regulated manner.

(2)(iv) This language was added to permit private property owners to access their properties. Use of oversnow vehicles will be restricted to travel over unplowed roads, during winter months.

Access to private property had not been addressed in previous regulations. Some roads that accessed private property were open to the general public as well, and were designated on maps, but not included in the existing regulation.

(2)(v) This language was added and retains the designated open area known as the Potholes area. This is included to give the Superintendent the discretion to open or close the Potholes area.

(2)(vi) This language was moved from (g)(4) of the current regulation.

(3) 36 CFR 2.19 prohibits other winter activities such as skiing, snowshoeing, ice skating, sledding, etc., on Park roads and parking areas open to motor vehicle traffic. That prohibition does not extend specifically to routes open to snowmobiling. In the interests of public safety, those activities should be prohibited on the CDST, but do not need to be prohibited on all routes open to snowmobile use. Therefore, those activities are restricted only on the designated route described in paragraph (g)(2)(ii), which is the CDST.

(4) This language was added to address parking areas and procedures for snowplanes.

(5) More stringent noise level standards were established for newly registered snowplanes. Permits issued for snowplanes registered for the first time after the Winter Use Plan was approved (November 1990) will require that snowplanes meet snowmobile noise standards, currently 78 decibels on the "A" weighted scale. Snowplanes registered prior to the plan's approval must meet the noise standards established by previous regulations. Noise standards for snowmobiles are defined in 36 CFR 2.18(d)(1).

(6) The Winter Use Plan calls for lowering the speed limits during winter months along the highway adjacent to the CDST. The regulation of both the speed limits of wheeled vehicles and snowmobiles will be critical for the safe operation of the trail. This paragraph establishes speed limits that are the same for snowmobiles as for wheeled vehicles. Snowmobile speed limits greater than those for wheeled vehicles during other seasons will not be permitted. No special speed limits will be set for snowplanes or snowmobiles on Jackson Lake. Changing surface features of the lake in the winter tend to establish self-regulating limits on speed for safe travel.

(7) This regulation was added to increase the margin of safety for snowmobile users. The CDST will have a groomed width of 10–12 feet, with some short stretches only eight feet wide where roadside constraints dictate a reduced width. Travel will be in both directions. For safe travel, it is imperative that snowmobiles remain on the right side of the roadway.

(8) This paragraph was added to give the Superintendent the authority to closely regulate and manage snowmobile use so as to ensure full protection of natural resources and to provide for the utmost in visitor safety. For example, it may be necessary to close the CDST during hours of darkness to provide the opportunity for safe snow removal on adjacent traffic lanes and groom the trail. For the safety of snowmobilers, it may be necessary to close the trail during periods of low visibility created by blowing snow. For protection of the resources, the trail must remain closed until sufficient snow cover is in place to permit non-destructive use.

(9) This paragraph was added to give the superintendent greater ability to assure competent operation of snowmobiles within the Parkway. With the ever increasing complexity and performance levels of modern snow machines, and with considerations for the safety of all Park visitors, operators of snowmobiles will be required to have a valid State driver's license or learner's permit as prescribed by the conditions of the issuing State.

36 CFR 7.21 John D. Rockefeller Jr. Memorial Parkway

In November of 1990, a Winter Use Plan was completed for the John D. Rockefeller, Jr. Memorial Parkway. The proposed changes to regulations for the Parkway are to accommodate components of the Winter Use Plan that affect the Parkway.

(a)(1) The definition of a snowplane was deleted. Under the Winter Use Plan, snowplanes that were previously permitted, are now excluded on designated routes in the Parkway. Snowmobiles are defined in § 1.4. The wording "except as otherwise distinguished in paragraph (a)(5)" was deleted, as there was not a paragraph (a)(5) in the existing regulation, and the wording does not apply to the new paragraph (a)(5) now added.

(a)(1) Designated routes to be open to snowmobile use: (i) The road that connects Flagg Ranch to Ashton, Idaho, has several names in common usage, including the Flagg-Ashton Road, the Grassy Lake Road, and the Reclamation Road. The name change in the regulations will coincide with names currently in use on USGS maps, NPS signs, and with what is most common usage. (ii) This language was added to permit snowmobiles to cross the highway only at designated points, in order to make connections to rest stops, fuel, meals, lodging and related visitor services; to permit snowmobiles to use portions of highway bridges where it is difficult or environmentally damaging to use alternate routes; to permit snowmobile travel within developed areas in a regulated manner.

(iii) This language was added to permit snowmobile use along the CDST, a major component of the Winter Use Plan. That trail will follow the route of US Highway 89–287 between the south boundary of the Parkway and Flagg Ranch. The trail will use the width of the existing roadway (ditches, cut slopes, fill slopes, and other areas disturbed by road construction) and will be immediately adjacent to the northbound plowed vehicle lane.

(2) 36 CFR 2.19 prohibits other winter activities such as skiing, snowshoeing, ice skating, sledding, etc., on Park roads and parking areas open to motor vehicle traffic. That prohibition does not extend specifically to routes open to snowmobiles. In the interests of public safety, those activities should be prohibited on the CDST, but they do not need to be prohibited on all routes open to snowmobile use. Those activities are only restricted in paragraph (a)(1)(iii), which is the designated route for the CDST.

(3) The Winter Use Plan calls for the lowering of speed limits during the winter months along the highway adjacent to the CDST. The regulation of the speed limits for both wheeled vehicles and snowmobiles will be critical to the safe use of the trail. Likewise, lowered speed limits will be needed in areas shared by snowmobiles and wheeled vehicles such as parking lots and staging areas. In general, speed limits for snowmobiles will not be greater than is presently posted for wheeled vehicles during other seasons. The original wording of this paragraph, that prohibited the operation of a snowmobile that makes excessive noise, was deleted, because that provision is redundant to § 2.18(d)(1).

(4) This regulation was added to increase the margin of safety for snowmobile users. The CDST will have a groomed width of 10–12 feet, with some short stretches only eight feet wide where roadside constraints dictate a reduced width. Travel will be in both directions. For safe travel, it is imperative that snowmobiles remain on the right side of the route.

(5) This paragraph was added to give the Superintendent the authority to manage snowmobile use so as to ensure full protection of natural resources and to provide the utmost in visitor safety. For example, it may be necessary to close the CDST during hours of

darkness to provide the opportunity for safe snow removal on adjacent traffic lanes and to groom the trail. For the safety of snowmobilers, it may be necessary to close the trail during periods of low visibility created by blowing snow. For protection of the resources, the trail must remain closed until sufficient snow cover is in place to permit non-destructive use.

(6) This paragraph was added to give the Superintendent greater ability to assure competent operation of snowmobiles within the Parkway. With the ever increasing complexity and performance levels of modern machines, and with considerations for the safety of all Park visitors, operators of snowmobiles will be required to have a valid State driver's license or learner's permit as prescribed by the conditions of the issuing State.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments regarding this proposed rule to the address listed above. The Grand Teton National Park staff will also be placing public notices in local newspapers.

Drafting Information

The primary authors of this proposed rule are Colin W. Campbell, Chief Ranger and Donald G. Coelho, former North District Ranger of Grand Teton National Park.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

This rule was not subject to Office of Management and Budget review under Executive Order 12866. The Department of the Interior has determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The National Park Service has determined that this proposed rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area causing physical damage to it;

(b) Introduce non-compliance uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based upon this determination, the proposed rule is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental regulations in 516 DM 6, (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects in 36 CFR Part 7

National parks; Reporting and recordkeeping requirements.

In consideration of the foregoing, it is proposed to amend 36 CFR Chapter I as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. Section 7.22(g) is revised to read as follows:

§ 7.22 Grand Teton National Park.

* * * * *

(g) *Snowmobiles.* (1) Snowmobiles, as defined in § 1.4, are distinguished from "snowplanes", that are self-propelled vehicles intended for over-the-snow travel, having a curb weight of not more than 1000 pounds (450 kilograms), mounted on skis in contact with the snow, and driven by a pusher-propeller.

(2) Designated routes to be open to snowmobile use:

(i) The unplowed portion of the Pacific Creek Road; the unplowed portion of the Ditch Creek Road; the Lost Creek Ranch Road (for administrative purposes only), those portions of the unplowed roads connecting with the Shadow (Antelope) Mountain Forest Service Road at Cunningham Cabin, Lost Creek Road and the Forest Service access road at Schwering Studio; the unplowed portions of the Moose-Wilson Road; the unplowed portions of the Teton Park Road north of Taggart trailhead parking to Signal Mountain Lodge, the Jenny Lake Loop Road, the String Lake Picnic Area Road, the Signal Mountain Summit Road, the Signal Mountain Launch Ramp Road and the Spaulding Bay Road.

(ii) Within the right-of-way, immediately adjacent to the westbound or northbound traffic lane, but not upon the plowed portion of Highway 26–89–287, between the east Park boundary and the north Park boundary, except that at the junction of 89–287, commonly known as Jackson Lake Junction, the route will cross to the west side of the southbound lane of highway; continue along the west side for north or southbound traffic; connecting with an old roadway surface at Willow Flats, deviate from established right-of-way and be routed under Christian Creek bridge; back to the right-of-way, immediately adjacent to the westbound or northbound traffic lane; and within the right-of-way, immediately adjacent to the southbound traffic lane, but not upon the plowed portion of the Teton Park Road, between the junction with Highway 89–287, and the unplowed portion of the Teton Park Road of Signal Mountain.

(iii) Marked or posted highway crossings; on highway bridges where no separate snowmobile bridge is in place; within designated vehicle parking and snowmobile staging areas; and within or connecting to developed areas where routes will be designated by appropriate snow poles or signs.

(iv) Those unplowed roads that provide access to private property within the exterior boundaries of the Park area, pursuant to the terms and conditions of a permit issued only to owners of such private property.

(v) Designated area open to snowmobile use: The Potholes—Baseline Flats area east of the Teton Park Road north of Cottonwood Creek, north of the Bar BC access road, east of Timbered Island as marked to the Teton Park Road and bounded on the north by the RKO Road. Opening and closing of the Potholes area is at the discretion of the Superintendent, based in part on snow depth, snow conditions, weather, and other routes open within the Park. At the discretion of the Superintendent the Potholes area may be closed during any given year.

(vi) Designated water surface open to oversnow use: The frozen surface of Jackson Lake is open to both snowmobile and snowplane use.

(3) Notwithstanding the definition of a vehicle as set forth in § 1.4 of this chapter, the provisions of § 2.19 apply to paragraph (g)(2)(ii) of this section.

(4) Parking for snowplanes will be designated by permit and confined to certain areas. Parking snowplanes in non-designated areas or without a permit is prohibited.

(5) The operation of a snowplane that makes excessive noise is prohibited.

Excessive noise is defined as noise that exceeds 78 decibels. Measurements are made on the "A" weighted scale by a sound level meter, measured at a distance of not less than 50 feet when the snowplane is being operated at full throttle. Except, that snowplanes registered and operated in the Park for the 1970–1971 season need not meet any noise level standards, and snowplanes registered and operated in the Park prior to the 1991–1992 season may produce up to 86 decibels.

(6) The maximum speed limit for snowmobiles will be the same as is posted for vehicles on the adjacent roadway, or as is posted for areas shared by vehicles and snowmobiles, or as is posted for wheeled vehicles during other seasons. Operating a snowmobile at a speed in excess of the posted speed limit is prohibited.

(7) On designated routes open to snowmobile use, snowmobiles shall travel on the right side of the route, except to overtake and pass. Failure to drive on the right side of the route is prohibited.

(8) The Superintendent shall determine the opening and closing hours and dates for use of designated snowmobile or snowplane routes and areas, taking into consideration the location of wintering wildlife, available snow cover, road and trail maintenance requirements, and other factors that may relate to public safety and resource protection.

(9) A valid State driver's license or learner's permit is required to operate a snowmobile within Grand Teton National Park. Operating a snowmobile without a valid State driver's license or learner's permit is prohibited.

3. Section 7.21 is revised to read as follows:

§ 7.21 John D. Rockefeller, Jr. Memorial Parkway.

(a) *Snowmobiles.* (1) Designated routes to be open to snowmobile use:

(i) The Grassy Lake Road between the west boundary of the Parkway and the junction with Highway 89–287.

(ii) Marked and posted highway crossings; on highway bridges where no separate snowmobile bridge is in place; within designated vehicle parking and snowmobile staging areas; and within or connecting to developed areas, where routes will be designated by appropriate snow poles or signs.

(iii) Within the right-of-way, immediately adjacent to the northbound traffic lane, but not upon the plowed portion of Highway 89–287, between the south boundary of the Parkway and Flagg Ranch.

(2) Notwithstanding the definition of a vehicle as set forth in § 1.4 of this chapter, the provisions of § 2.19 apply to paragraph (a)(1)(iii) of this section.

(3) The maximum speed limit for snowmobiles will be the same as is posted for vehicles on the adjacent roadway, or as is posted for areas shared by vehicles and snowmobiles, or as is posted for wheeled vehicles during other seasons. Operating a snowmobile at a speed in excess of the posted speed limit is prohibited.

(4) On designated routes open to snowmobile use, snowmobiles shall travel on the right side of the route, except to overtake and pass. Failure to drive on the right side of the route is prohibited.

(5) The Superintendent shall determine the opening and closing hours and dates for use of designated snowmobile routes, taking into consideration the location of wintering wildlife, available snow cover, road and trail maintenance requirements, and other factors that may relate to public safety and resource protection.

(6) A valid State driver's license or learner's permit is required to operate a snowmobile within the John D. Rockefeller, Jr., Memorial Parkway. Operating a snowmobile without a valid State driver's license or learner's permit is prohibited.

(b) [Reserved].

Dated: September 19, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–26454 Filed 10–24–95; 8:45 am]

BILLING CODE 4310–70–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 14–12–7054b; FRL–5286–7]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revision to the California State Implementation Plan (SIP) which concerns the control of volatile organic compound (VOC) emissions from leather processing operations.

The intended effect of proposing approval of this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by November 24, 1995.

ADDRESSES: Written comments on this action should be addressed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95814.

Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey, CA 93940.

FOR FURTHER INFORMATION CONTACT: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1185.

SUPPLEMENTARY INFORMATION: This document concerns Monterey Bay Unified Air Pollution Control District's (MBUAPCD) Rule 430, Leather Processing Operations submitted to EPA on July 13, 1994 by the California Air Resources Board. For further information, please see the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: August 18, 1995.

David P. Howekamp,

Acting Regional Administrator.

[FR Doc. 95–26455 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[IA–18–1–6984b; FRL–5303–8]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Iowa for the purpose of establishing the requirements set forth in the EPA's General Conformity rule. In the final rules section of the **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal, because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received in writing by November 24, 1995.

ADDRESSES: Comments may be mailed to Lisa V. Haugen, Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen at (913) 551–7877.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: September 6, 1995.

William Rice,

Acting Regional Administrator.

[FR Doc. 95–26460 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[WA5–1–5539b; FRL–5309–2]

Approval and Promulgation of Implementation Plans: Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Washington for the purpose of bringing about the attainment of the national ambient air quality standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). The implementation plan was submitted by the State to satisfy certain Federal requirements for an approvable moderate nonattainment area PM–10 SIP for Tacoma, Washington. In the Final Rules Section of this **Federal Register,** the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA does not plan to institute a second comment period on this action.

DATES: Comments on this proposed rule must be received in writing by November 24, 1995.

ADDRESSES: Written comments should be addressed to Montel Livingston, SIP Manager, Environmental Protection Specialist (AT–082), Air and Radiation Branch, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 10, Air and Radiation Branch, 1200 6th Avenue, Seattle, WA 98101.

The State of Washington, 4450 Third Avenue S.E., Lacey, Washington 98504.

FOR FURTHER INFORMATION CONTACT: Claire Hong, Air Programs Branch (AT–082), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–1813.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this **Federal Register**.

Dated: September 22, 1995.

Charles Findley,

Acting Regional Administrator.

[FR Doc. 95–26465 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 180

[PP 3E4230/P634; FRL–4981–7]

RIN 2070–AC18

Jojoba Oil; Exemption from Tolerance Requirement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish an exemption from the requirement for a tolerance for residues of jojoba oil in or on all raw agricultural commodities when applied at not more than 1.0% of the final spray as an insecticide or as a pesticide spray tank adjuvant in accordance with good agricultural practices. Amvac Chemical Corp. submitted a petition pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA) requesting the proposed regulation to establish an exemption from the requirement of a tolerance.

DATES: Comments, identified by the document control number [PP 3E4230/P634], must be received on or before November 24, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring 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 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 3E4230/P634]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Michael L. Mendelsohn, Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 5th Floor, CS #1, 2800 Crystal Drive, Arlington, VA 22202, (703)-308-8715; e-mail: mendelsohn.michael@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Amvac Chemical Corp., 2110 Davie Ave., City of Commerce, CA 90040, has submitted pesticide petition (PP) 3E4230 to EPA proposing to amend 40 CFR part 180 by establishing a regulation pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to exempt from the requirement of a tolerance simmondsia liquid wax (jojoba oil) and the product Detur for use as an inert ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. Subsequent to its petition, Amvac informed EPA that it had transferred all Detur assets to Imperial Jojoba Oils of El Centro, CA. EPA has, of its own initiative, expanded the original petition to include pesticidal uses of jojoba oil in this proposed exemption from the requirement of a tolerance.

The data submitted in the petition and all other relevant material have been evaluated and a discussion of the submitted data and literature referenced follows.

The source of jojoba oil is the *Simmondsia chinensis* shrub, commonly called the jojoba plant. The plant is a woody evergreen shrub, 2 to 3 feet high with thick, leathery, bluish-green leaves and dark brown, nutlike fruit. Two techniques are used to release the oil from the plant fruit (also called a nut, bean, or seed). The oil may be extracted by pressing or by solvent extraction methods used commercially to isolate vegetable oils. The expressed oil is clear and golden in color.

The exact composition of the oil varies dependent upon geographic location of the plant and can vary from bean to bean within a single plant. Jojoba oil is composed almost completely of wax esters of monounsaturated, straight-chain acids and alcohols with high molecular weights (C_{16}-C_{26}). Jojoba oil has been defined as a liquid wax ester with the generic formula RCOOR''. RCO represents oleic acid, eicosanoic acid (C20:1), and/or erucic acid (C22:1) moieties. -OR'' represents eicosenyl alcohol (C20:1), docosenyl alcohol (C22:1) and/or tetrasenyl alcohol (C24:1) moieties. Crude jojoba oil contains 0.8 ppm elemental lead (Pb) and less than 0.1 ppm arsenic (AS_2S_3).

The jojoba bean contains 2 glycosides with toxic effects: simmondsin [2-(cyanomethylene)-3-hydroxy-4,5-dimethoxycyclohexyl-D-glucoside] at 2.3% and simmondsin-2'-ferulate at 1% (Verbiscar and Banigan, 1978. *J. Ag. Fd. Chem.* 26:1456-60). In addition, related conjugated organonitriles including demethyl simmondsin and didemethylsimmondsin are present (Abbott, T.P., Nakamura, L.K., "Microbial Detoxification of Jojoba Toxins," Agricultural Research Service, 1990). As set forth below, this proposed exemption does not cover these ingredients, and they are therefore not permitted to be present in the jojoba oil subject to this exemption. A third toxic component which makes up to 14% of jojoba oil is erucic acid. Erucic acid is also found in rapeseed oil in amounts up to 50% ("The Chemistry and Technology of Jojoba Oil" by James Wisniak). The amount of erucic acid likely to be present in residues of jojoba oil under this exemption is less than 1/10 of the amount (2%) permitted in rapeseed oil defined by FDA as low erucic acid rapeseed oil.

Toxicology

EPA's evaluation of the toxicological properties of jojoba oil is based in part upon numerous toxicology studies conducted both for the purposes of evaluating the use of jojoba oil in cosmetic products and as a pesticide. In addition, the Agency took into consideration the fact that jojoba oil has been widely distributed in commerce and available to the general public throughout the United States for cosmetic uses without any evidence of significant adverse effects to humans or the environment.

Chronic data was not deemed necessary to support the proposed exemption because of the low application levels allowed and the fact that most of the jojoba oil injested orally is excreted in the feces (Yaron, A. "Metabolism and Physiological Effects of Jojoba Oil" in *The Chemistry and Technology of Jojoba Oil*, 1987, Wisniak, J.). The expected dietary exposure to humans as a result of the use of this substance as an inert or active pesticide ingredient applied at 1% of the final spray is far below levels that produced no adverse effects in laboratory animals.

As noted above, formulations of jojoba oil may contain erucic acid and the glycosides simmondsin and simmondsin-2-ferulate (as well as related conjugated organonitriles including demethyl simmondsin and didemethylsimmondsin), ingredients which are of toxicological concern.

Erucic acid, which has been identified as a potential contributing factor in heart disease, makes up approximately 14% of jojoba oil. However, this proposed exemption only exempts residues resulting from the application of a final spray diluted to no more than 1% jojoba oil, the level of erucic acid in the spray applied to raw agricultural commodities will fall from 14% to 0.14% This is less than one-tenth the 2% erucic acid level permitted for low erucic acid rapeseed oil (see FDA regulations at 21 CFR 184.1555(c)), and therefore does not pose a hazard to human health.

The Agency lacks sufficient information to conclude that simmondsin and simmondsin-2-ferulate as well as related conjugated organonitriles including demethyl simmondsin and didemethylsimmondsin would not cause adverse health effects when applied under the terms of this proposed exemption. For this reason, the proposed exemption only applies to formulations of jojoba oil not containing simmondsin and simmondsin-2-ferulate.

A summary of the the available toxicological data for simmondsin, simmondsin-2-ferulate, erucic acid, and jojoba oil is set forth below.

A. Simmondsin and Simmondsin-2'-Ferulate

Simmondsin and/or its breakdown products have been linked to diet rejection or restriction in rats (Booth, A.N., C.A. Elliger, A.J. Waiss, 1974. "Isolation of a Toxic Factor from Jojoba Meal," *Life Sci.* 15:1115).

Ingested Simmondsin, a glycoside in jojoba bean, caused rats to avoid food. Administration of 6,000 ppm of simmondsin in the diet of rats produced a 24% body weight decrease. Twenty percent of mice fed with 10% simmondsin in the diet died within 1 week (Letter from Andrew Laumbach (FDA) to Don Barioni (Jojoba Oil Oils, CA) dated July 8, 1992). (Letter from Karen Korman to Don Barioni dated July 22, 1992).

When weanling rats were given simmondsin orally for 5 days at 750 mg/kg/day, all rats lost weight and died within 10 days (R.K. Locke, FDA memo 3/22/78)).

A dose of 2.5 g/kg simmondsin orally did not decrease body weight in rats (Khalsa, J.H. FDA memo May 27, 1983; R.K. Locke, FDA memo 3/22/78).

A dose of 3.6 g/kg simmondsin by i.p. injection had no effect on rats' body weight (Khalsa, J.H. FDA memo May 27, 1983; R.K. Locke, FDA memo 3/22/78).

A single oral dose of 4 g/kg of simmondsin to weanling rats produced no effects during a 14-day observation (Khalsa, J.H. FDA memo May 27, 1983; R.K. Locke, FDA memo 3/22/78).

A diet containing 0.6% of Simmondsin produced weight loss in rats as did a diet containing 10% jojoba oil (Locke, R.K. to L.J. Lin, FDA memo 3/22/78).

B. Erucic Acid

Erucic acid (13%) in jojoba oil may contribute to heart disease. Nestle Technical Product Assistance-Orbe, Switzerland.

Jojoba oil contains 14% of erucic acid which has been shown to cause myocardial fibrosis (Abdullatif, A.M.M. and E.O Vles, 1971. *Nutr. Metabol.* 13:63-74).

C. Jojoba Oil Acute Oral Toxicity Studies

Fewer than 50% of rats died when orally administered 21.5 mL/kg of jojoba oil (Wisniak, J., 1977, "Jojoba Oil and Derivatives." *Proc. Chem. Fats and Lipids* 15(3):167-218.). Four groups (10 males and 10 females/group) rats were orally administered 0.5, 0.75, 1.13 and 1.69 mL/10 g of crude jojoba oil. After 7 days, rats were killed and necropsied. One rat died before the end of the 7 days; renal capsule discoloration was noted in all groups; peritonitis was noted in one 1.69 mL/10g group (Taguchi, M. and Kunimoto, 1977. "Toxicity Studies on Jojoba Oil for Cosmetic Uses," *Cosmetics Toiletries*, 19:53-62 (September issue).CS (RP)).

The oral LD_{50} for crude jojoba oil in mice is greater than 1.69 mL/10 g. No death or clinical signs were noted (Taguchi, Masayuki, 1990. "Test Results on Safety on Jojoba oil to be Used for Cosmetics" in *La Jojoba*, Apache Junction, AZ; p 149-170.).

Four groups (10 males and 10 females/group) of rats were fed basal diet (5g/feeding containing 0.5, 1.0, 2.0, and 3.0 g of refined jojoba oil. The first two groups were dosed for 7 days, and the last two groups were dosed for 4 days. Signs of toxicity were noted in five rats in the 1.0-g group and six rats each in the 2.0-g and 3.0-g groups. One rat died in each of the 1.0-, 2.0-, and 3.0-g dose groups (Hamm, D. J., 1984. "Preparation and Evaluation of Trailkoxytricarballylate, Trialhoxycitrate, Trailkoxyglycerylether, Jojoba Oil and Sucrose Polyester as Low calories Replacements of edible Fats and Oils" *J. of Food Science* (49):419-428). (OW)

Twenty percent of weanling mice died when fed a diet with 10% jojoba oil (Locke, R.K. to L.J. Lin, FDA memo, 3/22/1978).

A single oral administration at 5,050 mg/kg of DETUR (a pesticide product containing 97.5% jojoba oil) to HSD:SD rats did not produce death in any animal. The oral LD_{50} for DETUR in HSD:SD rats is greater than 5,050 mg/kg body weight which is classified as toxicity category IV for pesticide precautionary labeling purposes.

In the testing of a lip balm product containing 20% jojoba oil, none of the rats (5 males and 5 females) died when orally administered with 5.0 g/kg of 20% jojoba oil (lip balm product) (CTFA, 1985. CIR Safety Data Test Summary Response Form. Acute oral toxicity study on lip balm product containing 20% jojoba oil, 1 p.)

Acute Dermal Toxicity Studies

A single dose of 2,020 mg/kg of DETUR (a pesticide product containing 97.5% jojoba oil) was topically applied to the shaved intact skin of 5 male and 5 female rabbits for 24 hours and treated rabbits were observed for 14 days. No mortality was noted; transient skin irritation and diarrhea were noted; one female had mottled liver. The acute dermal LD_{50} of DETUR is greater than 2,020 mg/kg body weight and classified as Toxicity category III for pesticide precautionary labeling purposes.

Primary Eye Irritation Studies

Instillation of refined Jojoba Oil (0.1 mL) into the eyes of six male rabbits produced slight ablepharia and slight conjunctival hyperemia at 1 hour after instillation. All signs cleared by 24 hours post-instillation (Taguchi, M. and Kunimoto, 1977. "Toxicity Studies on Jojoba Oil for Cosmetic Uses," *Cosmetics Toiletries*, 19:53-62 (September issue). CS (RP) Instillation of lip balm product containing 20% of jojoba oil (0.1 mL) into the eyes of six rabbits produced eye irritation score of 0.3 ± 0.8 (Draize scale) at 24 hours post-instillation. All reactions were cleared at 48 hours post-instillation (CTFA, 1985 as reported in Diener, Robert M. ed., 1992. "Final Report on the Safety Assessment of Jojoba Oil and Jojoba Wax." Nineteenth Report of the Cosmetic Ingredient Review Expert Panel. *J. American College of Toxicology*, Vol. 11(1):57-82).

Administration of DETUR (a pesticide product containing 97.5% jojoba oil) into rabbit eyes caused positive conjunctival irritation in rabbits for 48 hours. DETUR is considered to be a mild eye irritant and is classified as EPA toxicity category III for precautionary labeling purposes.

Primary Dermal Irritation Studies

Refined jojoba oil (0.5 mL) as well as olive oil and light liquid paraffin (0.5 mL) serving as controls were topically applied to the shaved skin of three groups of 5 guinea pigs daily for 15 days. The same procedure was conducted in the other three groups of 5 guinea pigs daily for 30 days. A Draize scoring system was used. No significant reactions to jojoba oil and olive oil were noted. Flare reactions to liquid paraffin were noted on the third day of the study (Taguchi, M. and Kunimoto, 1977. "Toxicity Studies on Jojoba Oil for Cosmetic Uses." *Cosmetics Toiletries*, 19:53-62 (September issue)). CS (RP).

Jojoba oil (10.0% w/w in refined Jojoba oil) was topically applied to albino marmots according to Draize method. No skin reactions were noted in any animals (Taguchi, Masayuki, 1990. "Test Results on Safety on Jojoba oil to be Used for Cosmetics" in *La Jojoba*, Apache Junction, AZ; p. 149-170.).

A topical application of lip balm product containing 20% jojoba oil to New Zealand white rabbits produced a primary irritation score of 0.33—minimally irritating (CTFA, 1985 as reported in Diener, Robert M., ed., 1992. "Final Report on the Safety Assessment of Jojoba Oil and Jojoba Wax. Nineteenth Report of the Cosmetic Ingredient Review Expert Panel." *J. American College of Toxicology*, Vol. 11(1): 57-82.).

Application of 0.5 mL of DETUR (a pesticide product containing 97.5% jojoba oil) on the shaved dorsal skin of 6 rabbits did not produce deaths or other signs of systemic toxicity. Transient erythema/eschar formation was seen in two males and two females. Within 24 hours all treated skin sites were normal. The primary dermal

irritation index was 0.17. DETUR is considered to be slightly irritating and in EPA's toxicity category IV for precautionary labeling purposes.

Dermal Sensitization Studies

The skin sensitization potential of jojoba alcohol (10.0% w/w in refined Jojoba oil) was evaluated according to the maximization test using albino marmots (10 males and 10 females). Two groups of marmots (10 males and 10 females) were used as the controls. No sensitization reaction was observed 24 or 48 hours after the challenge application (Taguchi, Masayuki, 1990. "Test Results on Safety on Jojoba oil to be Used for Cosmetics." *La Jojoba*, Apache Junction, AZ; p. 149-170.).

Five out of six human subjects suspected to be sensitive to jojoba oil had positive reactions when patch tested with jojoba olive oil and jojoba oil-petrolatum mixtures. Twenty-eight human subjects with no known sensitivities did not have sensitization reactions to pure jojoba oil (Scott, M.J. and M.J. Scott, Jr., 1982, "Jojoba Oil," *J. Am. Acad. Dermatology* 6(4):545.).

The skin irritation and sensitization test of lip balm product containing 20% jojoba oil in humans produced no skin sensitization and irritation (CTFA, 1988, as reported in Diener, Robert M., ed., 1992. "Final Report on the Safety Assessment of Jojoba Oil and Jojoba Wax. Nineteenth Report of the Cosmetic Ingredient Review Expert Panel." *J. American College of Toxicology*, Vol. 11(1): 57-82.).

The skin irritation and sensitization test of topical product containing 10% jojoba oil was conducted in humans using the Draize-Shelanski repeat insult patch test. No skin sensitization or irritation was evident (CTFA, 1988 as reported in Diener, Robert M., ed., 1992. "Final Report on the Safety Assessment of Jojoba Oil and Jojoba Wax. Nineteenth Report of the Cosmetic Ingredient Review Expert Panel." *J. American College of Toxicology*, Vol. 11(1): 57-82).

90-Day Feeding Toxicity Study in Rodents and Dogs

Jojoba oil incorporated in the diet of rat at 0.5, 5.0, and 10.0% (w/w) for 2 months produced elevations of transaminase and alkaline phosphatase at weeks 4 and 13 of the study period. Nestle Product Technical Assistance - Orbe, Switzerland (n.d)

Metabolism and Absorption Studies

Effects of Ingestion of Jojoba Oil on Blood Cholesterol Levels and Lipoprotein Patterns in New Zealand White Rabbits

This study was conducted to determine the cholesterol-lowering effect of crude jojoba if fed to animals. Six groups (4 per group) of New Zealand White Rabbits were fed for 30 days with various combination of basal diet mixed with cholesterol, jojoba oil, and safflower. Blood cholesterol was then determined. Two or six percent crude jojoba oil added to the atherogenic diet containing 1% cholesterol resulted in a 40% reduction of blood cholesterol as compared to cholesterol control rabbits. Under the same conditions, 2% safflower oil was not effective in lowering blood cholesterol levels. The authors suggested that jojoba oil was absorbed across the intestinal mucosa, contrary to the hypothesis that it is totally excreted and not metabolized (Clarke, J.A. and D.M. Yermanos, 1981. "Effects of Ingestion of Jojoba Oil on Blood Cholesterol Levels and Lipoprotein Patterns in New Zealand White Rabbits." Biochemical and Biophysical Research Communication 102(4):14091415).

Preparation and Evaluation of Trailkoxytricarballylate, Trialkoxycitrate, Trailkoxyglycerylether, Jojoba Oil, and Sucrose Polyester as Low Calories Replacements of Edible Fats and Oils

This study evaluated the digestibility and caloric availability of test oils including refined jojoba oil. Crude jojoba oil was refined by a standard alkali refining process which is used to refine edible vegetable oils. In the refined jojoba oil, free fatty acids were reduced to 0.023% from 1.45% in the crude oil. A trace nitrogen level of 6 ± 2 ppm was found in the refined oil which translated to an upper limit of 160 ± 54 ppm of Simmondsin in the finished oil. Simmondsin and/or its breakdown products have been linked with the diet rejection or restriction in rats. Four groups of 10 Sprague-Dawley rats each were fed with 0.5, 1.0, 2.0, and 3.0 grams of refined jojoba oil once a day for 7 consecutive days. Feces were collected, weighed and then the percentages of water, ash, fat, protein, and carbohydrate were analyzed. No diet rejection was noted in any dose group. Weakness and depression were noted in 50% of 1.0-g dosed rats and in all 2.0- and 3.0-gms dosed rats; one rat in each of these dose groups died during the study. Jojoba oil was poorly absorbed and resistant to digestion, but anal leakage was noted. Jojoba oil can act as a laxative and interfere with certain vitamin and mineral absorption from the gut. (Hamm, D. J., 1984. "Preparation and Evaluation of Trailkoxytricarballylate, Trialhoxycitrate, Trailkoxyglycerylether, Jojoba Oil and Sucrose Polyester as Low calories Replacements of Edible Fats and Oils," *J. of Food Science* (49):419-428). (OW)

Conclusion

The Agency estimates that the dietary exposure to humans from jojoba oil when applied in accordance with the limitations set forth in this proposed exemption is far below the levels that produced no adverse effects in laboratory animals. For this reason, and upon review of its use, EPA has determined that jojoba oil, when used in accordance with good agricultural practices is useful and poses no hazard to the public health. Accordingly, EPA proposes to exempt jojoba oil from the requirements of a tolerance under the conditions 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 notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 3E4230/P634]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

A record has been established for this rulemaking under docket number [PP 3E4230/P634] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2,

1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

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

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

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

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).

This proposed rule contains no Federal mandates under Title II of the Unfunded Mandates Reform Act of 1995. Pub. L. 104-4 for State, local, or tribal governments or the private sector because it would not impose enforceable duties on them.

List of Subjects in 40 CFR Part 180

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

Dated: September 29, 1995.

Janet L. Andersen,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

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

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

2. In subpart D, by adding new § 180.1160, to read as follows:

§ 180.1160 Jojoba oil; exemption from the requirement of a tolerance.

The insecticide and spray tank adjuvant jojoba oil is exempted from the requirement of a tolerance in or on all raw agricultural commodities when applied at the rate of 1.0% or less of the final spray in accordance with good agricultural practices, provided the jojoba oil does not contain simmondsin, simmondsin-2-ferulate and related conjugated organonitriles including demethyl simmondsin and didemethylsimmondsin.

[FR Doc. 95–26325 Filed 10–24–95; 8:45 am]
BILLING CODE 6560–50–F

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40 CFR Part 180

[OPP–300399; FRL–4981–2]

RIN 2070–AC18

Octadecanoic Acid, 12-Hydroxy-, Homopolymer, Octadecanoate; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to establish an exemption from the requirement of a tolerance for residues of octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate (CAS Reg. No. 58128-22-6) when used as an inert ingredient (surfactant and dispersing agent) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest, under 40 CFR 180.1001(c). ICI Americas, Inc., requested this proposed regulation pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA).

DATES: Written comments, identified by the document control number [OPP-300399], must be received on or before November 24, 1995.

ADDRESSES: By mail, submit written comments to Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver 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 will be included in the public docket 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 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP-300399]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Rita Kumar, Registration Support Branch, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, 6th Floor, Arlington, VA 22202, (703)-308-

8811; e-mail: kumar.rita@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: ICI Americas, Inc., Concord Plaza, 3411 Silverside Rd., P.O. Box 15391, Wilmington, DE 19850, submitted pesticide petition (PP) 5E04506 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 346a(e)), propose to amend 40 CFR 180.1001(c) by exempting octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate from the requirement of a tolerance. Octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate, when used as an inert ingredient (surfactant and dispersing agent) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest, under 40 CFR 180.1001(c), meets the definition of a polymer under 40 CFR 723.250(b) and the criteria listed in 40 CFR 723.250(e) that define a chemical substance that poses no unreasonable risk under section 5 of the Toxic Substance Control Act (TSCA).

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without that data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient. The Agency has decided that no data, in addition to that described below, for octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate will need to be submitted. The rationale for this decision is described below.

In the case of certain chemical substances that are defined as "polymers," the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk.

Octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. Octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. Octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate contains as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. Octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(2)(ii).

4. Octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate is not designed, nor is it reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. Octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate is not manufactured or imported from monomers and/or other reactants that are not already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. Octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate is not a water-absorbing polymer.

7. The minimum number-average molecular weight of octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate is 1,370 daltons. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through skin or GI tract generally are incapable of eliciting a toxic response.

8. Octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate has a number average molecular weight of 1,370 and has an oligomeric material less than 10 percent below MW 500 and less than 25 percent below MW 1,000.

9. Octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate does not contain reactive functional groups that are intended or reasonably anticipated to undergo further reaction.

Based on the information above and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful, and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance 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, that contains any of the ingredients listed herein, may request within 30 days after the publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300399]. All written comments filed in response to this petition 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.

A record has been established for this rulemaking under docket number [OPP-300399] (including comments and data submitted electronically as described below). A public version of this record, including printed paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the

use of special characters and any form of encryption.

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

The Office of Management and Budget has exempted this rule from the requirements of section 2 of Executive Order 12866.

Pursuant to the requirement 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 an 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 Subject in 40 CFR Part 180

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

Dated: September 27, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.1001(c) is amended in the table therein by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredient	Limits	Uses
* *	* * *	* *
Octadecanoic acid, 12-hydroxy-, homopolymer, octadecanoate (CAS Reg. No. 58128-22-6), minimum number-average molecular weight 1,370.	....	Surfactant and dispersing agent.
* *	* * *	* *

* * * * *

[FR Doc. 95–26059 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–F

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40 CFR Part 180

[OPP–300398; FRL–4981–1]

RIN 2070–AB78

Styrene-2-Ethylhexyl Acrylate-Glycidyl Methacrylate-2-Acrylamido-2-Methylpropanesulfonic Acid Graft Copolymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to establish an exemption from the requirement of a tolerance for residues of styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer when used as an inert ingredient (dispersing agent/solvent) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. Dow Chemical Co. requested this proposed regulation pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA).

DATES: Written comments, identified by the document control number [OPP–300398], must be received on or before November 24, 1995.

ADDRESSES: By mail, submit written comments to Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver 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 will be included in the public docket 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 4:30 p.m., Monday through Friday, excluding legal holidays.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [OPP-300398]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Rita Kumar, Registration Support Branch, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 2800 Crystal Drive, North Tower, 6th Floor, Arlington, VA 22202, (703)-308-8811; e-mail: kumar.rita@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Dow Chemical Co., 1803 Building, Midland, MI 48674-1803, has submitted pesticide petition (PP) 5E04461 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food Drug, and Cosmetic Act (FFDCA) (21 U.S.C.

346a(e)), propose to amend 40 CFR 180.1001(c) by exempting styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer when used as an inert ingredient (dispersing agent/solvent) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest, under 40 CFR 180.1001(c). The inert ingredient meets the definition of a polymer under 40 CFR section 723.250(b) and the criteria listed in 40 CFR section 723.250(e) that define a chemical substance that poses no unreasonable risk under section 5 of the Toxic Substance Control Act (TSCA).

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency set forth a list of studies which would generally be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. However, where it can be determined without that data that the inert ingredient will present minimal or no risk, the Agency generally does not require some or all of the listed studies to rule on the proposed tolerance or exemption from the requirement of a tolerance for an inert ingredient. The Agency has decided that no data, in addition to that described below, for styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer will need to be submitted. The rationale for this decision is described below.

In the case of certain chemical substances that are defined as "polymers," the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk.

Styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer conforms to the definition of a polymer in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers:

1. Styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. Styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer contains as an integral part of its composition the atomic elements carbon, hydrogen, oxygen, nitrogen, and sulfur.

3. Styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(2)(ii).

4. Styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer is not designed, nor is it reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. Styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer is not manufactured or imported from monomers and/or other reactants that are not already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. Styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer is not a water-absorbing polymer.

7. The minimum number-average molecular weight of styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer is 12,500 daltons. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through skin or GI tract generally are incapable of eliciting a toxic response.

8. Styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer has a number average molecular weight of 12,500, and contains oligormeric content less than 2 percent below MW 500 and less than 5 percent below MW 1,000.

9. Styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft copolymer does not contain reactive functional groups that are intended or reasonably anticipated to undergo further reaction.

Based on the information above and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful, and a tolerance is not necessary to protect the public health. Therefore, EPA proposes that the exemption from the requirement of a tolerance 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, that contains any of the ingredients listed herein, may request within 30 days after the publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300398]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

A record has been established for this rulemaking under docket number [OPP-300398] (including comments and data submitted electronically as described below). A public version of this record, including printed paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

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

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

The Office of Management and Budget has exempted this rule from the requirements of section 2 of Executive Order 12866.

Pursuant to the requirement 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 an 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 Subject in 40 CFR Part 180

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

Dated: September 27, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.1001(c) is amended in the table therein by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* *	* * *	* *
Styrene-2-ethylhexyl acrylate-glycidyl methacrylate-2-acrylamido-2-methylpropanesulfonic acid graft co-polymer, minimum number-average molecular weight 12,500.	....	Dispersing agent/solvent.
* *	* * *	* *

* * * * *

[FR Doc. 95–26060 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 268

[EPA530-Z-95-011; FRL-5314-5]

RIN 2050 AE05

Land Disposal Restrictions—Phase IV: Issues Associated With Clean Water Act Treatment Equivalency, and Treatment Standards for Wood Preserving Wastes and Toxicity Characteristic Metal Wastes

AGENCY: Environmental Protection Agency (EPA, the Agency).

ACTION: Proposed rule; correction.

SUMMARY: On August 22, 1995, EPA published a proposed rule that presented three approaches for addressing whether wastewater treatment surface impoundments receiving decharacterized wastes provide treatment that is equivalent to that provided under the land disposal restrictions (LDR) program. The approaches focused on whether hazardous constituents are treated to the same extent as would occur under the LDR program. One of the options presented, option 2, included flowcharts that should facilitate the public's understanding of the approach. An error was found in the flowchart, and this error is corrected in today's notice. The Agency is also pointing out inconsistencies between the UTS Tables at 60 FR 43682 and 43696, which are not in agreement with regard to the list of constituents proposed for regulation in F032, F034, and F035 and the universal treatment standards proposed for several of the constituents. Two errors were also identified in the proposed treatment standards in the table at 43682. These will be corrected in today's notice.

ADDRESSES: Copies of the proposed rule can be obtained from the RCRA Docket (5305), U.S. Environmental Protection Agency, Room 2616, 401 M Street, SW., Washington, DC 20460. The RCRA Docket is open from 9:00 am to 4:00 pm Monday through Friday, except for federal holidays. The public must make an appointment to review docket materials by calling (202) 260–9327. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline at (800) 424–9346 (toll free) or (703) 412–9810 in the Washington, DC metropolitan area. For technical information about the correction to the flowchart, contact Elaine Eby (5302W), Office of Solid Waste, 401 M Street, SW., Washington, DC 20460, (703) 308–8449, or Mary Cunningham at (703) 308–8453. For technical information on the F032, F034, F035 treatment standards, contact Jose Labiosa at (703) 308–8464.

SUPPLEMENTARY INFORMATION:

I. Reasons and Basis for Today's Notice

The Agency has noticed certain portions of the August 22, 1995 Proposed Rule are in error. Today's notice corrects those errors. The Agency has not done a comprehensive proofreading of the proposed rule, so it is possible there are other errors that are not addressed by this correction notice. The Agency believes they would be inconsequential, however, and would not affect commenters' ability to understand the proposal. If questions arise that are not addressed by this correction notice, call the RCRA Hotline or the appropriate contact listed in the Phase IV proposed rule.

II. Corrections to the Phase IV Proposed Rule

A. Figure 2: Option 2 Flowchart

The Agency is today revising the flowchart titled "Figure 2: Option 2—Applicability Criteria and Management Standards for Air Emissions." The previous flowchart for the Option 2 air emission standards showed an oversimplification of the RCRA Subpart CC provisions. In order to eliminate confusion, EPA has subsequently revised the flowchart to show more clearly that this option would extend, but would not change, the RCRA Subpart CC standards, and to refer the reader directly to those standards. In addition, EPA is clarifying that Subpart CC does not require implementation of air emission controls for biological treatment surface impoundments which are operated at the requisite efficiency.

BILLING CODE 6560-50-P

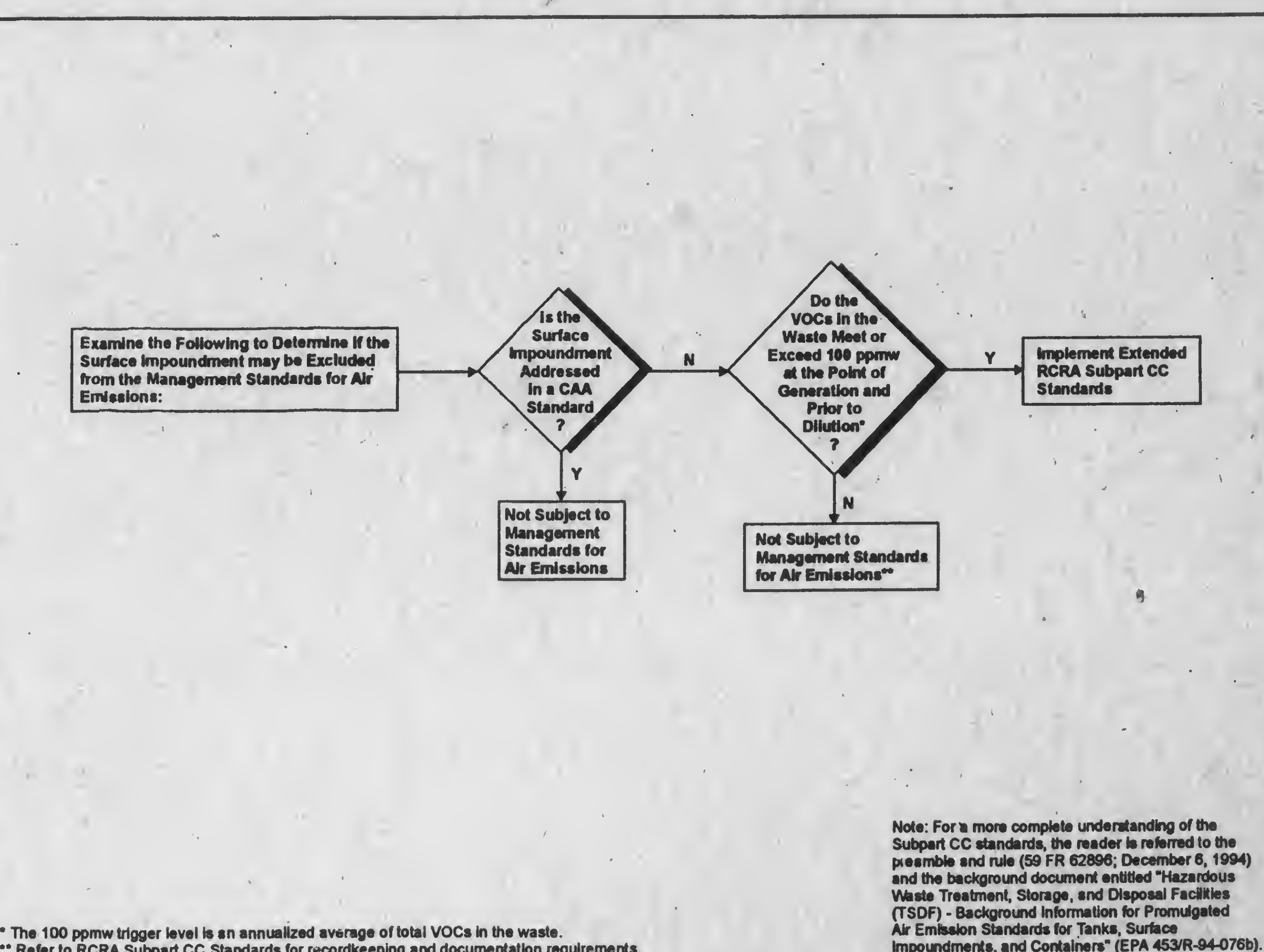

Figure 2: Option 2 - Applicability Criteria and Management Standards for Air Emissions

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B. Table, "Proposed BDAT Standards for F032, F034, F035"

Where inconsistencies exist in UTS tables at 60 FR 43682 and 43696, EPA is directing the reader to the proposed list of regulated constituents and the proposed UTS limits in the table at 60 FR 43682 as being correct. Comments on the UTS limits in the proposed rule should refer to this particular table. The UTS table at 43696 is in error for these wastes.

The following changes are also made to the table on page 43682:

- For 2, 4-Dimethylphenol, the BDAT Standard for Wastewaters is corrected to read, "0.036 mg/l;"
- For 2, 3, 4, 6-Tetrachlorophenol, the BDAT Standard for Wastewater is corrected to read, "0.030 mg/l."

List of Subjects in 40 CFR Part 268

Hazardous waste, Reporting and recordkeeping requirements.

Dated: October 5, 1995.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 95–26467 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1305

RIN 0970–AB53

Head Start Program

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administration on Children, Youth and Families is issuing this Notice of Proposed Rulemaking to amend the requirements on eligibility, recruitment, selection, enrollment and attendance in Head Start, in six areas affecting Head Start programs which are serving specific populations. The first and second proposed changes add a new definition for Indian Tribe and amend the definition of a migrant family to conform to a new statutory definition. The third change requires migrant programs to give priority to children from families that relocate most frequently. The fourth and fifth proposed changes affect Head Start programs operated by Indian Tribes by expanding the definition of a Head Start service area to include near-reservation designations and by expanding the family income eligibility criteria for Indian grantees meeting specific conditions. The sixth change establishes the number of years children remain eligible for Head Start when they are enrolled in an Early Head Start program.

DATES: In order to be considered, comments on this proposed rule must be received on or before December 26, 1995.

ADDRESSES: Please address comments to the Associate Commissioner, Head Start Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013. Beginning 14 days after close of the comment period, comments will be available for public inspection in Room 2215, 330 C Street, S.W., Washington, D.C. 20201, Monday through Friday between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Rita Schwarz, (202) 205–8539.

SUPPLEMENTARY INFORMATION:

I. Program Purpose

Head Start is authorized under the Head Start Act (42 U.S.C. 9801 *et seq.*). It is a national program providing comprehensive developmental services primarily to low-income preschool children, who are primarily age three to the age of compulsory school attendance, and their families. In addition, Section 645A of the Head Start Act provides authority to fund programs for families with infants and toddlers. Programs receiving funds under the authority of this Section are referred to as Early Head Start programs. To help enrolled children achieve their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. Additionally, Head Start programs are required to provide for the direct participation of the parents of enrolled children in the development, conduct, and direction of local programs. Parents also receive training and education to foster their understanding of and involvement in the development of their children. In fiscal year 1994, Head Start served 740,500 children through a network of over 2,000 grantees and delegate agencies.

While Head Start is intended to serve primarily children whose families have incomes at or below the poverty line, or who receive public assistance, Head Start policy permits up to 10 percent of the children in local programs to be from families who do not meet these low-income criteria. The Act also requires that a minimum of 10 percent of the enrollment opportunities in each program be made available to children with disabilities. Such children are expected to participate in the full range of Head Start services and activities with their non-disabled peers and to receive needed special education and related services.

II. Summary of the Proposed Regulation

The authority for this Notice of Proposed Rulemaking (NPRM) is sections 637, 640, 641, 645 and 645A of the Head Start Act (42 U.S.C. 9801 *et seq.*), as amended by Public Law 103–252, Title I of the Human Service Amendments of 1994.

Section 637 contains a new definition for Indian Tribe which will be incorporated into this regulation. It also contains a new definition for "migrant Head Start program" which impacts the current definition of "migrant family", found in 45 CFR 1305.2(l), by amending the definition to include families that have changed their residence from one geographical location to another in the preceding two-year period.

Section 640(l) states that the Secretary must give priority to migrant Head Start programs which serve eligible children of migrant families whose work requires them to relocate most frequently.

Section 641(b) expands the definition of community to include Indians in any area designated as near-reservation. This requires a change in 45 CFR 1305.3(a) regarding the designation of a grantee's service area and the addition of a new paragraph (b) to that section.

Section 645(d) expands the eligibility for participation in Head Start programs operated by Indian Tribes to include children from families whose income exceeds the income-eligibility guidelines when specific conditions exist in the community served by the Tribe, provided the program predominantly serves children from families who meet the low-income guidelines. This requires a change in 45 CFR 1305.4(b) regarding family income eligibility.

Section 645(d) also requires the Secretary to specify by regulation the requirements contained in that section after consultation with Indian Tribes. In preparation for developing these amendments to 45 CFR 1305, ACYF solicited input from Indian Tribes through three meetings with members of the Indian community. Their comments and recommendations were considered in developing the amendments to this regulation that are applicable to Head Start programs operated by Tribes.

Section 645A authorizes the funding of programs for families with infants and toddlers. Specifically, it states in section 645A(b) that programs receiving

assistance for this purpose shall provide "* * * early, continuous, intensive and comprehensive child development and family support services * * *." In order to provide continuous services for children funded under this authority in Early Head Start programs, 45 CFR 1305.7(c) is being amended to extend the length of time the child's family remains income-eligible.

The proposed rule:

- Adds a new definition for Indian Tribe.
- Amends the definition of a migrant family to include families who are engaged in agricultural work who have changed their residence from one geographical location to another within the preceding two-year period.
- Adds a requirement that migrant programs give priority to children from families whose work requires them to relocate most frequently.
- Expands the meaning of a grantee's service area when the grantee is an Indian Tribe to include a near-reservation designation.
- Permits an Indian Tribe, under certain conditions, to have more than ten percent of its Head Start program's enrollment be children from families with incomes that exceed the low-income guidelines. These conditions are: (1) That all income-eligible children who wish to be enrolled are served by the program, including Indian children from a near-reservation area, if the near reservation area is part of the Tribe's approved service area; (2) that the program predominantly serves children from families whose income meets the low-income guidelines; and (3) that a Tribe may not use funds from HHS intended for expansion to serve children from over-income families beyond the ten percent permitted in current regulation.
- Extends income eligibility of families with children enrolled in an Early Head Start program funded under the authority of Section 645A of the Head Start Act to cover the time their child is enrolled in the Early Head Start program.

III. Section by Section Discussion of the NPRM

Section 1305.2 Definitions

Under definitions, we are adding "Indian Tribe" as a new paragraph (k) to conform to the definition that is in section 637(10) of the Head Start Act and redesignating the remaining paragraphs, accordingly.

Section 1305.2(l), which will be new paragraph (m) under the redesignation, currently defines a migrant family, for purposes of Head Start eligibility, to include a family with children under the age of compulsory school attendance who have changed their residence by moving from one geographic location to another, either intrastate or interstate, within the past twelve months, for the purpose of engaging in agricultural work that involves the production and harvesting of tree and field crops and whose family income comes primarily from this activity. This NPRM proposes to amend the definition to change the length of time between moves by the family from one geographic location to another from the past twelve months to the preceding two years. This will conform with new language in Section 637(12) of the Head Start Act that defines a "migrant Head Start program".

Section 1305.3 Determining Community Needs

The current regulation requires each grantee to identify its proposed service area in its Head Start grant application and define it by county or sub-county area, such as a municipality, town or census tract or a federally recognized Indian reservation. A service area is currently defined in section 1305.2(q) as the geographic area identified in an approved grant application within which a grantee may provide Head Start services. This NPRM proposes to expand the meaning of service area contained in this section for Head Start grantees that are Indian Tribes to permit the Tribe to include all or part of any areas designated as near-reservation by the Bureau of Indian Affairs (BIA) as stated in Section 641(b) of the Head Start Act. In order to provide increased flexibility to Tribes which do not have a BIA designation but face the same needs for serving Indians who live near the reservation, we are proposing to allow such Tribes an opportunity to redefine their service area. If a Tribe does not have a BIA near-reservation designation, it may, subject to the approval of the Tribe's governing council and the Associate Commissioner of the Head Start Bureau, propose to designate near-reservation areas in which Indian people native to the reservation reside, as part of its service area. Expanding the Tribe's service area to include a near-reservation area would permit them to serve Indian children who live near, but not on, the Tribe's reservation.

Section 1305.4 Age of Children and Family Income Eligibility

The current regulation requires at least 90 percent of the children enrolled in Head Start to be from low-income families. Up to ten percent of the children enrolled may be from families that exceed the low-income guidelines. To conform with language in section 645(d) of the Head Start Act, the NPRM proposes to amend the family income eligibility requirements for Head Start programs operated by Indian Tribes to permit them to enroll additional children, beyond the ten percent, from families that exceed the low-income guidelines when the following conditions are met: (1) All children in the Tribe's approved service area from families that meet the low-income guidelines who wish to be enrolled in Head Start are served by the program, including those Indian children native to the reservation living in near reservation communities when such communities have been included in the Tribe's approved service area; (2) the Tribe has the resources to enroll these children, without using additional funds from HHS intended to expand Head Start services, and; (3) at least 51 percent of the children to be served by the program are from families whose incomes are below the low-income guidelines.

The first condition requires the Tribe to serve all children who are from families whose incomes are below the low-income guidelines, who are between the ages of three and the age when kindergarten or first grade is available in the child's community, and whose families wish them to be served by Head Start before it may enroll children from families that exceed the low-income guidelines. This would include all children living on the Tribe's reservation, including those children from low-income families who are not members of the Tribe. It may also include Indian children who meet the low-income guidelines who live in a near-reservation area, if the Tribe's approved service area includes such near-reservation communities. The purpose of this condition is to ensure that all children eligible for Head Start are permitted the opportunity to attend Head Start, if they live on the Tribe's reservation. It also ensures that low-income Indian families living in near-reservation areas have an opportunity to enroll their children in the Tribe's Head Start program, if the Tribe has included that area in its approved service area.

The second condition requires that at the time the Tribe proposes to serve more than ten percent of its Head Start enrollment from families exceeding the low-income guidelines, the Tribe must have the resources to enroll these children and that no funds provided by HHS that are intended to expand Head Start services may be used for this purpose. This means that such children must be served within the Tribe's

existing Head Start funding or through the use of non-Federal resources. Funds to expand Head Start services that are provided by HHS to the Tribe would be intended to serve additional children from families that meet the low-income guidelines.

The third condition is that at least 51 percent of the children to be enrolled in a Head Start program operated by a Tribe are to be children from families that meet the low-income guidelines. Section 645 of the Head Start Act states that, when serving children from families whose income exceeds the low-income guidelines, the program must predominantly serve children from families that meet the low-income guidelines. We are defining the term "predominantly" to mean at least 51 percent of the children enrolled in the program. This allows the Tribes as much flexibility as possible. This position was strongly supported during consultation sessions that were held with Tribes on this issue, as is required in the Head Start Act. Many individuals supported this interpretation of "predominantly" and expressed strong concern that Tribes be given this flexibility to serve children from families whose income exceeds the low-income guidelines when special circumstances on a Tribe's reservation exist. Several Tribal members gave examples of changing economic conditions on their reservation that, while varying from year to year, may limit the number of families who are eligible to enroll their child in Head Start at certain times using the low-income guidelines to determine eligibility.

If programs meet these conditions, we are proposing that the program annually set criteria that are approved by the Policy Council and the Tribal Council for selecting over-income children who would benefit from enrollment in a Head Start program.

Section 1305.6 Selection Process

Paragraph (b) of this section will be amended to add a new requirement that migrant programs must give priority to children from families whose work required them to relocate most frequently within the preceding two-year period. This change conforms with similar language in section 640(l) of the Head Start Act. This should not be interpreted to mean that frequency of relocation is the only factor to be considered when selecting children to be served by the program. Other factors should also be considered depending on the needs of the community being served and the recruitment priorities established by each program.

Section 1305.7 Enrollment and Re-enrollment

Paragraph (c) of this section will be amended to include an exception to the current requirement which states that once a child has been found to be income-eligible, they remain eligible for the current and immediately succeeding enrollment year. The exception will apply to children who are enrolled in an Early Head Start program funded under the authority of section 645A of the Head Start Act for services to families with infants and toddlers. In order to assure continuity of services, once income-eligibility has been determined, such children remain income eligible while they are enrolled in Early Head Start. Income would have to be redetermined for the family if they wish to enroll their child in a Head Start program serving children between the ages of three and compulsory school attendance. This exception is proposed to meet the intent of section 645A of the Head Start Act.

ACF appreciates the need to balance the assurance of continuity of services for children and families enrolled in the Early Head Start program with the assurance that Head Start programs are serving those children and families most in need of the program. We encourage comments on whether the correct balance has been achieved in this proposed regulation by our approach of allowing children to stay in the Early Start program for up to two additional years beyond when their families' income eligibility was determined while requiring that families whose children are scheduled to move from Early Head Start to Head Start should first have their income reverified to assure they are still income-eligible for the program.

IV. Impact Analysis

Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. This Notice of Proposed Rulemaking implements the statutory authority for Head Start grantees that are Indian Tribes to include a near-reservation area when recruiting children for Head Start services and, under certain circumstances, to enroll children from families with incomes that exceed the low-income guidelines. It also changes the definition of a migrant family, requires migrant Head Start grantees to give priority to families that relocate most frequently, and establishes the number of years children remain eligible for Head Start when they are enrolled in a program receiving funds under the authority of section 645A of the Head Start Act for services to families with infants and toddlers.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. CH. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small entities" an analysis must be prepared describing the rule's impact on small entities. Small entities are defined by the Act to include small businesses, small non-profit organizations and small governmental entities. While these regulations would affect small entities, they would not affect a substantial number. For this reason, the Secretary certifies that this rule will not have a significant impact on substantial numbers of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record-keeping requirement inherent in a proposed or final rule. This NPRM does not contain information collection and record-keeping requirements.

List of Subjects in 45 CFR Part 1305

Disabilities, Education of Disadvantaged, Grant Programs/Social Programs, Head Start Enrollment, Preschool Education.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: October 4, 1995.

Mary Jo Bane,

Assistant Secretary for Children and Families.

For the reasons set forth in the Preamble, 45 CFR Part 1305 is proposed to be amended as follows:

PART 1305—ELIGIBILITY, RECRUITMENT, SELECTION, ENROLLMENT AND ATTENDANCE IN HEAD START

1. The authority citation continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

2. Section 1305.2 is amended by redesignating current paragraphs (k) through (r) as paragraphs (l) through (s); adding a new paragraph (k); and revising newly redesignated paragraph (m) to read as follows:

§ 1305.2 Definitions.

* * * * *

(k) *Indian Tribe* means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Native village described in section 3 (c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602 (c)) or established pursuant to such Act (43 U.S.C. 1601 *et seq.*), that is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

* * * * *

(m) *Migrant family* means, for purposes of Head Start eligibility, a family with children under the age of compulsory school attendance who changed their residence by moving from one geographic location to another, either intrastate or interstate, within the preceding two years, for the purpose of engaging in agricultural work that involves the production and harvesting of tree and field crops and whose family income comes primarily from this activity.

* * * * *

3. Section 1305.3 is amended by revising paragraph (a), redesignating current paragraphs (b) through (f) as paragraphs (c) through (g), and adding a new paragraph (b) to read as follows:

§ 1305.3 Determining community needs.

(a) Each grantee must identify its proposed service area in its Head Start grant application and define it by county or sub-county area, such as a municipality, town or census tract or a federally recognized Indian reservation. With regard to Indian Tribes, the service area may include Indian families living in areas designated as near-reservation by the Bureau of Indian Affairs (BIA), or in the absence of such a designation, areas within the Tribe's approved service area. A Tribe lacking a BIA near-reservation designation may propose to define its service area to include Indian children and families native to the reservation living in near-reservation areas, provided the service area is approved by the Tribe's governing council.

(b) The grantee's service area must be approved, in writing, by the responsible HHS official in order to assure that the service area is of reasonable size and, except in situations where a near-reservation designation has been approved for a Tribe, does not overlap with that of other Head Start grantees.

* * * * *

4. Section 1305.4 is amended by revising paragraph (b) to read as follows:

§ 1305.4 Age of children and family income eligibility.

* * * * *

(b)(1) At least 90 percent of the children who are enrolled in each Head Start program must be from low-income families.

(2) Except as provided in paragraph (b)(3) of this section, up to ten percent of the children who are enrolled may be children from families that exceed the low-income guidelines but who meet criteria the program has established for selecting such children and who would benefit from Head Start services.

(3) A Head Start program operated by an Indian Tribe may enroll more than ten percent of its children from families whose income exceeds the low-income guidelines when the following conditions are met:

(i) All children from Indian and non-Indian families living on the reservation that meet the low-income guidelines who wish to be enrolled in Head Start are served by the program.

(ii) All children from income-eligible Indian families native to the reservation living in near-reservation communities, if those communities are approved as part of the Tribe's service area, who wished to be enrolled in Head Start are served by the program;

(iii) The Tribe has the resources within its Head Start grant or from non-Federal sources to enroll these children, without using additional funds from HHS intended to expand Head Start services; and

(iv) At least 51 percent of the children to be served by the program are from families that meet the income-eligibility guidelines.

(4) Programs who meet the conditions of paragraph (b)(3) of this section must annually set criteria that are approved by the Policy Council and the Tribal Council for selecting over-income children who would benefit from such a program.

* * * * *

5. Section 1305.6 is amended by revising paragraph (b) to read as follows:

§ 1305.6 Selection process.

* * * * *

(b) In selecting the children and families to be served, the Head Start program must consider the income of eligible families, the age of the child, the availability of kindergarten or first grade to the child, and the extent to which a child or family meets the criteria that each program is required to establish in § 1305.3(c)(6). Migrant programs must give priority to children from families whose work required them to relocate most frequently within the previous two-year period.

* * * * *

6. Section 1305.7 is amended by revising paragraph (c) to read as follows:

§ 1305.7 Enrollment and re-enrollment.

* * * * *

(c) If a child has been found income eligible and is participating in a Head Start program, he or she remains income eligible through that enrollment year and the immediately succeeding enrollment year. An exception to this are children who are enrolled in a program receiving funds under the authority of section 645A of the Head Start Act, programs for families with infants and toddlers. Such children remain eligible for Head Start services until such time as their family applies for enrollment in a Head Start program serving children between the ages of three to compulsory school attendance. When a child moves from a program serving infants and toddlers to a Head Start program serving children age three and older, the family's income eligibility must be reverified if it is two or more years since this has been done.

[FR Doc. 95–26365 Filed 10–24–95; 8:45 am]

BILLING CODE 4184–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1845 and 1852

Revision to NASA FAR Supplement Coverage on Government Property

AGENCY: Office of Procurement, Contract Management Division, National Aeronautics and Space Administration (NASA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule proposes to amend the regulations pertaining to government property reporting by contractors, due to revisions of the reporting form, to clarify and simplify the reporting requirements and instructions, and make necessary changes to affected provisions and clauses. NASA has made extensive changes to its process of financial reporting of Government-Owned/ Contractor-Held property. These changes were made necessary by the Chief Financial Officers Act of 1990, streamlining required by the National Performance Review, the need for more uniformity in reporting requirements between NASA and the Department of Defense (DOD), and changing internal management needs for information within NASA.

DATES: Comments must be received on or before December 26, 1995.

ADDRESSES: Submit comments to Larry G. Pendleton, Contract Management Division (Code HK), Office of Procurement, NASA Headquarters, Washington, DC 20546. Comments on the paperwork burden should also be addressed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for NASA, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. Larry G. Pendleton, (202) 358–0487.

SUPPLEMENTARY INFORMATION:

Background

The Chief Financial Officers (CFO) Act requires, among other things, that Federal agencies produce audited annual financial statements. At NASA, CFO Act audits have been performed by the Office of the Inspector General. Experience over the last three years with this process has led to changes in the reporting period and due date for receipt of contractor and grantee property reports, and identification of other necessary or desirable changes to property reporting. Other broad policy changes are being considered elsewhere, such as the work being done by the Federal Accounting Standards Advisory Board on accounting for Property, Plant and Equipment, and the rewrite of Federal Acquisition Regulation (FAR) Part 45 by a team led by the DOD. To the extent possible, these efforts have been considered in formulating changes to NASA regulations. Of primary concern has been the need to obtain timely, accurate financial information on NASA property in the custody of contractors in a way that minimizes impact on reporting entities.

Changes Highlights

Revisions to NASA Form (NF) 1018 and related regulations incorporate the following:

A. The Annual List of Selected Items of Space Hardware has been eliminated. The term "space hardware" is replaced by "agency-peculiar property" (APP) to be consistent with the Federal Acquisition Regulation, and contractors will report all property in their possession meeting the NASA FAR Supplement (NFS) definition of APP.

B. Schedule II, Space Hardware Reportable Items, of the current NF 1018 has been eliminated as unnecessary. The NF 1018 will be a single page, with instructions on the back, rather than the present three-page form, and instructions.

C. The NF 1018 title and format have been changed to make them more consistent with the DD Form 1662. Use of the DD Form 1662 only was considered, but NASA information requirements precluded this option.

D. The requirement for a breakout of contractor-acquired property by funding classification has been eliminated.

E. A requirement to report quantities by property category has been added to provide necessary management information.

F. A requirement to breakout plant equipment by items over and under $5,000 has been added. Accounting information is required for items over $5,000 as this is the NASA capitalization threshold, consistent with General Accounting Office standards. Property management information is needed, however, for all plant equipment.

G. A category for "Construction in Progress" has been added to be consistent with the Government-wide Standard General Ledger and NASA financial statements.

H. The term "disposals" has been changed to "deletions" to be consistent with the DD Form 1662. Specific categories have been provided on the NF 1018 to make it simpler for contractors to classify the type of deletion, and for property management purposes.

I. The lower section of the form has been revised to provide better information on contact persons and on contractor property system reviews.

J. Reporting instructions on the NF 1018 have been revised to eliminate duplication with regulatory language in the NFS.

K. Regulations have been changed to eliminate the optional use of monthly or quarterly reporting in accordance with the Presidents Memorandum of April 21, 1995, on regulatory reform and reduction of reports.

L. Contract clauses have been changed to:

(1) Make clear that NF 1018 submissions must be received by the cognizant NASA offices not later than October 31 of each reporting year; and

(2) Provide for withholding of payment on invoices when required NF 1018 reports are not received.

Regulatory Flexibility Act

NASA certifies that these regulation changes will not have a significant economic impact on a substantial number of small entities under Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

This rule proposes to change the following report that was approved by the Office of Management and Budget (OMB) and assigned OMB Control Number 2700–0017. A copy of the proposed rule has been submitted to OMB for review under section 3507(d) of the Paperwork Reduction Act.

Title: Report of Government-Owned/Contractor-Held Property.

Summary: This report collects information on Government-owned/contractor-held property accountable under NASA contracts.

Description of the need for the information and proposed use of the information: NASA is required to account for Government-owned/contractor-held property. The NASA Form 1018 submitted by contractors provides data necessary to ensure that the Agency's assets are accurately reflected on its audited financial statements, as well as essential property management information.

Description of the likely respondents, including the estimated number of likely respondents, and proposed frequency of response to the collection of information: NASA contractors whose contracts contain the clause entitled "Financial Report of NASA Property in the Custody of Contractors" will be required to submit NASA Form 1018 annually. The number of respondents is estimated to be 1,900.

Estimate of the total annual reporting and recordkeeping burden that will result from the collection of information: FAR part 45 requires that contractors maintain the official Government property records for Government property in their possession. The NASA Form 1018 provides a means for an annual collection of summary data derived from these records. The annual recordkeeping and reporting burden related to preparation and submission of NASA Form 1018 is estimated to be 5,700 hours.

Notice: Comments may be submitted to the OMB address shown under **ADDRESSES.**

Time period within which the agency is requesting OMB to approve or disapprove the collection of information: NASA is requesting that OMB approve the proposed revisions to the collection of information within the next 60 days.

In addition, comments may be submitted to NASA and OMB in order to help NASA—

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniquest or other forms of information technology, e.g., permitting electronic submission of responses.

List of Subjects in 48 CFR Parts 1845 and 1852

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1845 and 1852 are proposed to be amended as follows.

1. The authority citation for 48 CFR Parts 1845 and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1845—GOVERNMENT PROPERTY

Subpart 1845.1—General

1. In section 1845.102–70, paragraph (a)(3) is revised to read as follows:

1845.102–70 Procedures.

(a) * * *

(3) Requirement that additional facilities that the offeror requests to be provided by the Government be described and identified by classification such as "Land," "Buildings," and "Equipment" (see subpart 1845.71); and

* * * * *

2. In section 1845.106–70, paragraph (d) is revised, paragraph (i) is removed and paragraphs (j) and (k) are redesignated as (i) and (j) to read as follows:

1845.106–70 NASA contract clauses and solicitation provision.

* * * * *

(d) The contracting officer shall insert the clause at 1852.245–73, Financial Reporting of NASA Property in the Custody of Contractors, in all cost reimbursement contracts or in all other types of contracts when it is known at the time of award that property will be provided to the contractor or that the contractor will acquire property, title to which vests in the Government prior to delivery of the contract products. Where all property to be provided is subject to the clause at 1852.245–71, Installation-Provided Government Property (see paragraph (b) of this section), the clause at 1852.245–73 is not required. Where the clause is not included in contracts at the time of award, if Government property is subsequently provided to a contractor, or the contractor is authorized to acquire property to which the Government takes title, the clause shall be included in the contract at that time.

* * * * *

1845.301 [Amended]

3. In section 1845.301, the definition heading "Space property" is revised to read "Agency-peculiar property".

Subpart 1845.5—Management of Government Property in the Possession of Contractors

4. Section 1845.501 is amended as follows:

(a) The definition heading "Space property" is revised to read "Agency-peculiar property", the word "peculiar" is revised to read "unique", and the last sentence is removed.

(b) In the definition "Centrally reportable equipment (CRE)", the phrase "space property" is revised to read "agency-peculiar property."

5. In section 1845.502–1, the title of the NASA Form 1018 "Report of Government-Owned/Contractor-Held Property" is revised to read "NASA Property in the Custody of Contractors".

6. Section 1845.505–14 is revised to read as follows:

1845.505–14 Reports of Government property.

When required by the contract, the contractor shall submit a report of NASA Property in the Custody of Contractors, NASA Form 1018, in accordance with the instructions on the form, subpart 1845.71, and the contract clause at 1852.245–73. The contractors property control system shall distinguish Government furnished and contractor acquired property for purposes of reporting the acquisition cost in the property classifications shown in FAR 45.505–14(a) (1) through (5).

Subpart 1845.71—Forms Preparation

7. In § 1845.7101 the last sentence is revised to read as follows:

1845.7101 Instructions for preparing NASA Form 1018.

* * * This report provides information for NASA financial statements and property management; accuracy and timeliness of the report are, therefore, very important. Contractors shall retain documents which support the data reported on NASA Form 1018 in accordance with FAR subpart 4.7, Contractor Records Retention. Classifications of property, related costs to be reported, and reporting requirements are set forth in this subpart.

8. Section 1845.7101–1 is revised to read as follows:

1845.7101–1 Property classification.

(a) Contractors shall report costs in the classifications required on NASA Form (NF) 1018, as described in this section. For Land, Buildings, Other Structures and Facilities, and Leasehold Improvements, contractors shall report the amount for all items with a unit cost of $5,000 or more and a useful life of 2 years or more. For Plant Equipment, Special Tooling, Special Test Equipment and Agency-Peculiar Property, contractors shall separately report—

(1) The amount for all items with a unit cost of $5,000 of more and useful life of 2 years or more and

(2) All items under $5,000, regardless of useful life.

(b) Contractors shall report the amount for all Materials, regardless of unit cost.

(c) *Land.* Includes costs of land and associated costs incidental to acquiring and preparing land for use, for example; appraisal fees, clearing costs, drainage, grading, landscaping, plats and surveys, removal and relocation of the property of others as part of a land purchase, removal or destruction of structures or facilities purchased but not used, and legal expenses.

(d) *Buildings.* Includes costs of buildings, improvements to buildings, and fixed equipment required for the operation of a building which is permanently attached to and a part of the building and cannot be removed without cutting into the walls, ceilings, or floors. Examples of fixed equipment required for the functioning of a building include plumbing, heating and lighting equipment, elevators, central air conditioning systems, and built-in safes and vaults.

(e) *Other structures and facilities.* Includes costs of acquisitions and improvements of structures and facilities other than buildings; for example, airfield pavements, harbor and port facilities, power production facilities and distribution systems, reclamation and irrigation facilities, flood control and navigation aids, utility systems (heating, sewage, water and

electrical) when they serve several buildings or structures, communication systems, traffic aids, roads and bridges, railroads, monuments and memorials, and nonstructural improvements, such as sidewalks, parking areas, and fences.

(f) *Leasehold improvements.* Includes costs of improvements to leased buildings, structures, and facilities, as well as easements and right-of-way, where NASA is the lessee or the cost is charged to a NASA contract.

(g) *Equipment.* Includes costs of commercially available personal property for use in manufacturing supplies, performing services, or any general or administrative purpose; for example, machine tools, furniture, vehicles, computers, accessory or auxiliary items, and test equipment.

(h) *Construction in progress.* Includes costs for work in process for the construction of Buildings, Other Structures and Facilities, Leasehold Improvements, and Equipment to which NASA has title.

(i) *Special tooling.* Includes costs of equipment and manufacturing aids (and components and replacements of these items) that are of such a specialized nature that, without substantial modification or alteration, their use is limited to the development or production of particular supplies or parts, or to the performance of particular services. Examples include jigs, dies, fixtures, molds, patterns, taps and gauges.

(j) *Special test equipment.* Includes costs of equipment used to accomplish special purpose testing in performing a contract, and items or assemblies of equipment.

(k) *Material.* Includes costs of NASA owned property held in inventory that may become a part of an end item or be expended in performing a contract. Examples include raw and processed material, parts, assemblies, small tools and supplies. Do not include material that is part of work in process.

(l) *Agency-peculiar property.* Includes actual or estimated costs of completed items, systems and subsystems, spare parts and components and work in process unique to NASA aeronautical and space programs. Examples include aircraft, engines, satellites, instruments, rockets, prototypes and mock-ups. The amount of property, title to which vests in the Government as a result of progress payments to fixed price subcontractors, shall be included to reflect the pro rata cost of undelivered agency-peculiar property.

9. Section 1845.7101–2 is revised to read as follows:

1845.7101–2 Transfers of property.

The procedures in this section apply to all types of transfers. Only Government installations may furnish Government property to a contractor. Therefore, procurement, property, and financial organizations at NASA installations must effect all transfers of accountability, although physical shipment and receipt of property may be made directly by contractors. Such transfers include shipments between contractors of the same installation, contractors of different installations, a contractor of one installation to another installation, an installation to a contractor of another installation, and a contractor to another Government agency to its contractor. So that NASA may properly control and account for transfers, they shall be adequately documented. The procedures described in this section shall be followed in all cases, to provide an administrative and audit trail, even if property is physically shipped directly from one contractor to another. Contractors shipping property to NASA, another contractor, or another Government agency shall continue to be accountable for NASA Form (NF) 1018 reporting of that property, regardless of the method of shipment, until evidence of receipt is in the possession of the shipping entity. Property provided under fixed price repair contracts remains accountable to the cognizant NASA installation and is not reportable on NF 1018; property provided for repair under a cost-reimbursable contract, however, is accountable to the contractor and reportable on NF 1018.

(a) *Approval and notification.* The contractor must obtain the approval of the contracting officer or designee for transfers of property before shipment. Each shipping document must contain contract numbers, shipping references, property classifications in which the items are recorded, unit prices, and any other appropriate identifying or descriptive data. Unit prices shall be obtained from records maintained pursuant to FAR part 45 and part 1845 of this chapter. Shipping contracting shall furnish a copy of the shipping document to the cognizant property administrator. Shipping and receiving contractors shall promptly notify the financial management office of the NASA installation responsible for their respective contracts when accountability for Government property is transferred to, or received from, other contracts, contractors, NASA installations or Government agencies. Copies of shipping or receiving documents will suffice as notification in most instances.

(b) *Reclassification.* If the property is transferred to another contract or contractor, the receiving contractor shall record the property in the same property classification and amount appearing on the shipping document. For example, when a contractor receives an item from another contractor that is identified on the shipping document as equipment, but that the recipient intends to incorporate into special test equipment, the recipient shall first record the item in the equipment account and subsequently reclassify it as special test equipment. Reclassification of equipment, special tooling, special test equipment, or agency-peculiar property requires prior notification to the property administrator and approval of the contracting officer.

(c) *Incomplete documentation.* If contractors receive transfer documents having sufficient detail to properly record the transfer (e.g., omission of property classification, unit prices, etc.) they shall request the omitted data directly from the shipping contractor or through the property administrator as provided as in FAR 45.505–2. Contractors may append a Government furnished property list to the NF 1018 report when unable to obtain the required data, provided that the list includes—

(1) A description of the property;
(2) Quantity;
(3) Shipping document reference;
(4) Shippers identity;
(5) Dates shipped or received
(6) The dates data were requested and from whom (shipper or property administrator); and
(7) The NF 1018 line item (classification) to be adjusted.

10. Sections 1845.7101–3, 1845.7101–4, and 1845.7101–5 are removed, and section 1845.7101–6 is redesignated as section 1845.7101–3 and is revised to read as follows:

1845.7101–3 Computing costs of fabricated special tooling, special test equipment, and Agency-peculiar property.

(a) Costs shall be computed in accordance with accepted accounting principles, be reasonably accurate, and be the product of any one or a combination of, the following:

(1) Abstracts of cost data from contractor property or financial records.

(2) Computations based on engineering and financial data.

(3) Estimates based on NASA Form 533 reports.

(4) Formula procedures (e.g., using a 50 percent factor for work in process items, on the basis of updated Standard Form 1411 estimates or the contractors approved estimating and pricing system).

(5) Other approved methods.

(b) Contractors shall report costs using records that are part of the prescribed property or financial control system as provided in this section, excluding fee. Fabrication costs shall be based on the contractors approved estimating and pricing system and should include—

(1) Direct labor;

(2) Direct materials and purchased parts (costs of purchased items shall be consistent with the contractors approved pricing methods);

(3) Other direct costs (e.g., computer costs, travel, and transportation);

(4) Burden (a percentage factor or rate applied to the direct costs or other applicable base); and

(5) Costs of Government furnished property applied (data available from the Government shipping document or estimated, if necessary).

(c) The contractor shall redetermine the costs of items returned for modification or rehabilitation to include the remaining portion of original cost plus the cost of any improvements.

(d) The computation of work in process shall include the costs of associated systems, subsystems, and spare parts and components furnished or acquired and charged to work in process pending incorporation into a finished item. These types of items make up what is sometimes called production inventory and include programmed extra units to cover replacement during the fabrication process (production spares). Also included are deliverable items on which the contractor or a subcontractor has begun work, and materials that have been issued from inventory.

11. Sections 1845.7101–7, 1845.7101–8, and 1845.7101–9 are removed, and section 1845.7101–10 is redesignated as section 1845.7101–4.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.245–73 [Amended]

12. In section 1852.245–73, the title, date, and paragraphs (a), (c) and (d) to the clause are revised and the introductory text, paragraph (e) and Alternates I and II to the clause are removed to read as follows:

1852.245–73 Financial reporting of NASA property in the custody of contractors.

As prescribed in 1845.106–70(d), insert the following clause:

FINANCIAL REPORTING OF NASA PROPERTY IN THE CUSTODY OF CONTRACTORS (XXX 199X)

(a) The Contractor shall submit annually a NASA Form (NF) 1018, NASA Property in the Custody of Contractors, in accordance with 1845.505–14, the instructions on the form, and subpart 1845.71. Subcontractor use of NF 1018 is not required by this clause; however, the contractor shall include data on property in the possession of subcontractors in the annual NF 1018.

* * * * *

(c) The annual reporting period shall be from October 1 of each year to September 30 of the following year. The report shall be submitted in time to be received by October 31. Failure to submit the report when due may result in withholding of payment on invoices for the month in which reports are to be submitted, based on noncompliance with contract requirements.

(d) A final report is required within 30 days after disposition of all property subject to reporting when the contract performance period is complete.

(End of clause)

1852.245–78 [Removed]

13. Section 1852.245–78 is removed.

BILLING CODE 7510–01–M

Appendix To The Proposed Rule NASA Form 1018—NASA Property In The Custody Of Contractors

NASA PROPERTY IN THE CUSTODY OF CONTRACTORS
(NFS Subpart 18-45.71)
(See instructions on reverse before completing this form)

REPORT AS OF 30 SEP 19___ OR ________

Form Approved O.M.B. No. Expires

1. TO *(Enter name and address of:)* a. *Financial management office:*

b. *Property administrator:*

2. FROM *(Enter full name and address of contractor)*

3. CONTRACT NO.

PROPERTY CLASSIFICATION ACCOUNTS	a. BALANCE - BEGINNING OF PERIOD		b. ADDITIONS *(in dollars)*		c. DELETIONS *(in dollars)*	d. BALANCE - END OF PERIOD	
	(1) Acquisition Cost *(in dollars)*	(2) Quantity *(in units)*	(1) Gov't.-Furnished	(2) Acquired		(1) Acquisition Cost *(in dollars)*	(2) Quantity *(in units)*
4. LAND							
5. BUILDINGS							
6. OTHER STRUCTURES & FACILITIES							
7. LEASEHOLD IMPROVEMENTS							
8. EQUIPMENT: UNDER $5,000							
$5,000 & OVER							
9. CONSTRUCTION IN PROGRESS							
10. SPECIAL TEST EQUIPMENT: UNDER $5,000							
$5,000 & OVER							
11. SPECIAL TOOLING: UNDER $5,000							
$5,000 & OVER							
12. AGENCY-PECULIAR: UNDER $5,000							
$5,000 & OVER							
13. MATERIAL							
14. TOTALS							

15. a. DESCRIPTION OF AGENCY-PECULIAR PROPERTY:	b. VALUE *(in dollars)*	c. QUANTITY *(in units)*

16. CONTRACTOR REPRESENTATIVE: This report was prepared under NASA requirements from records maintained under FAR 45.5 and NFS 18-45.5.

a. TYPED NAME (Last, First, Middle Initial)	b. SIGNATURE	c. DATE	d. TELEPHONE NO.

17. GOVERNMENT PROPERTY ADMINISTRATOR:

a. TYPED NAME (Last, First, Middle Initial)	b. SIGNATURE	c. DATE	d. TELEPHONE NO.

18. PROPERTY SYSTEM: a. APPROVED: ☐ YES ☐ NO

b. SYSTEM ANALYSIS: (1) DATE (2) ☐ SATISFACTORY ☐ UNSATISFACTORY

NASA FORM 1018 JUNE 95 *Previous editions are obsolete*

19. TYPE OF DELETION	(1) EQUIPMENT (Item 8)	(2) SPECIAL TEST EQUIPMENT (Item 10)	(3) SPECIAL TOOLING (Item 11)	(4) AGENCY-PECULIAR (Item 12)	(5) TOTAL
a. ADJUSTED					
b. LOST, DAMAGED OR DESTROYED					
c. TRANSFERRED IN PLACE					
d. TRANSFERRED TO INSTALLATION ACCOUNTABILITY					
e. PURCHASED AT COST					
f. RETURNED FOR CREDIT					
g. TRANSFERRED TO ANOTHER NASA INSTALLATION					
h. TRANSFERRED TO ANOTHER GOV'T AGENCY					
i. DONATED					
j. SOLD AT LESS THAN COST					
k. ABANDONED/DIRECTED DESTRUCTION					
l. OTHER (DESCRIBE SEPARATELY)					
m. TOTAL					

REPORTING INSTRUCTIONS

GENERAL. This report provides financial data on Government-furnished or contractor-acquired property to which the NASA has title. Contractors shall report all NASA-owned property received, acquired or deleted during the reporting period for which they are accountable, regardless of location. Negative reports are required. Refer to NASA FAR Supplement (NFS) Subpart 18-45.71 for further information. Contractors shall submit a separate report for each contract with a Financial Reporting of NASA Property in the Custody of Contractors clause. Include all property in the possession of subcontractors. Blank forms may be obtained from the cognizant Government property administrator.

Contractors shall submit the original report, with data as of September 30, directly to the installation Financial Management Officer and three copies to the cognizant Government property administrator to be received no later than October 31 of each year. The property administrator shall sign and indicate system status. For delegated contracts, the DoD property administrator shall forward two copies to the NASA installation Industrial Property Officer within ten (10) workdays after receipt.

The following items shall not be reported: (a) items ordinarily reportable but furnished to the contractor for repair and return to NASA, unless accountability has been transferred to the contractor, (b) agency-peculiar property under firm-fixed-price contracts and subcontracts which do not provide for progress payments (see NFS 18-45.7101-1(j)), and (c) installation property made available pursuant to the Installation-Provided Government Property clause at NFS 18-52.245-71.

A final report, clearly marked "FINAL," shall be submitted within 30 days after disposition of all property subject to reporting, if the contract performance period is complete.

REPORT AS OF 30 SEP 19____. Fill in the appropriate year (or other date).

ITEM 1 - TO. Enter the name and address of the cognizant (a) NASA installation Financial Management Officer and (b) delegated DoD property administrator (for nondelegated contracts, (b) is the NASA Industrial Property Officer).

ITEM 2 - FROM. Enter the full name and address of the reporting contractor with the Division name stated after the Corporate name.

ITEM 3 - CONTRACT NO. - Enter the complete prefix and serial number under which the Government property is accountable.

ITEMS 4 - 13 - PROPERTY CLASSIFICATION ACCOUNTS - Enter in the appropriate columns (a. through d.) amounts for each classification of property as defined in the Federal Acquisition Regulation (FAR), Subpart 45.5 and NFS Subpart 18-45.71.

The amounts entered for item 9, Construction in Progress, shall be the incurred cost for work in process for the construction of Buildings, Other Structures and Facilities, Leasehold Improvements and Equipment to which NASA has title; construction in progress cost for these categories shall not be included in the amounts reported on lines 4 through 8. The amounts reported for Special Test Equipment, Special Tooling and Agency-Peculiar Property on lines 10 through 12, however, shall include work in process cost.

Column a.(1) and (2) BALANCE BEGINNING OF PERIOD. - Amounts reported will agree with amounts reported in column d., Balance End of Period, of the preceding report, except if this is an initial report.

Column b.(1) ADDITIONS, Gov't - Furnished. - Amounts reported shall be the acquisition cost designated by the Government for Government Furnished Property (GFP) received during the reporting period. If unable to obtain prices, the contracting officer should be immediately notified.

Column b.(2) ADDITIONS, Acquired. - Amounts reported shall be the acquisition cost of all NASA-owned property acquired during the reporting period.

Column c. DELETIONS. - Amounts reported shall be the acquisition cost of all deletions. Type of deletions shall be detailed as required in Item 19, TYPE OF DELETION. Detailed lists, including shipping document references, shall be provided if required by NASA installations.

Column d.(1) BALANCE END OF PERIOD - Acquisition Cost. - Report the total of columns a.(1), b.(1), and b.(2), minus c. These balances shall be maintained pursuant to FAR Subpart 45.5 and NFS Subpart 18-45.71.

Column d.(2) BALANCE END OF PERIOD - Quantity - Enter the quantity for all classifications of NASA property on hand as of September 30. These will be carried forward to reflect the balance at the beginning of the following year.

ITEM 15 - DESCRIPTION OF AGENCY-PECULIAR PROPERTY. - Enter brief descriptions of major types of agency-peculiar property, e.g., "Orbiters," "Solid Rocket Boosters," "GOES-L," etc., with associated values and quantities. Attach extra sheets if necessary.

ITEM 19 - TYPE OF DELETION. - Enter dollar amounts for each type of deletion, for the classifications shown. See NFS 18-45.7101 for definitions. Totals (m.) will agree with the amounts shown in column c. on the front of the form.

[FR Doc. 95–26427 Filed 10–24–95; 8:45 am]
BILLING CODE 7510-01-C

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 541, 565, 567, 571

[Docket No. 95-85; Notice 1]

RIN 2127-AF69

Vehicle Identification Number Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: At present, NHTSA's vehicle identification number (VIN) requirements are established in two regulations, Federal Motor Vehicle Safety Standard No. 115 and Part 565. In this NPRM, NHTSA proposes to incorporate Standard No. 115 in Part 565. This proposed action is part of the President's Regulatory Reinvention Initiative and seeks to make NHTSA's VIN requirements easier to understand and to apply. In accordance with Federal metrication policy, NHTSA also proposes to convert English measurements specified in part 565 to metric measurements. No substantive changes in existing regulatory text are proposed.

DATES: Comments must be received on or before December 26, 1995.

ADDRESSES: All comments must refer to the docket number and notice number of this notice and be submitted, preferably in ten copies, to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Docket hours are from 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Leon Delarm, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone number 202-366-4920.

SUPPLEMENTARY INFORMATION:

Background and Regulatory Reinvention Initiative

Pursuant to the March 4, 1994 directive from the President to the heads of departments and agencies, "Regulatory Reinvention Initiative," NHTSA has undertaken a review of all its regulations and directives. During the course of this review, the agency has taken the opportunity not only to identify those rules or portions of rules that might be deleted or rescinded but also to identify rules that could be consolidated to avoid duplication or be redrafted to make them easier to read.

To further the President's goals, the agency proposes in this rulemaking to incorporate the text of Federal Motor Vehicle Safety Standard No. 115 (49 CFR 571.115) *Vehicle identification number—basic requirements* in Part 565 *Vehicle identification number—content requirements.*

A vehicle identification number (VIN) is a seventeen character series of Arabic numbers and Roman letters which is assigned to a vehicle for identification purposes. At present, Standard No. 115 specifies general physical requirements for a VIN and its installation and Part 565 specifies VIN content and format.

NHTSA believes that consolidation into one regulation will make it easier for motor vehicle manufacturers to understand and to apply VIN requirements. In particular, many small businesses that manufacture motor vehicles (including trailers), appear to find two separate VIN requirements (i.e., in Standard No. 115 and Part 565) confusing. NHTSA believes that consolidating all VIN requirements into one regulation will lessen any confusion. NHTSA does not intend any substantive changes to its VIN requirements as a result of the proposed consolidation.

Since the VIN requirements are referenced in other NHTSA regulations, such as Part 541 *Federal Motor Vehicle Theft Prevention Standard* and Part 567 *Certification*, NHTSA proposes to make nonsubstantive changes so the parts would meet the proposed consolidated VIN requirements. NHTSA may, at a future date, also propose to make changes to Part 591 *Importation of Vehicles and Equipment Subject to Federal Safety, Bumper, and Theft Prevention Standards* and Part 592 *Registered Importers of Vehicles Not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards,* to conform these parts to the new VIN requirements.

Metrication of VIN Regulation

NHTSA also proposes to continue to implement the Federal policy that the metric system of measurement is the preferred system of weights and measures for United States trade and commerce. In this NPRM, NHTSA proposes to convert part 565 measurements stated in the English system of measurement to the metric system. NHTSA began its metrication efforts with an NPRM published March 15, 1994 (59 FR 11962) that proposed to convert selected Federal Motor Vehicle Safety Standards to the metric system. In the March 1994 NPRM, NHTSA stated its intent not to use equivalent conversions when there is a specific safety need or other reason to make an exact conversion. (To illustrate equivalent and exact conversions, an equivalent conversion of two inches would be 50 millimeters, while an exact conversion would be 50.8 millimeters). In the March 1994 NPRM, NHTSA identified conversions of vehicles' gross vehicle weight ratings (GVWRs) as an example of when it would convert measurements to exact conversions.

NHTSA proposes that in Table II of part 565, English unit measurements of vehicles' GVWRs be converted to the metric system, to exact conversions. Thus, a vehicle with a GVWR of 10,000 pounds is proposed to be converted to the exact conversion of 4536 kilograms (kg.), not the equivalent conversion of 4500 kg.

As it believes that those unfamiliar with the metric system may be burdened by the agency's stating GVWRs in metric units only, NHTSA proposes that for an indefinite time, part 565 continue to present the English measurement as well. NHTSA seeks public comment on this proposal to set forth both the English and metric measurements for GVWRs.

Proposed Effective Date

Because the proposed incorporation of Standard No. 115 into Part 565 would make vehicle identification number requirements easier to understand and to apply, without compromising safety, and would not make any substantive change in the requirements. NHTSA has tentatively determined that there is good cause shown that an effective date earlier than 180 days after issuance is in the public interest. Accordingly, the agency proposes that, if adopted, the effective date for the final rule be 30 days after its publication in the Federal Register.

Rulemaking Analyses and Notices

1. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule was not reviewed under E. O. 12866 (Regulatory Planning and Review). NHTSA has analyzed the impact of this rulemaking action and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The proposed rule would not impose any costs or yield any savings. It would instead, consolidate the agency's requirements for manufacturers to assign vehicle identification numbers (VINs) to motor vehicles. The changes would make it easier for manufacturers to understand

and apply the VIN requirements. The impacts would be so minimal that they would not warrant preparation of a full regulatory evaluation.

2. Regulatory Flexibility Act

The agency has considered the effects of this regulatory action under the Regulatory Flexibility Act. I hereby certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. As explained above, the proposed rule would not impose any new requirements, but may have a slight beneficial impact since the changes would make it easier for motor vehicle manufacturers, many of which are small businesses, to understand and apply the agency's requirements for vehicle identification numbers. For these reasons, small businesses, small governmental organizations, and small organizations which purchase motor vehicles or rely on VINs for other recordkeeping or administrative matters, would not be significantly affected by the proposed rule. Accordingly, an initial regulatory flexibility analysis has not been prepared.

3. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted to and approved by the Office of Management and Budget (OMB) pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*). This collection of information has been assigned OMB Control Number 2127–0510 ("Consolidated VIN Requirements and Motor Vehicle Theft Prevention Standard") and has been approved for use through June 30, 1996.

4. Executive Order 12612 (Federalism)

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. The agency has determined that the proposed rule does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No State laws would be affected.

5. National Environmental Policy Act

The agency has considered the environmental implications of this proposed rule in accordance with the National Environmental Policy Act of 1969 and determined that the proposed rule would not have any significant impact on the quality of the human environment.

6. Executive Order 12778 (Civil Justice Reform)

This proposed rule would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. This section does not require submission of a petition for reconsideration or other administrative procedures before parties may file suit in court.

Procedures for Filing Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

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 the proposal will be considered and will be available for examination in the docket at the above address both before and after the closing date. To the extent possible, comments filed after the closing date also will be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. The agency will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Persons who want 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

49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 565

Imports, Labeling, Motor vehicles, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 567

Imports, Motor vehicle safety, Motor vehicles.

49 CFR Part 571

Imports, Motor vehicles, Motor vehicle safety, Rubber and rubber products, Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR Parts 541, 565, 567, and 571 as set forth below.

PART 541—[AMENDED]

1. The authority citation for Part 541 would continue to read as follows:

Authority: 49 U.S.C. 33101, 33102, 33103, 33105; delegation of authority at 49 CFR 1.50.

2. In section 541.4, paragraph (b)(7) would be revised to read as follows:

§ 541.4 Definitions.

* * * * *

(b) *Other definitions.*

* * * * *

(7) *VIN* means the vehicle identification number required by Part 565 of this chapter.

* * * * *

PART 565—[AMENDED]

3. Part 565 would be revised to read as follows:

PART 565—VEHICLE IDENTIFICATION NUMBER REQUIREMENTS

Sec.

565.1 Purpose and scope.
565.2 Applicability.
565.3 Definitions.
565.4 General requirements.
565.5 Motor vehicles imported into the United States.
565.6 Content requirements.
565.7 Reporting requirements.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30141, 30146, 30166, and 30168; delegation of authority at 49 CFR 1.50.

§ 565.1 Purpose and scope.

This part specifies the format, content and physical requirements for a vehicle identification number (VIN) system and its installation to simplify vehicle identification information retrieval and to increase the accuracy and efficiency of vehicle recall campaigns.

§ 565.2 Applicability.

This part applies to passenger cars, multipurpose passenger vehicles, trucks, buses, trailers (including trailer kits), incomplete vehicles, and motorcycles. Vehicles imported into the United States under 49 CFR 591.5(f), other than by the corporation responsible for the assembly of that vehicle or a subsidiary of such a corporation, are exempt from requirements of § 565.4(b), § 565.4(c), § 565.4(g), § 565.4(h), § 565.5 and § 565.6.

§ 565.3 Definitions.

(a) *Federal Motor Vehicle Safety Standards Definitions.* Unless otherwise indicated, all terms used in this part that are defined in 49 CFR 571.3 are used as defined in 49 CFR 571.3.

(b) *Body type* means the general configuration or shape of a vehicle distinguished by such characteristics as the number of doors or windows, cargo-carrying features and the roofline (e.g., sedan, fastback, hatchback).

(c) *Check digit* means a single number or the letter X used to verify the accuracy of the transcription of the vehicle identification number.

(d) *Engine type* means a power source with defined characteristics such as fuel utilized, number of cylinders, displacement, and net brake horsepower. The specific manufacturer and make shall be represented if the engine powers a passenger car or a multipurpose passenger vehicle, or truck with a gross vehicle weight rating of 4536 kg. or less.

(e) *Incomplete vehicle* means an assemblage consisting, as a minimum, of frame and chassis structure, power train, steering system, suspension system and braking system, to the extent that those systems are to be part of the completed vehicle, that requires further manufacturing operations, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, to become a completed vehicle.

(f) *Line* means a name that a manufacturer applies to a family of vehicles within a make which have a degree of commonality in construction, such as body, chassis or cab type.

(g) *Make* means a name that a manufacturer applies to a group of vehicles or engines.

(h) *Manufacturer* means a person—

(1) Manufacturing or assembling motor vehicles or motor vehicle equipment; or,

(2) Importing motor vehicles or motor vehicle equipment for resale.

(i) *Model* means a name that a manufacturer applies to a family of vehicles of the same type, make, line, series and body type.

(j) *Model Year* means the year used to designate a discrete vehicle model, irrespective of the calendar year in which the vehicle was actually produced, so long as the actual period is less than two calendar years.

(k) *Plant of manufacture* means the plant where the manufacturer affixes the VIN.

(l) *Series* means a name that a manufacturer applies to a subdivision of a "line" denoting price, size or weight identification and that is used by the manufacturer for marketing purposes.

(m) *Trailer kit* means a trailer that is fabricated and delivered in complete but unassembled form and that is designed to be assembled without special machinery or tools.

(n) *Type* means a class of vehicle distinguished by common traits, including design and purpose. Passenger cars, multipurpose passenger vehicles, trucks, buses, trailers, incomplete vehicles and motorcycles are separate types.

(o) *VIN* means a series of Arabic numbers and Roman letters that is assigned to a motor vehicle for identification purposes.

§ 565.4 General requirements.

(a) Each vehicle manufactured in one stage shall have a VIN that is assigned by the manufacturer. Each vehicle manufactured in more than one stage shall have a VIN assigned by the incomplete vehicle manufacturer. Vehicle alterers, as specified in 49 CFR 567.7, shall utilize the VIN assigned by the original manufacturer of the vehicle.

(b) Each VIN shall consist of seventeen (17) characters.

(c) A check digit shall be part of each VIN. The check digit shall appear in position nine (9) of the VIN, on the vehicle and on any transfer documents containing the VIN prepared by the manufacturer to be given to the first owner for purposes other than resale.

(d) The VINs of any two vehicles manufactured within a 30-year period shall not be identical.

(e) The VIN of each vehicle shall appear clearly and indelibly upon either a part of the vehicle, other than the glazing, that is not designed to be removed except for repair or upon a separate plate or label that is permanently affixed to such a part.

(f) The VIN for passenger cars, multipurpose passenger vehicles and trucks of 4536 kg or less GVWR shall be located inside the passenger compartment. It shall be readable, without moving any part of the vehicle, through the vehicle glazing under daylight lighting conditions by an observer having 20/20 vision (Snellen) whose eye-point is located outside the vehicle adjacent to the left windshield pillar. Each character in the VIN subject to this paragraph shall have a minimum height of 4 mm.

(g) Each character in each VIN shall be one of the letters in the set: (ABCDEFGHJKLMNPRSTUVWXYZ) or a numeral in the set: (0123456789) assigned according to the method given in § 565.5.

(h) All spaces provided for in the VIN must be occupied by a character specified in paragraph (g) of this section.

(i) The type face utilized for each VIN shall consist of capital, sanserif characters.

§ 565.5 Motor vehicles imported into the United States.

(a) Importers shall utilize the VIN assigned by the original manufacturer of the motor vehicle.

(b) A passenger car certified by a Registered Importer under 49 CFR part 592 shall have a plate or label that contains the following statement, in characters with a minimum height of 4 mm, with the identification number assigned by the original manufacturer provided in the blank: SUBSTITUTE FOR U.S. VIN: _________ SEE PART 565. The plate or label shall conform to § 565.4 (h) and (i). The plate or label shall be permanently affixed inside the passenger compartment. The plate or label shall be readable, without moving any part of the vehicle, through the vehicle glazing under daylight lighting conditions by an observer having 20/20 vision (Snellen) whose eye-point is located outside the vehicle adjacent to the left windshield pillar. It shall be located in such a manner as not to cover, obscure, or overlay any part of any identification number affixed by the original manufacturer. Passenger cars conforming to Canadian Motor Vehicle Safety Standard 115 are exempt from this paragraph.

§ 565.6 Content requirements.

The VIN shall consist of four sections of characters which shall be grouped accordingly:

(a) The first section shall consist of three characters that occupy positions one through three (1–3) in the VIN. This section shall uniquely identify the manufacturer, make and type of the motor vehicle if its manufacturer produces 500 or more motor vehicles of its type annually. If the manufacturer produces less than 500 motor vehicles of its type annually, these characters along with the third, fourth and fifth characters of the fourth section shall uniquely identify the manufacturer, make and type of the motor vehicle. These characters are assigned in accordance with paragraph (c) of this section.

(b) The second section shall consist of five characters, which occupy positions four through eight (4–8) in the VIN. This section shall uniquely identify the attributes of the vehicle as specified in Table I. For passenger cars, and for multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 4536 kg. or less, the first and second characters shall be alphabetic and the third and fourth characters shall be numeric. The fifth character may be either alphabetic or numeric. The characters utilized and their placement within the section may be determined by the manufacturer, but the specified attributes must be decipherable with information supplied by the manufacturer in accordance with paragraph (d) of this section. In submitting the required information to NHTSA relating to gross vehicle weight rating, the designations in Table II shall be used. The use of these designations within the VIN itself is not required. Tables I and II follow:

TABLE I.—TYPE OF VEHICLE AND INFORMATION DECIPHERABLE

Passenger car: Line, series, body type, engine type and restraint system type.
Multipurpose passenger vehicle: Line, series, body type, engine type, gross vehicle weight rating.
Truck: Model or line, series, chassis, cab type, engine type, brake system and gross vehicle weight rating.
Bus: Model or line, series, body type, engine type, and brake system
Trailer, including trailer kits and incomplete trailer: Type of trailer, body type, length and axle configuration.
Motorcycle: Type of motorcycle, line, engine type, and net brake horsepower.
Incomplete Vehicle other than a trailer: Model or line, series, cab type, engine type and brake system.

Note to Table I: Engine net brake horsepower when encoded in the VIN shall differ by no more than 10 percent from the actual net brake horsepower; shall in the case of motorcycle with an actual net brake horsepower of 2 or less, be not more than 2; and shall be greater than 2 in the case of a motorcycle with an actual brake horsepower greater than 2.

TABLE II.—GROSS VEHICLE WEIGHT RATING CLASSES

Class A	Not greater than 1360 kg. (3,000 lbs.).
Class B	Greater than 1360 kg. to 1814 kg. (3,001–4,000 lbs.).
Class C	Greater than 1814 kg. to 2268 kg. (4,001–5,000 lbs.).
Class D	Greater than 2268 kg. to 2722 kg. (5,001–6,000 lbs.).
Class E	Greater than 2722 kg. to 3175 kg. (6,001–7 000 lbs.).
Class F	Greater than 3175 kg. to 3629 kg. (7,001–8 000 lbs.).
Class G	Greater than 3629 kg. to 4082 kg. (8,001–9,000 lbs.).
Class H	Greater than 4082 kg. to 4536 kg (9,001–10,000 lbs.).
Class 3	Greater than 4536 kg. to 6350 kg (10 001–14,000 lbs.).
Class 4	Greater than 6350 kg. to 7257 kg. (14 001–16,000 lbs.).
Class 5	Greater than 7257 kg. to 8845 kg. (16,001–19,500 lbs.).
Class 6	Greater than 8845 kg. to 11793 kg.(19,501–26,000 lbs.).
Class 7	Greater than 11793 kg. to 14968 kg.(26,001–33,000 lbs.).
Class 8	Greater than 14968 kg. (33,001 lbs. and over).

(c) The third section shall consist of one character, which occupies position nine (9) in the VIN. This section shall be the check digit whose purpose is to provide a means for verifying the accuracy of any VIN transcription. After all other characters in VIN have been determined by the manufacturer, the check digit shall be calculated by carrying out the mathematical computation specified in paragraphs (c) (1) through (4) of this section.

(1) Assign to each number in the VIN its actual mathematical value and assign to each letter the value specified for it in Table III, as follows:

TABLE III.—ASSIGNED VALUES

A = 1	J = 1	T = 3
B = 2	K = 2	U = 4
C = 3	L = 3	V = 5
D = 4	M = 4	W = 6
E = 5	N = 5	X = 7
F = 6	P = 7	Y = 8
G = 7	R = 9	Z = 9
H = 8	S = 2	

(2) Multiply the assigned value for each character in the VIN by the position weight factor specified in Table IV, as follows:

TABLE IV.—VIN POSITION AND WEIGHT FACTOR

1st	8
2d	7
3d	6
4th	5
5th	4
6th	3
7th	2
8th	10
9th	([1])
10th	9
11th	8
12th	7
13th	6
14th	5
15th	4
16th	3
17th	2

[1] (Check digit.)

(3) Add the resulting products and divide the total by 11.

(4) The numerical remainder is the check digit. If the remainder is 10 the letter "X" shall be used to designate the check digit. The correct numeric remainder, zero through nine (0–9) or

the letter "X," shall appear in VIN position nine (9).

(5) A sample check digit calculation is shown in Table V as follows:

TABLE V.—CALCULATION OF A CHECK DIGIT

VIN Position	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Sample VIN	1	G	4	A	H	5	9	H	....	5	G	1	1	8	3	4	1
Assigned Value	1	7	4	1	8	5	9	8	....	5	7	1	1	8	3	4	1
Weight Factor	8	7	6	5	4	3	2	10	0	9	8	7	6	5	4	3	2
Multiply Assigned value times weight factor	8	49	24	5	32	15	18	80	0	45	56	7	6	40	12	12	2

Add products: 8+49+24+5+32+15+18+80+0+45+56+7+6+40+12+12+2 = 411

Divide by 11: 411/11 = 37 4/11

The remainder is 4; this is the check digit to be inserted in position nine (9) of the VIN

(d) The fourth section shall consist of eight characters, which occupy positions ten through seventeen (10–17) of the VIN. The last five (5) characters of this section shall be numeric for passenger cars and for multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 4536 kg. or less, and the last four (4) characters shall be numeric for all other vehicles.

(1) The first character of the fourth section shall represent the vehicle model year. The year shall be designated as indicated in Table VI as follows:

TABLE VI.—YEAR CODES FOR VIN

Year	Code
1980	A
1981	B
1982	C
1983	D
1984	E
1985	F
1986	G
1987	H
1988	J
1989	K
1990	L
1991	M
1992	N
1993	P
1994	R
1995	S
1996	T
1997	V
1998	W
1999	X
2000	Y
2001	1
2002	2
2003	3
2004	4
2005	5
2006	6
2007	7
2008	8
2009	9
2010	A
2011	B
2012	C
2013	D

(2) The second character of the fourth section shall represent the plant of manufacture.

(3) The third through the eighth characters of the fourth section shall represent the number sequentially assigned by the manufacturer in the production process if the manufacturer produces 500 or more vehicles of its type annually. If the manufacturer produces less than 500 motor vehicles of its type annually, the third, fourth and fifth characters of the fourth section, combined with the three characters of the first section, shall uniquely identify the manufacturer, make and type of the motor vehicle and the sixth, seventh, and eighth characters of the fourth section shall represent the number sequentially assigned by the manufacturer in the production process.

§ 565.7 Reporting requirements.

The information collection requirements contained in this part have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2127–0510.

(a) The National Highway Traffic Safety Administration (NHTSA) has contracted with the Society of Automotive Engineers (SAE) to coordinate the assignment of manufacturer identifiers. Manufacturer identifiers will be supplied by SAE at no charge. All requests for assignments of manufacturer identifiers should be forwarded directly to: Society of Automotive Engineers, 400 Commonwealth Avenue, Warrendale, Pennsylvania 15096, Attention: WMI Coordinator. Any requests for identifiers submitted to NHTSA will be forwarded to SAE. Manufacturers may request a specific identifier or may request only assignment of an identifier(s). SAE will review requests for specific identifiers to determine that they do not conflict with an identifier already assigned or block of identifiers already reserved. SAE will confirm the assignments in writing to the requester. Once confirmed by SAE, the identifier need not be resubmitted to NHTSA.

(b) Manufacturers of vehicles subject to this part shall submit, either directly or through an agent, the unique identifier for each make and type of vehicle it manufactures at least 60 days before affixing the first VIN using the identifier. Manufacturers whose unique identifier appears in the fourth section of the VIN shall also submit the three characters of the first section that constitutes a part of their identifier.

(c) Manufacturers of vehicles subject to the requirements of this part shall submit to NHTSA the information necessary to decipher the characters contained in its VINs. Amendments to this information shall be submitted to the agency for VINs containing an amended coding. The agency will not routinely provide written approvals of these submissions, but will contact the manufacturer should any corrections to these submissions be necessary.

(d) The information required under paragraphs (b) and (c) of this section shall be submitted at least 60 days prior to offering for sale the first vehicle identified by a VIN containing that information, or if information concerning vehicle characteristics sufficient to specify the VIN code is unavailable to the manufacturer by that date, then within one week after that information first becomes available. The information shall be addressed to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, Attention: VIN Coordinator.

PART 567—[AMENDED]

4. The authority citation for part 567 would be revised to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30166, 32502, 32504, 33101–33014,

and 33109; delegation of authority at 49 CFR 1.50.

5. In part 567.4, paragraphs (k) introductory text and (l) would be revised to read as follows:

§ 567.4 Requirements for manufacturers of motor vehicles.

* * * * *

(k) In the case of passenger cars admitted to the United States under 49 CFR part 592 to which the label required by this section has not been affixed by the original producer or assembler of the passenger car, a label meeting the requirements of this paragraph shall be affixed by the importer before the vehicle is imported into the United States, if the car is from a line listed in Appendix A of 49 CFR Part 541. This label shall be in addition to, and not in place of, the label required by paragraphs (a) through (j), inclusive, of this section.

* * * * *

(l)(1) In the case of a passenger car imported into the United States under 49 CFR 591.5(f) which does not have an identification number that complies with 49 CFR 565.4 (b), (c), and (g) at the time of importation, the Registered Importer shall permanently affix a label to the vehicle in such a manner that, unless the label is riveted, it cannot be removed without being destroyed or defaced. The label shall be in addition to the label required by paragraph (a) of this section, and shall be affixed to the vehicle in a location specified in paragraph (c) of this section.

(2) The label shall contain the following statement, in the English language, lettered in block capitals and numerals not less than 4 mm high, with the location on the vehicle of the original manufacturer's identification number provided in the blank: ORIGINAL MANUFACTURER'S IDENTIFICATION NUMBER SUBSTITUTING FOR U.S. VIN IS LOCATED _________.

PART 571—[AMENDED]

6. The authority citation for part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

§ 571.115 [Removed]

7. Section 571.115 would be removed.

Issued on: October 17, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–26499 Filed 10–24–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 656

[I.D. 092595C]

Atlantic Striped Bass Fisheries; Public Hearings

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

ACTION: Additional public hearings; request for comments.

SUMMARY: On September 29, 1995, October 16, 1995, and October 18, 1995, NMFS announced continuing public hearings to receive comments from fishery participants and other members of the public regarding proposed regulations on the harvest and possession of striped bass in the exclusive economic zone of the Atlantic Ocean from Maine through North Carolina.

Due to insufficient space to safely accommodate an unanticipated large attendance at the October 16, 1995, hearing in Toms River, NJ, and the public request for hearings in New York, and Connecticut, NMFS is announcing that it intends to hold additional public hearings on November 6, 1995, in Ronkonkoma, NY, November 7, 1995, at Long Branch, NJ, November 8, 1995, in East Lyme, CT, and November 13, 1995, in Toms River, NJ, to allow those who were unable to comment, the opportunity to do so.

To accommodate others unable to attend any of the public hearings, but who wish to provide comments, NMFS also is soliciting written comments on the proposed rule.

DATES: Written comments on the proposed rule must be received on or before November 15, 1995. The remaining hearings are scheduled as follows:

1. October 25, 1995, 7 to 9 p.m., Plymouth, MA
2. November 6, 1995, 7 to 9 p.m., Ronkonkoma, NY
3. November 7, 1995, 7 to 9 p.m., Long Branch, NJ
4. November 8, 1995, 7 to 9 p.m., East Lyme, CT
5. November 9, 1995, 7 to 9 p.m., Norfolk, VA
6. November 13, 1995, 7 to 9 p.m., Toms River, NJ

ADDRESSES: Written comments should be sent to William Hogarth, Office of Fisheries Conservation and Management (F/CM), NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Clearly mark the outside of the envelope "Atlantic Striped Bass Comments."

The remaining hearings will be held at the following locations:

1. Plymouth—Plymouth N. High School, Obery Street, Plymouth, MA 02360
2. Ronkonkoma—Holiday Inn, 3845 Veterans Memorial Highway, Ronkonkoma, NY 11779
3. Long Branch—Ocean Place Hilton, One Ocean Blvd., Long Branch, NJ 07740
4. East Lyme—East Lyme High School, 30 Chesterfield Road, East Lyme, CT 06333
5. Norfolk—Quality Inn Lake Wright Convention Center, 6280 Northampton Blvd., Norfolk, VA 23502
6. Toms River—Holiday Inn, 290 Highway 37E, Toms River, NJ 08753

FOR FURTHER INFORMATION CONTACT: William Hogarth at 301–713–2339.

SUPPLEMENTARY INFORMATION: The hearing announcements were published on September 29, 1995 (60 FR 50540), October 16, 1995 (60 FR 53577) and October 18, 1995.

A complete description of the measures, and the purpose and need for the proposed action, is contained in the proposed rule published September 27, 1995 (60 FR 49821), and is not repeated here. A copy of the proposed rule may be obtained by writing (see ADDRESSES) or calling the contact person (see FOR FURTHER INFORMATION CONTACT).

The hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids for the Ronkonkoma, NY, East Lyme, CT, Long Branch, NJ and Toms River, NJ,public hearings should be directed to William Hogarth by November 2, 1995 (see ADDRESSES).

Authority: 16 U.S.C. 1851 note.

Dated: October 19, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–26379 Filed 10–19–95; 4:08 p]

BILLING CODE 3510–22–F

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50 CFR Part 658

[Docket No. 951013251–5251–01; I.D. 091295B]

RIN 0648–AH72

Shrimp Fishery of the Gulf of Mexico; Amendment 8

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 8 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP). Amendment 8 and this proposed rule would establish a revised FMP framework rulemaking procedure for establishing or modifying certain management measures applicable to the fishery for royal red shrimp in the Gulf of Mexico exclusive economic zone (EEZ). The intended effect of this measure is to allow more timely implementation of management measures.

DATES: Written comments must be received on or before December 4, 1995.

ADDRESSES: Comments on the proposed rule must be sent to Michael E. Justen, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Requests for copies of Amendment 8, which includes a regulatory impact review (RIR) and an environmental assessment (EA), should be sent to the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813–570–5305.

SUPPLEMENTARY INFORMATION: The shrimp fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented through regulations at 50 CFR part 658 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Amendment 8 would replace the framework rulemaking procedure adopted under Amendment 7 with a new procedure for establishing or modifying the maximum sustainable yield (MSY), optimum yield (OY), and total allowable catch (TAC) for royal red shrimp harvested from the EEZ of the Gulf of Mexico. Under the proposed procedure, the Council's shrimp stock assessment panel (SAP) would, at least biennially, assess the condition of the royal red shrimp resource. The SAP would prepare a report to the Council with recommendations for TAC and MSY for royal red shrimp. The Council would hold at least one public hearing to receive comments on the SAP's report. Prior to taking final action, the Council would convene the Socioeconomic Panel, Scientific and Statistical Committee, and may convene the Shrimp Advisory Panel to provide advice. After considering the recommendations of these advisors and information received at the public hearing, the Council would determine any necessary changes to MSY, OY and TAC for royal red shrimp.

If the Council concluded that changes to MSY, OY, or TAC are needed, the Council would make recommendations, in writing, to the Director, Southeast Region, NMFS (Regional Director). The Council's recommendations, in the form of a regulatory amendment, would be accompanied by the SAP's report, relevant background material, draft regulations, an RIR, an EA, and a summary of information received at the public hearing. The Council's recommendations would be submitted to the Regional Director at least 60 days prior to the desired implementation date. The Regional Director would review the Council's recommendations, supporting material, and other relevant information.

If the Regional Director concluded preliminarily that the Council's recommendations were consistent with the goals and objectives of the FMP, the national standards of the Magnuson Act, other applicable law, and the framework procedure, the Regional Director would recommend that NMFS publish the changes as a proposed rule in the **Federal Register**. If the Regional Director rejected the proposed measures, he or she would provide written reasons to the Council for the rejection, and existing regulations would remain in effect pending subsequent action. The public comment period on any proposed rule would be not less than 15 days. After consideration of public comments, NMFS action on the proposed changes would be published in the **Federal Register**. Appropriate management measures that could be implemented or adjusted by NMFS under this framework procedure would include MSY, OY, and TAC for royal red shrimp.

This framework rulemaking procedure, which replaces that approved for Amendment 7, would authorize the Council to recommend, and NMFS to approve and implement, a TAC for royal red shrimp no higher than MSY plus 30 percent for a test period of up to 2 consecutive years. During this test period, NMFS would monitor the fishery, acquire catch, effort, and other relevant data, and prepare a report on the status of the fishery for the Council.

A test period of fishing in excess of the current MSY is needed to determine the resiliency of the royal red shrimp stock to higher levels of fishing and, thus, the appropriate MSY. While the MSY of royal red shrimp is currently 392,000 lb (77,808 kg) of tails, the potential productivity of the resource is not known because of a lack of fishing effort. A moderate, temporary increase in TAC over MSY should provide the data necessary for significantly improving the MSY estimate without endangering the resource. At the end of the test period, the increased TAC (equal to MSY plus 30 percent) would expire and the TAC would revert to its current level while the Council completed its analysis of information obtained during the test period. If the Council has sufficient information from the test period, it may revise its estimate of MSY; in that case, it would establish a new TAC based on the new MSY and request that the Regional Director implement these revised measures through the framework rulemaking procedure (involving publication of proposed and final rules). If the Council determines that a two year test period has not provided sufficient information for revising MSY and TAC, it may recommend to the Regional Director that he set TAC no higher than MSY plus 30 percent for another two year test period. Under the Amendment 8 framework procedure, MSY and TAC may be revised upwards or downwards based on information from the fishing test periods until the Council and its advisory panels determine that the MSY and TAC are set at the appropriate long-term levels.

Additional background and rationale for the proposed framework rulemaking procedure discussed above are contained in Amendment 8, the availability of which was announced in the **Federal Register** on September 19, 1995, (60 FR 48497).

Classification

Section 304(a)(1)(D) of the Magnuson Act requires NMFS to publish regulations proposed by a council within 15 days of receipt of an amendment and regulations. At this time, NMFS has not determined that Amendment 8 is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities

because it merely establishes a framework procedure for implementing future management measures. Determinations of economic impact on small entities would be made for such management measures as are proposed under the framework procedure. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 658

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 20, 1995.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 658 is proposed to be amended as follows:

PART 658—SHRIMP FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 658 continues to read as follows:

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

2. A new § 658.29 is added to read as follows:

§ 658.29 Adjustment of management measures.

In accordance with the procedures and limitations of the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, the Regional Director may establish or modify the maximum sustainable yield, optimum yield, and total allowable catch for royal red shrimp.

[FR Doc. 95–26468 Filed 10–20–95; 2:24 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 60, No. 206
Wednesday, October 25, 1995

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 COMMERCE

Bureau of the Census

Joint Meeting of Members of the Census Advisory Committees (CAC) on the African American, American Indian and Alaska Native, Asian and Pacific Islander, and Hispanic Populations; Notice of Public Teleconference Call Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92–463 as amended by P.L. 94–409), we are giving notice of a teleconference call of the joint meeting of the members of the CACs on the African American, American Indian and Alaska Native, Asian and Pacific Islander, and Hispanic Populations. It will include the chairperson of each committee or a designee, the members of the working group advisory committee, and all committee members who wish to participate in the call. The teleconference call meeting is also open to the public. The conference call meeting will convene on November 6, 1995 at the Census Bureau, Federal Building 3, Suitland, Maryland 20233.

The committees are composed of nine members each appointed by the Secretary of Commerce. They provide an organized and continuing channel of communication between the communities they represent and the Bureau of the Census on its efforts to reduce the differential in the count for the 2000 census and on ways that census data can be disseminated to increase/improve the data's usefulness to their communities and other users.

The committees will draw on past experience with the 1990 census process and procedures, results of evaluations and research studies, and the expertise and insight of their members to provide advice and recommendations during the research and development phase on various topics and provide advice and recommendations during the design, planning, and implementation phases of the 2000 census.

The agenda for the teleconference call meeting that will begin at 1 p.m. Eastern standard time and end at 4 p.m. is:

(1) Introductory remarks.

(2) Continued discussions from the Bureau of Labor Statistics on the Supplement on Race and Ethnicity.

(3) Summary of Discussions on Issues from the Race and Ethnic Targeted Test (RAETT) Working Group Meeting of September 25; Points of Agreement and Further Considerations:

a. Multiracial Classification (testing both the multiracial category and the mark more than one approach).

b. Combined Race, Hispanic Origin and Ancestry Question.

c. Alternative sequencing of race and Hispanic Origin question.

d. Terminology.

e. Combined Indian (Amer.) or Alaska Native Category, Native Hawaiian Category.

(4) Advice and/or recommendations on issues for RAETT.

(5) Summary of teleconference call meeting.

The teleconference call meeting is open to the public and a brief period is set aside on November 6, 1995 for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau official named below at least three days before the meeting.

The conference call meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Census Bureau official named below.

Persons wishing additional information concerning the conference call meeting or who wish to submit written statements may contact Ms. Diana Harley, Decennial Management Division, Bureau of the Census, Room 3587, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, DC 20233). Telephone: (301) 457–4047.

Dated: October 19, 1995.

Harry A. Scarr,

Deputy Director, Bureau of the Census.

[FR Doc. 95–26433 Filed 10–24–95; 8:45 am]

BILLING CODE 3510–07–P

International Trade Administration

[A–588–838]

Initiation of Antidumping Duty Investigation: Clad Steel Plate From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 25, 1995.

FOR FURTHER INFORMATION CONTACT: Ellen Grebasch at (202) 482–3773, Dorothy Tomaszewski at (202) 482–0631 or Erik Warga at (202) 482–0922, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

INITIATION OF INVESTIGATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA").

The Petition

On September 29, 1995, the Department of Commerce ("the Department") received a petition filed in proper form by Lukens Steel Company ("petitioner"), a domestic producer of clad steel plate.

In accordance with section 732(b) of the Act, petitioner alleges that imports of clad steel plate from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, a U.S. industry.

Petitioner claims that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act.

Determination of Industry Support for the Petition

Section 732(c)(4)(A) of the Act requires the Department to determine, prior to the initiation of an investigation, that a minimum percentage of the domestic industry supports an antidumping petition. A petition meets these minimum requirements if the domestic producers

or workers who support the petition account for (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

A review of the production data provided in the petition and other information readily available to the Department indicates that the petitioner accounts for more than 25 percent of the total production of the domestic like product and for more than 50 percent of that produced by companies expressing support for, or opposition to, the petition. The Department received no expressions of opposition to the petition from any domestic producer or workers. Accordingly, the Department determines that the petition is supported by the domestic industry.

Scope of the Investigation

The scope of this investigation is all clad [1] steel plate of a width of 600 millimeters ("mm") or more and a composite thickness of 4.5mm or more. Clad steel plate is a rectangular finished steel mill product consisting of a layer of cladding material (usually stainless steel or nickel) which is metallurgically bonded to a base or backing of ferrous metal (usually carbon or low alloy steel) where the latter predominates by weight.

Stainless clad steel plate is manufactured to American Society for Testing and Materials ("ASTM") specifications A263 (400 series stainless types) and A264 (300 series stainless types). Nickel and nickel-base alloy clad steel plate is manufactured to ASTM specification A265. These specifications are illustrative but not necessarily all-inclusive with respect to the domestic like product.

Clad steel plate within the scope of this investigation is classifiable under the Harmonized Tariff Schedule of the United States ("HTSUS") 7210.90.10.00. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Export Price and Normal Value

Export price was based on petitioner's sale order, with the terms of sale as delivered, which was "lost" to a producer in Japan. Petitioner reduced the price based on the "lost" sale order for ocean freight, marine insurance, U.S. duties, inland freight and credit expense. For purposes of initiation, we disallowed petitioner's adjustment for credit expenses because the Act does not provide for deduction of such expenses from export price.

Petitioner based normal value on constructed value ("CV") in accordance with section 773(a)(4) of the Act because it could not obtain price quotations for subject merchandise in the home market. Petitioner computed CV using its own production experience adjusting for known differences in Japanese labor, electricity and natural gas rates. The adjusted Japanese labor rate was based on 1994 published compensation cost from the Bureau of Labor Statistics. The adjusted electricity and natural gas rates were based on 1993 published OECD energy prices. For SG&A excluding interest costs, the petitioner relied on the Japanese producer's March 1995 consolidated summary financial data that it obtained from a public source. We note that in the calculation of CV, petitioner did not include an amount for interest costs. Because the 1995 financial data showed the Japanese producer to be operating at a loss, profit was figured as zero in the CV calculation.

Based on comparisons of export price to normal value, the calculated dumping margin for clad steel plate from Japan, as revised by the Department, is *118.53* percent *ad valorem*.

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of clad steel plate from Japan are being, or are likely to be, sold at less than fair value.

Initiation of Investigation

We have examined the petition on clad steel plate and have found that it meets the requirements of section 732 of the Act, including the requirements concerning allegations of the material injury or threat of material injury to the domestic producers of a domestic like product by reason of the complained-of imports, allegedly sold at less than fair value. Therefore, we are initiating an antidumping duty investigation to determine whether imports of clad steel plate from Japan are being, or are likely to be, sold in the United States at less than fair value. Unless extended, we will make our preliminary determination by February 15, 1996.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the government of Japan. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition.

International Trade Commission (ITC) Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by November 13, 1995, whether there is a reasonable indication that imports of clad steel plate from Japan are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

Dated: October 19, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration

[FR Doc. 95-26482 Filed 10-24-95; 8:45 am]

BILLING CODE 3510-DS-P

[1] Cladding is the association of layers of metals of different colors or natures by molecular interpenetration of the surfaces in contact. This limited diffusion is characteristic of clad products and differentiates them from products metalized in other manners (e.g., by normal electroplating). The various cladding processes include pouring molten cladding metal onto the basic metal, followed by rolling; simple hot-rolling of the cladding metal to ensure efficient welding to the basic metal; any other method of deposition or superimposing of the cladding metal followed by any mechanical or thermal process to ensure welding (e.g., electro-cladding), in which the cladding metal (nickel, chromium, etc.) is applied to the basic metal by electroplating, molecular interpenetration of the surfaces in contact then being obtained by heat treatment at the appropriate temperature with subsequent cold-rolling. *See Harmonized Commodity Description and Coding System Explanatory Notes,* Chapter 72, General Note (IV)(C)(2)(e).

[A-588-836),(A-583-824), and (A-570-842]

Postponement of Final Antidumping Duty Determinations: Polyvinyl Alcohol From Japan, Taiwan and the People's Republic of China (PRC)

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

EFFECTIVE DATE: October 25, 1955.

FOR FURTHER INFORMATION CONTACT: Louis Apple, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-1769.

POSTPONEMENT OF FINAL DETERMINATIONS: On October 2, 1995, the Department of Commerce (the Department) issued affirmative preliminary determinations in the antidumping duty investigations of polyvinyl alcohol from Japan, Taiwan

and PRC (60 FR 52649, 52651, 52647, October 10, 1995).

In accordance with section 735(a)(2) of the Tariff Act of 1930, as amended, (the Act), exporters in each of these investigations requested that the Department postpone its final determination until 135 days after the date of publication of the preliminary determination. Under section 735(a)(2)(A) of the Act the Department may postpone, subsequent to an affirmative preliminary determination, if the Department receives a request for postponement of the final determination from exporters who account for a significant proportion of exports of the merchandise which is the subject of the investigation. Accordingly, we are postponing our final determinations in these investigations until February 22, 1996.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must now be submitted to the Assistant Secretary for Import Administration not later than the following schedule:

	Case briefs	Rebuttal briefs
Taiwan	12/12	12/15
Japan	12/12	12/15
PRC	12/13	12/18

A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. A public hearing, if requested, will be held: for Taiwan on December 18, 1995 at 10:00 a.m., Room 1851; for the PRC on December 20, 1995 at 1:30 p.m., Room 1851, and for Japan on December 19, 1995 at 10:00 a.m., Room 3606 at the U.S. Department of Commerce, 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.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B–099, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

Dated: October 19, 1995.

Barbara R. Stafford,

Deputy Assistant Secretary for Investigations, Import Administration.

[FR Doc. 95–26483 Filed 10–24–95; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 101695D]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) will convene a public meeting of its salmon stock review team for Quillayute spring/summer chinook salmon.

DATES: The meeting will be held on November 3, 1995, beginning at 10:00 a.m.

ADDRESSES: The meeting will be held at the Conference Center of the Northwest Indian Fisheries Commission, 6700 Martin Way, Olympia, WA.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: John Coon, Salmon Management Coordinator; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to complete a review of the status of Quillayute spring/summer chinook, as required under the Council's salmon fishery management plan when a stock fails to meet its spawning escapement objective for 3 consecutive years.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Lawrence D. Six, Executive Director, at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: October 18, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–26494 Filed 10–24–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 101695B]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council (Council) will convene a public meeting of its salmon stock review team for Puget Sound chinook and Strait of Juan de Fuca coho salmon stocks.

DATES: The meeting will be held on November 8, 1995, beginning at 9:30 a.m.

ADDRESSES: The meeting will be held in Room 2143, Building 4 of the NMFS Sand Point Installation, 7600 Sand Point Way, NE, Seattle, WA.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: John Coon, Fishery Management Coordinator (Salmon); telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to complete a review of the status of some Puget Sound chinook and Strait of Juan de Fuca coho stocks, as required under the Council's salmon fishery management plan when a stock fails to meet its spawning escapement objective for 3 consecutive years.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Lawrence D. Six, Executive Director, at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: October 18, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–26495 Filed 10–24–95; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

New York Cotton Exchange: Proposed Amendments Relating to the Maximum Daily Price Fluctuation Limits for the Cotton No. 2 Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule change.

SUMMARY: The New York Cotton Exchange ("NYCE") has submitted proposed amendments to its cotton No. 2 futures contract that will increase the contract's base maximum daily price fluctuation limit ("price limit") and make certain other changes to the contract's terms regarding the contract's price limits.

In accordance with Section 5a(a)(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Acting Director of the Division of Economic Analysis ("Division") of the Commodity Futures Trading Commission ("Commission") has determined, on behalf of the Commission, that publication of the proposed amendments is in the public interest and will assist the Commission in considering the views of interested persons.

DATES: Comments must be received on or before November 24, 1995.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street NW., Washington, D.C. 20581. Reference should be made to the proposed amendments relating to changes in the maximum daily price fluctuation limits for the cotton No. 2 futures contract.

FOR FURTHER INFORMATION CONTACT: Frederick V. Linse, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street NW., Washington, D.C. 20581, telephone (202) 418–5273.

SUPPLEMENTARY INFORMATION: The cotton No. 2 futures contract currently specifies a base price limit of two cents per pound above or below the previous day's settlement price. The contract also stipulates that, if three or more contract months settle at the two-cent-per-pound limit for three consecutive business days, the price limit is increased to three cents per pound. In addition, whenever the daily settlement price for any single futures contract month is 95 cents per pound or higher, the price limit for all contract months on the next business day is increased to three cents per pound. Further, if three or more contract months settle at the higher three-cent-per-pound limit for three consecutive business days and the price for at least one contract month is 95 cents per pound or greater, the three-cent limit is increased to 4½ cents per pound for all contract months. The existing terms also contain provisions specifying the length of time the above-noted expanded price limits remain in effect.

The proposed amendments will (1) increase to three from two cents per pound the contract's base price limit for each contract month listed for trading and (2) specify that the price limit will increase to four from three cents per pound for all contract months listed for trading whenever the settlement price for any one contract month equals or exceeds 110 cents per pound. The proposed amendments also will delete all of the contract's existing terms that provide for expansion of the price limits.

The NYCE intends to apply the proposed amendments to all existing and newly listed contract months following Commission approval.

In support of the proposed amendments the NYCE said that they would simplify the operation of the rule regarding price limits. The NYCE also noted that a study of the cotton futures market for the most recent eighteen months indicated that a price limit of 3 cents per pound would have allowed the futures market to trade freely in at least 90% of its trading sessions.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street NW, Washington, D.C. 20581. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by facsimile by telephone at (202) 418–5100.

Materials submitted by the NYCE in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street NW, Washington, D.C. 20581 by the specified date.

Issued in Washington, D.C. on October 18, 1995.

Blake Imel,

Acting Director, Division of Economic Analysis.

[FR Doc. 95–26372 Filed 10–24–95; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Army

ARMS Initiative Implementation

AGENCY: Armament Retooling and Manufacturing Support (ARMS) Public/Private Task Force (PPTF).

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the Armament Retooling and Manufacturing Support (ARMS) Public/Private Task Force (PPTF). The PPTF is chartered to develop new and innovative methods to maintain the government-owned, contractor-operated ammunition industrial base and retain critical skills for a national emergency. Focus of the first day's meeting will be an informal meeting to provide work groups an opportunity to prepare presentations for the formal session on the following day. Status of past actions will be presented on the second day and the future of the PPTF will be decided. Both days are open to the public.

DATES OF MEETING: November 8–9, 1995.

PLACE OF MEETING: Radisson Quad City Plaza Hotel, 111 East Second Street, Davenport, IA 52801.

TIME OF MEETING: 7:30 a.m.–5:00 p.m., November 8, 1995 and 8:00 a.m.–12:30 p.m., November 9, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Auger, ARMS Task Force, HQ Army Materiel Command, 5001 Eisenhower Avenue, Alexandria, Virginia 22333; phone (703) 274–9838.

SUPPLEMENTARY INFORMATION: Reservations should be made directly with the Radisson Quad City Plaza Hotel; telephone (319) 322–2200. Please be sure to mention that you will be attending the ARMS PPTF meeting to assure occupancy in the block of rooms set aside for this meeting. You should confirm your reservation as soon as possible. Request you contact Debra Yeager in the ARMS Team Office at Rock Island Arsenal; telephone (309) 782–4040, if you will be attending the meeting, so that our roster of attendees is accurate. This number may also be used if other assistance regarding the ARMS meeting is required.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–26405 Filed 10–24–95; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act

(P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 8 & 9 November 1995.

Time of Meeting: 0900–1700, 8 November 1995; 0900–1600, 9 November 1995.

Place: Fort Huachuca, AZ.

Agenda The Army Science Board's (ASB) Ad Hoc Study on "The Impact of Information Warfare on Army Command, Control, Communications, Computers and Intelligence (C4I) Systems" will meet for two days (8/9 Nov 1995) to hear briefings relative to the subject under study. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 95–26516 Filed 10–20–95; 3:52 pm]

BILLING CODE 3710–08–M

Army Science Board; Notice of Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 8 & 9 November 1995.

Time of Meeting: 0800–1700, 8 November 1995; 0800–1200, 9 November 1995.

Place: Aberdeen Proving Ground, MD.

Agenda: The Army Science Board's Independent Assessment on "Hit-To-Kill Interceptor Lethality" will meet for a seminar on chemical and biological warfare agent characterization as related to Theater Missile Defense Lethality. The seminar format for the meeting supports a detailed study of biological and chemical agent capabilities, effects, and detection capabilities, decontamination/neutralization. The open portions of these meetings are open to the public. Any person may attend, appear before or file statements with the committee at the time and in the manner permitted by the committee. The closed portions of these meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 95–26517 Filed 10–20–95; 3:52 pm]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Corps of Engineers

Intent To Prepare a Draft Supplemental Environmental Impact Statement (EIS) for the Yazoo Basin Reformulation Study, Tributaries Unit

AGENCY: U.S. Army Corps of Engineers, Vicksburg District, DOD.

ACTION: Notice of intent.

SUMMARY: The proposed action includes authorized projects on nine tributaries and streams in the hill and delta portions of the Yazoo Basin, Mississippi. The tributaries and streams are Rocky Bayou, Potacocowa Creek, Opossum Bayou, Hurricane Bayou, Lake Cormorant Bayou, Yalobusha River, Whiteoak Bayou, Cassidy Bayou, and Tillatoba Creek. The project study area includes Tunica, Quitman, Tallahatchie, Holmes, Leflore, Grenada, Carroll, Yazoo, and Coahoma Counties, Mississippi.

FOR FURTHER INFORMATION CONTACT: Mr. Wendell King (telephone (601) 631–5967), U.S. Army Engineer District, Vicksburg, ATTN: CELMK–PD–Q, 2101 North Frontage Road, Vicksburg, Mississippi 39180–5191.

SUPPLEMENTARY INFORMATION:

1. *Proposed Action:* The proposed action would provide flood damage protection to rural and urban residences and agricultural properties. Several tributary stream channels are insufficient to convey floodflows and have local levee systems that are inadequate to contain larger runoffs from the hills. The Supplemental EIS will supplement the Final EIS, Flood Control, Mississippi River and Tributaries, Yazoo Basin.

2. *Alternatives:* An array of alternatives, including no-action and structural measures, will be formulated and evaluated.

3. a. A scoping meeting will be held in November 1995. A public notice will be published to inform the general public of the location, time, and date of the scoping meeting. All affected Federal, state, and local agencies and interested private organizations, groups, and individuals will be invited to participate.

b. Significant issues include bottom-land hardwoods, wetlands, endangered species, waterfowl, fisheries, water quality, cultural resources, and socioeconomic conditions. Additional alternatives, environmental issues, and consultation requirements may be identified during the scoping process.

c. The Environmental Protection Agency; U.S. Fish and Wildlife Service; Mississippi Department of Wildlife, Fisheries and Parks; Mississippi Department of Environmental Quality; and Natural Resources Conservation Service will be invited to participate as cooperating agencies.

4. A Draft Reformulation Study Report, including the Supplemental EIS, will be available for review by the general public in October 1998.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–26404 Filed 10–24–95; 8:45 am]

BILLING CODE 3710–PU–M

DEPARTMENT OF ENERGY

Draft Waste Management Programmatic Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Amendment to Published Notice of Availability.

SUMMARY: The Department of Energy (DOE) announces changes in the schedule of public hearings on the Draft Waste Management Programmatic Environmental Impact Statement (PEIS) originally published in a Notice of Availability on September 22, 1995 (60 FR 49264). The changes affect meeting times and locations for hearings to be held in Illinois, New Mexico, New York, Oregon, and Washington. This amendment provides the complete, revised schedule of all future hearings. All other information in the prior notice remains unchanged.

ADDRESSES: Requests for information about and copies of the draft PEIS should be directed to: Center for Environmental Management, Information, P.O. Box 23769, Washington, D.C. 20026–3769, 1–800–736–3282 or in Washington, D.C.: 202–863–5084.

Written comments on the draft PEIS should be mailed to the following address: U.S. Department of Energy, Waste Management PEIS Comments, P.O. Box 3790, Gaithersburg, MD 20885–3790.

For information on the DOE National Environmental Policy Act process, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 586–4600 or leave message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

Background

On September 22, 1995, DOE issued a Notice of Availability (60 FR 49264)

for the Draft Waste Management Programmatic Environmental Impact Statement. The draft PEIS evaluates waste management strategies and siting alternatives for each of five waste types: high-level waste; transuranic waste; low-level waste; low-level mixed waste; and hazardous waste. In the published notice, public comment was invited on the draft PEIS during a 90-day public comment period, which opened on September 22, 1995 and ends on December 21, 1995.

The notice included a schedule of public hearings to be held during this period. These hearings feature video conferencing to enhance dialog between stakeholders at various locations around the nation and DOE officials in Washington, D.C. Since publication of the September 22, 1995 notice, efforts to make the hearings even more accessible to the public have warranted certain changes in locations and session times for hearings occuring in Illinois, New Mexico, New York, Oregon and Washington. The revised schedule of all future hearings is provided below.

Revised Schedule of Future Public Hearings

October 25, 1995

Idaho Falls, ID

6:00–10:00 pm mountain time, 8:00 pm-12:00 am eastern time, DOE Technical Support Annex, 1580 Sawtelle Dr., Room 133, Idaho Falls, ID 83403. Contact: Kenny Osborne, 208–526–0805.

October 25, 1995

Boise, ID

6:00–10:00 pm mountain time, 8:00 pm-12:00 am eastern time, Simplot Micron Instructional Technology Center, Room 210, 1910 University Drive, Boise State University, Boise, ID 83720. Contact: Kenny Osborne, 208–526–0805.

October 26, 1995

Tracy, CA

6:00–9:00 pm pacific time, Tracy Community Center, 300 E. 10th Street, Tracy, CA 95378. Contact: Dave Christy, 510–637–1812.

October 26, 1995

Argonne, IL

7:00–10:00 pm central time, 8:00–11:00 pm eastern time, 9800 South Cass Avenue, Building 201, Room 3A, Argonne, IL 60439. Contact: Mary Jo Acke, 708–252–8796.

October 26, 1995

Upton, NY

Brookhaven National Laboratory [Postponed to a date to be determined]. Contact: Mary Jo Acke, 708–252–8796.

October 26, 1995

Fernald, OH

2:00–4:00 pm eastern time, Fernald Environmental Management Project, 7400 Wiley Road, Safety and Health Building, Room 111, Fernald, OH 45030. Contact: Mike Jacobs, 513–648–3043.

November 1, 1995

Santa Fe, NM

6:00–10:00 pm mountain time, 8:00 pm-12:00 am eastern time, Radisson Picacho Plaza Hotel, 750 North Saint Francis, Santa Fe, NM 87501. Contact: Tracy Longhead, 505–845–5977.

November 2, 1995

Las Vegas, NV

6:00–9:00 pm pacific time, 9:00 pm-12:00 am eastern time, DOE/NV Auditorium, 2753 S. Highland, Las Vegas, NV 89109. Contact: Angela Colarusso, 702–295–1218.

November 7, 1995

Arvada, CO

4:30–8:30 pm mountain time, 6:30–10:30 pm eastern time, Arvada Center for the Arts and Humanities, 6901 Wadsworth Boulevard, Arvada, CO 80003. Contact: Miriane Anderson, 303–966–6088.

November 9, 1995

Pasco, WA

7:00–10:00 pm pacific time, 10:00 pm–1:00 am eastern time, Washington Interactive Television, Education Service District 123, 124 South 4th St., Pasco, WA 99301. Contact: Jon Yerxa, 509–376–9628.

November 9, 1995

Lacey, WA

7:00–10:00 pm pacific time, 10:00 pm—1:00 am eastern time, Department of Information Services, Washington Interactive Television, 710 Sleater-Kinney Road, SE., Suite Q, Lacey, WA 98504. Contact: Jon Yerxa, 509–376–9628.

November 9, 1995

Seattle, WA

7:00–10:00 pm pacific time, 10:00 pm—1:00 am eastern time, Washington Interactive Center, Seigal Center, 1500 Harvard, Seattle, WA 98122. Contact: Jon Yerxa, 509–376–9628.

November 9, 1995

Pendleton, OR

7:00–10:00 pm pacific time, 10:00 pm—1:00 am eastern time, Blue Mountain Community College, 2411 N.W. Carden, Pendleton, OR 97801. Contact: Jon Yerxa, 509–376–9628.

November 9, 1995

Portland, OR

7:00–10:00 pm pacific time, 10:00 pm—1:00 am eastern time, Portland Community College, 1200 S.W. 49th Avenue, Portland, OR 97219. Contact: Jon Yerxa, 509–376–9628.

November 14, 1995

Portsmouth, OH

7:00–10:00 pm eastern time, Shawnee State University, Flohr Lecture Hall, Library Bldg., 940 Second Street, Portsmouth, OH 45662. Contact: Sandy Childers, 614–897–2336.

November 14, 1995

Paducah, KY

6:00–9:00 pm central time, 7:00–10:00 pm eastern time, Paducah Community College, Resource Center at Paducah, Information Age Park, 2000 McCraken Drive, Paducah, KY 42001. Contact: Dennis Hill, 502–441–5194.

Issued in Washington, D.C., October 20, 1995.

Jill E. Lytle,

Deputy Assistant Secretary for Waste Management, Environmental Management.

[FR Doc. 95–26479 Filed 10–24–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Availability of Remote-Handled Transuranic Waste Study

AGENCY: Department of Energy.

ACTION: Notice of Availability.

SUMMARY: Today's notice is announcing the availability of the Remote-Handled Transuranic Waste Study. The study was prepared by the Department in fulfillment of a congressional mandate specified in Public Law 102–579, referred to as the Waste Isolation Pilot Plant Land Withdrawal Act. In addition, the Department considers the preparation of the study to be a prudent element in the compliance certification process for the Waste Isolation Pilot Plant (WIPP). The study includes an analysis of the impact of remote-handled Transuranic waste on the

performance assessment of the WIPP and a comparison of remote-handled Transuranic waste with contact-handled Transuranic waste on issues of gas generation, flammability, explosiveness, solubility, and brine and geochemical interactions.

ADDRESSES: To obtain a copy of the Remote-Handled Transuranic Waste Study (Document Number DOE/CAO 95–1095) telephone the WIPP Information Center at 1–800–336–9477. Also, the study can be viewed at the Internet address: http://www.wipp.carlsbad.nm.us. In addition, copies of the Remote-Handled Transuranic Waste Study are available for inspection at the following WIPP reading rooms: Public Library Reading Room, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004; Office of Scientific and Technical Information, Technical Information Center, Department of Energy, 55 South Jefferson Circle, Room 112, Oak Ridge, TN 37831; WIPP Public Reading Room, National Atomic Museum, Albuquerque Operations Office, Department of Energy, Pennsylvania and H Street, Albuquerque, NM 87115; Zimmerman Library, Government Publications Department, University of New Mexico, Albuquerque, NM 87138; Carlsbad Public Library, 101 S. Halagueno Street, Carlsbad, NM 88220; Pannell Library, New Mexico Junior College, 5317 Lovington Highway, Hobbs, NM 88240; Thomas Brannigan Memorial Library, 200 E. Picacho, Las Cruces, NM 88005; Raton Public Library, 244 Cook Avenue, Raton, NM 87740; New Mexico State Library, 325 Don Gaspar, Santa Fe, NM 87503; Martin Speare Memorial Library, New Mexico Institute of Mining and Technology, Campus Station, Socorro, NM 87801; Idaho National Engineering Laboratory, Boise Office, 816 West Bannock, Suite 306, Boise ID 83706; Shoshone-Bannock Library, Human Resources Center, Bannock and Pima, Fort Hall, ID 83203; Public Reading Room, Idaho National Engineering Laboratory Technical Library, 1776 Science Center Drive, Idaho Falls, ID 83402; University of Idaho Library, Government Document Department, University of Idaho Campus, Rayburn Street, Moscow, ID 83403; Moscow Environmental Restoration Information Office, 530 South Ashbury, Suite 2, Moscow, ID 83843; Idaho National Engineering Laboratory, Pocatello Office, 1651 AT Ricken Drive, Pocatello, ID 83201; Idaho National Engineering Laboratory, Twin Falls Office, 233 2nd Street North, Suite B, Twin Falls, ID 83301; Standley Lake Library, 8485 Kipling Street, Arvada, CO 80005; Information Center, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Building A, Denver CO 80222–1530; Superfund Records Center, U.S. Environmental Protection Agency, 999 18th Street, 5th Floor, Denver, CO 80220; Rocky Flats Public Reading Room, Department of Energy, Front Range Community College Library, 3645 West 112th Avenue, Westminster, CO 80030; Citizens Advisory Board, 9035 N. Wadsworth Parkway, Suite 2250, Westminster, CO 80021.

FOR FURTHER INFORMATION CONTACT: Written questions and comments should be directed to: George Basabilvazo, Carlsbad Area Office, U.S. Department of Energy, 101 West Greene Street, Carlsbad, New Mexico 88220.

SUPPLEMENTARY INFORMATION:

Background

The "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980" (Public Law 96–164) authorized the Department of Energy (DOE) to develop a research and development facility to demonstrate the safe disposal of radioactive waste generated by national defense activities. The WIPP is required to meet the statutory requirements of Public Law 96–164.

TRU waste is waste that contains alpha particle-emitting radionuclides with an atomic number greater than that of uranium (92), half-lives greater than 20 years, and concentrations greater than 100 nanocuries per gram of waste. TRU waste is classified according to the radiation dose rate at a package surface. Contact-handled (CH) TRU waste has a radiation dose rate at a package surface of 200 millirem per hour or less; this waste can be safely handled directly by personnel.

Remote-handled (RH) TRU waste has a radiation dose rate at a package surface of 200 millirem or greater per hour but not more than 1,000 rem per hour; this waste must be handled remotely (i.e., with machinery designed to shield the handler from radiation). Alpha radiation is the primary factor in the radiation health hazard associated with TRU waste. Alpha radiation is not energetic enough to penetrate human skin but poses a health hazard if it is taken into the body (e.g., inhaled or ingested). In addition to alpha radiation, TRU waste also emits gamma and/or beta radiation, which can penetrate the human body and requires shielding during transport and handling. RH- TRU waste has gamma and/or beta radiation emitting radionuclides in greater quantities than exist in CH-TRU waste.

Before 1970, material that is now classified as contact-handled TRU waste was not segregated from low-level waste and was buried along with low-level waste. At the time of burial, the DOE did not intend to retrieve that waste. Since the Atomic Energy Commission (one of the DOE's predecessor agencies) adopted a policy requiring retrievable storage of certain waste containing Transuranic radionuclides in 1970, DOE TRU waste has been stored in containers so that it could be easily retrieved when future decisions were made regarding the management or disposition of this waste. About 55 percent of the Department's current TRU waste inventory contains hazardous substances regulated under the Resource Conservation and Recovery Act. The fraction of TRU waste streams that contains hazardous substances is expected to decrease in the future due to DOE pollution prevention activities.

In 1992, Congress passed Public Law 102–579, the "Waste Isolation Pilot Plant Land Withdrawal Act" (LWA) which withdrew the land on which the WIPP is situated from public use and transferred jurisdiction over the site from the Secretary of Interior to the Secretary of Energy. Although the DOE is now conducting experiments in laboratories, at the time the LWA was passed, DOE planned on performing experiments with TRU waste in excavated rooms in the WIPP underground. The LWA limited experiments in the underground to those with small quantities of CH-TRU waste during the planned test phase. The repository tests were abandoned in October 1993. Tests are currently planned at INEL using actual TRU wastes to evaluate waste performance under potential repository conditions.

The LWA prohibits RH-TRU waste at the facility until a decision is made to use WIPP as a permanent repository. However, section 6(c)(2)(B) of the LWA requires a study to evaluate the effects of RH-TRU waste on performance assessment of the WIPP. The LWA also requires the study to compare the two waste types in the areas of gas generation, flammability, explosiveness, solubility, and brine and geochemical interactions. In addition, the LWA requires the study to be completed within three years of the date of enactment (October 30, 1992), be conducted in consultation with states affected by WIPP and the Administrator of the EPA. Views were also solicited from other interested parties. Review

comments from the affected states, the Administrator and other interested parties on the RH-TRU waste study Implementation Plan and on a draft report of the RH-TRU waste study helped improve the quality of the final report.

Scope of Study

The Remote-Handled Transuranic Waste Study has been conducted in accordance with section 6(c)(2)(B) of the LWA. The study evaluates the impact of RH-TRU waste on the performance assessment of the WIPP baseline configuration. In addition, the study also compares the characteristics of CH-TRU and RH-TRU waste as expected to be received at WIPP as well as the potential affects of the wastes on gas generation, flammability, explosiveness, solubility and, brine and geochemical interactions after emplacement in the WIPP underground. The Remote-Handled Transuranic Waste Study does not include an analysis of RH-TRU waste characteristics on the transportation and operational aspects of the WIPP program.

Study Summary

The Remote-Handled Transuranic Waste Study has three main sections: the Transuranic waste disposal strategy; comparison of contact-handled and remote-handled Transuranic wastes; and analysis of the impact of remote-handled waste on performance assessment.

In the section on the Transuranic waste disposal strategy, elements of the WIPP baseline configuration considered to be important for the study are described. These elements include: room configuration, waste packaging, RH-TRU waste emplacement and shield plugs, and the physical and radiological characteristics of the TRU inventory.

The comparison section of the study includes two areas of evaluation. These include a comparison of CH-TRU and RH-TRU waste characteristics as expected to be received at the WIPP and a comparison of CH-TRU and RH-TRU waste after emplacement in and closure of the WIPP underground. In the latter area of evaluation, the study specifically addresses the issues required by the LWA: gas generation, flammability, explosiveness, solubility, and brine and geochemical interactions.

In the last section of the study, the impact of RH-TRU waste on performance assessment is evaluated. Four radionuclide release scenarios are identified for evaluation: releases by gas generation, groundwater transport, human intrusion and heat generation.

Study Findings

A summary of the important findings of the Remote-Handled Transuranic Waste Study include the following:

- The contribution of RH-TRU waste to the total radioactivity in TRU waste will be insignificant after about 200 years following emplacement in the WIPP. RH-TRU waste has a greater abundance of those radionuclides that characteristically have more penetrating radiation and more specific radioactivity, but these radionuclides also have rapid decay rates and short half-lives reducing their contribution to the radioactive component of TRU waste to a short period of time (~200 years). By contrast, the majority of the radionuclides in CH-TRU waste have less specific radioactivity, but decay at a much slower rate.
- RH-TRU waste contributes only a small portion to the total TRU waste inventory because the "Agreement for Consultation and Cooperation with DOE and the State of New Mexico on WIPP" (1981) restricts the quantity to only 5 percent by volume. In addition, RH-TRU waste is composed of the same materials as CH-TRU waste because they are derived from similar processes. Therefore, the impact of RH-TRU waste on performance assessment is insignificant.
- No significant accumulations of gas pressure, or flammable or explosive gases are anticipated in "as-received" waste at the WIPP for the following reasons:
- WIPP Waste Acceptance Criteria requires containers to be vented to allow pressure to be relieved from the containers during transportation;
- The WIPP Waste Acceptance Criteria sets strict limits on the amounts of liquids and flammable gasses allowed in WIPP waste, and
- WIPP Waste Acceptance Criteria prohibits any explosive materials from being in the waste.
- The presence of brine in the WIPP underground can impact the total amount of gas generated by influencing the mechanisms that cause waste decomposition. The degree to which gas generation occurs depends on the amount of brine present in the WIPP underground and the point in time in the decomposition process brine encounters the waste.
- The decomposable materials in RH-TRU waste can contribute up to about 31 percent of all potential gases that may be generated in the WIPP underground.
- RH-TRU waste contains about 13 percent of the portion of TRU waste materials that can potentially generate flammable gases.
- The additional curies of radioactivity introduced into the repository by RH-TRU waste will not impact the overall TRU waste inventory solubility. The reason for this is that the gamma emitters in RH-TRU waste will decay to levels approximating those in CH-TRU waste before the waste containers degrade and allow interactions with brine (about 200 years following WIPP closure).
- The effects of heat and radiation from RH-TRU waste on the WIPP underground are expected to be minimal. Because the Waste Acceptance Criteria restrict the radiation doses and heat allowed, only a small portion of the WIPP underground will be irradiated and any thermal gradients produced will be insignificant.
- Long travel times, as predicted by modeling studies, are required for brine to reach a regulatory boundary. Therefore, it is highly unlikely that gamma-emitting radionuclides from RH-TRU waste would be part of a release to the accessible environment due to groundwater migration since the rapid decay rates of these radionuclides result in much smaller quantities after a relatively short period of time (~200 years).
- Gamma-emitting radionuclides in RH-TRU waste can have little or no contribution to releases caused by human intrusion activities because their rapid decay rates result in much smaller quantities after a relatively short period of time (~200 years).
- Studies to evaluate the effects of heat on repository performance have shown that at expected levels of waste package heat output, insufficient heat will be available to influence WIPP performance.

Two major conclusions can be drawn from the findings of the Remote-Handled Transuranic Waste Study: (1) RH-TRU waste has no significant impact or influence on the outcome of performance assessment and (2) RH-TRU waste is similar to CH-TRU waste in terms of its characteristics as expected to be received at WIPP and in its behavior in the WIPP underground.

Issued in Carlsbad, New Mexico, this 11th day of October, 1995, for the United States Department of Energy.

George E. Dials,

Manager, Carlsbad Area Office.

[FR Doc. 95-26481 Filed 10-24-95; 8:45 am]

BILLING CODE 6450-01-P

Energy Information Administration

Solicitation of Comments on Form EIA–898A/B, "Solar Thermal Installers Survey" and "Photovoltaic Systems Installers Survey"

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of the proposed new forms and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA) is soliciting comments concerning the proposed new Forms (EIA–898A/B), "Solar Thermal Systems Installers Survey" and "Photovoltaic Systems Installers Survey".

DATES: Written comments must be submitted on or before December 26, 1995. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Peter Holihan, (EI–522) Energy Information Administration, Department of Energy, Forrestal Building, U. S. Department of Energy, Washington, D. C. 20585 (telephone number 202–254–5432) (e mail address JHolihan@EIA.DOE.GOV) (fax 202–254–6233).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Peter Holihan at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. No. 93–275) and the Department of Energy Organization Act (Pub. L. No. 95–91), the Energy Information Administration (EIA) is obliged to carry out a central, comprehensive, and unified energy data and information program. As part of this program, EIA collects, evaluates, assembles, analyzes, and disseminates data and information related to energy resource reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

The Energy Information Administration, as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13)), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Form EIA–898A will collect data on the installation of solar thermal collectors from installers consisting of manufacturers who also install solar devices, distributors who are also installers, building contractors, and trade professionals (e.g., plumbers and electricians). Data requested will be: the number and types of solar devices installed; the total energy output; the type of energy sources replaced; final State destination of solar devices installed; average costs and uses of installed solar devices as well as original versus retrofit percentages of revenue for solar systems installers; maintenance costs, and warranty data.

Form EIA–898B will collect data on the installation of photovoltaic devices from installers consisting of manufacturers who also install photovoltaic devices, distributors who are also installers, building contractors, and trade professionals (e.g., plumbers and electricians). Data requested will be: the number and types of photovoltaic devices installed; the total energy output of the photovoltaic systems installed; the types of energy sources displaced; final State destination of photovoltaic devices installed; average costs and uses of installed systems as well as original verses retrofit percentages of revenue for photovoltaic devices installed; maintenance costs, and warranty data.

II. Current Actions

The EIA is proposing two new surveys, Forms 898A/B, to collect data from installers of solar thermal collectors and photovoltaic devices. A pretest survey of a number of installers who were representative of the installers' industry has been conducted, with any recommendations being incorporated into the final survey forms. The purpose of the pretest survey was to identify potential survey respondents, pretest the questionnaire, and assess the availability of installation data. The EIA plans to meet with solar industry companies, DOE personnel, and other interested parties to discuss Forms EIA–898A/B. EIA will also consult with the Solar Energy Industry Association to review any comments the industry has.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of responses. Please indicate to which form(s) your comments apply.

General Issues

EIA is interested in receiving comments from persons regarding:

A. Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. Practical utility is the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can EIA make to the quality, utility, and clarity of the information to be collected?

As a potential respondent

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can data be submitted in accordance with the due date specified in the instructions?

C. Public reporting burden for each form is estimated to average 3 hours. Burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information including: (1) reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

Please comment on (1) the accuracy of our estimate and (2) how the agency could minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

D. In addition to the burden costs, are there any capital or start-up cost components or any operational and maintenance components? The estimates should take into account costs

associated with generating, maintaining, and disclosing or providing information. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers, software; monitoring, sampling, drilling, testing equipment; and record storage facilities.

E. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, the data element(s), and the methods of collection.

As a Potential User

A. Can you use data at the levels of detail indicated on the form?

B. For what purpose would you use the data? Be specific.

C. Are there alternate sources of data and do you use them? If so, what are their deficiencies and/or strengths?

D. For the most part, information is published by EIA in U.S. customary units, e.g., cubic feet of natural gas, short tons of coal, and barrels of oil. Would you prefer to see EIA publish more information in metric units, e.g., cubic meters, metric tons, and kilograms? If yes, please specify what information (e.g., coal production, natural gas consumption, and crude oil imports), the metric unit(s) of measurement preferred, and in which EIA publication(s) you would like to see such information.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Statutory Authority

Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C. October 18, 1995.

John Gross,

Acting Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 95–26408 Filed 10–24–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER94–1530–005, et al.]

ACME Power Marketing, Inc., et al.; Electric Rate and Corporate Regulation Filings

October 18, 1995.

Take notice that the following filings have been made with the Commission:

1. ACME Power Marketing, Inc.

[Docket No. ER94–1530–005]

Take notice that on October 4, 1995, ACME Power Marketing, Inc. tendered for filing its quarterly informational filing for the third calendar year quarter of 1995 in the above-referenced docket.

2. Utility-2000 Energy Corp.

[Docket No. ER95–187–002]

Take notice that on October 4, 1995, Utility-2000 Energy Corp. (Utility-2000) filed certain information as required by the Commission's December 29, 1994, order in Docket No. ER95–187–000. Copies of Utility-2000's informational filing are on file with the Commission and are available for public inspection.

3. Illinois Power Company

[Docket No. ER95–285–000]

Take notice that on September 27, 1995, Illinois Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: November 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Illinois Power Company

[Docket No. ER95–506–000]

Take notice that on September 27, 1995, Illinois Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: November 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. CNB/Olympic Gas Service

[Docket No. ER95–964–002]

Take notice that on October 6, 1995, CNB/Olympic Gas Service tendered for filing certain information as required by the Commission's letter order dated July 10, 1995. Copies of the informational filing are on file with the Commission and are available for public inspection.

6. Allegheny Power Service Corporation on Behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company

[Docket No. ER95–1865–000]

Take notice that on September 11, 1995, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (the APS Companies) filed Supplement No. 4 to add three (3) Customers to the Standard Generation Service Rate Schedule under which the APS Companies offer standard generation and emergency service to these Customers on an hourly, daily, weekly, monthly or yearly basis. The following new Customers are added by this filing: Catex Vitol Electric, L.L.C., Citizens Lehman Power Sales, and Tennessee Power Company. The APS Companies request a waiver of notice requirements to make service available as of August 13, 1995.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: November 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Powertec International, L.L.P.

[Docket No. ER96–1–000]

Take notice that on October 2, 1995, Powertec International, L.L.P. (Powertec) petitioned the Commission for acceptance of Powertec Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Powertec intends to engage in wholesale electric power and energy purchases and sales as a marketer. Powertec provides powerplant maintenance, energy management services, and related business ventures in the United States.

Comment date: November 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Louisville Gas and Electric Company

[Docket No. ER96–2–000]

Take notice that on October 2, 1995, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Municipal Electrical Authority of Georgia (MEAG) under Rate GSS.

Comment date: November 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Central Hudson Gas and Electric Corporation

[Docket No. ER96–3–000]

Take notice that on October 2, 1995, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing pursuant to 18 CFR 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations, a Service Agreement between CHG&E and LG&E Power Marketing Inc. The terms and conditions of service under this

Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1662. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: November 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Madison Gas and Electric Company

[Docket No. ER96–4–000]

Take notice that on October 2, 1995, Madison Gas and Electric Company (MGE), tendered for filing a service agreement with Coastal Electric Services Company under MGE's Power Sales Tariff. MGE requests an effective date 60 days from the filing date.

Comment date: November 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Florida Power Corporation

[Docket No. ER96–5–000]

Take notice that on October 2, 1995, Florida Power Corporation (FPC), tendered for filing a contract for the provision of interchange service between itself and Catex Vitol Electric L.L.C. The contract provides for service under Schedule J, Negotiated Interchange Service and OS, Opportunity Sales. Cost support for both schedules have been previously filed and approved by the Commission. No specifically assignable facilities have been or will be installed or modified in order to supply service under the proposed rates.

FPC requests Commission waiver of the 60-day notice requirement in order to allow the contract to become effective as a rate schedule on October 3, 1995. Waiver is appropriate because this filing does not change the rate under these two Commission accepted, existing rate schedules.

Comment date: November 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Florida Power Corporation

[Docket No. ER96–7–000]

Take notice that on October 2, 1995, Florida Power Corporation tendered for filing a Contract for Interchange Service between itself and Electric Clearinghouse, Inc.

Comment date: November 1, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before 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. 95–26513 Filed 10–24–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. IS94–32–000]

Chevron Pipe Line Company; Notice of Informal Settlement Conference

October 20, 1995.

Take notice that an informal settlement conference will be convened in this proceeding on November 7, 1995, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined in 18 CFR 385.102(b), may attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations, 18 CFR 385.214.

For additional information, contact Donald Heydt at (202) 208–0740 or Russell Mamone at (202) 208–0744.

Lois D. Cashell,

Secretary.

[FR Doc. 95–26510 Filed 10–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–432–001]

Columbia Gas Transmission Corporation; Notice of Compliance Filing and Proposed Changes in FERC Gas Tariff

October 19, 1995.

Take notice that on October 13, 1995, Columbia Gas Transmission Corporation (Columbia) tendered for filing a revised TCRA to adjust the operational component of its TCRA rates that recover Account No. 858 expenses, commencing October 1, 1995. The subject filing requires the following proposed changes to Columbia's FERC Gas Tariff, Second Revised Volume No. 1 to be effective October 1, 1995:

Substitute First Revised Tenth Revised Sheet No. 25
Substitute First Revised Tenth Revised Sheet No. 26
Substitute First Revised Tenth Revised Sheet No. 27
Substitute First Revised Eleventh Revised Sheet No. 28

Columbia submits this filing in compliance with the Commission's September 28, 1995 order in the aforementioned docket. The aforesaid order required Columbia to submit within 15 days certain additional information related to the derivation of billing determinants and increases in the utilization of certain operationally required contracts.

Columbia states that copies of its filing being mailed to each of its firm customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before October 26, 1995. 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 proceedings. Copies of Columbia's filings are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–26396 Filed 10–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–4–000]

Distrigas of Massachusetts Corporation; Notice of Refund Report

October 19, 1995.

Take notice that on October 17, 1995, Distrigas of Massachusetts Corporation (DOMAC) tendered for filing a report of refunds it received on September 29, 1995 by wire transfer in the amount of $24,297 from the Gas Research Institute (GRI) covering the 1994 Tier 1 refund. DOMAC states that the payment to DOMAC resulted from a settlement approved by the Federal Energy Regulatory Commission (FERC) on February 22, 1995, concerning overcollections by GRI of funds required of its member pipelines. Order

Approving Refund Methodology for 1994 Overcollections, 70 FERC ¶61,205. Pursuant to the FERC's February 22, 1995, order, member pipelines receiving refunds are required to make credits pro rata to all eligible firm customers and to file a refund report within 15 days of making such credits.

DOMAC states that it has no firm customers who would be eligible for such credits. DOMAC states that unlike other member pipelines, DOMAC does not pass through its GRI funding obligations to its firm customers and consequently no firm customer has borne these costs. Instead, DOMAC states that it has funded its obligations to GRI out of its own sales margin. DOMAC states that it will not therefore be crediting this refund to any of its firm customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E. Washington D.C. 20426, in accordance with 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 26, 1995. 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. 95–26391 Filed 10–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–52–000]

Federal Energy Regulatory Commission

Granite State Gas Transmission, Inc.; Notice of Environmental Technical Conference

October 19, 1995.

On November 1, 1995, from 1:00 to 4:00 p.m., the environmental staff of the Office of Pipeline Regulation and its environmental contractor will conduct an environmental technical conference at the Wells Town Hall. The technical conference will focus on the applicant's responses to the staff's August 7, 1995 environmental data request and on alternative sites for the proposed LNG facility. If time permits, other environmental issues may be discussed.

On November 2, 1995, the staff and its contractor will independently visit potential alternative LNG sites. No other parties will accompany the staff to these sites.

On the afternoon of November 2, 1995, the staff will tour Northern Utilities' LNG plant in Lewiston, Maine. Parties wishing to attend the site tour must provide their own transportation and should contact Chris Zerby at (202) 208–0111 for further information.

Kevin P. Madden,

Director, Office of Pipeline Regulation.

[FR Doc. 95–26512 Filed 10–24–95; 8:45 am]

BILLING CODE 6717–01–M

Federal Energy Regulatory Commission

[Docket No. GT96–5–000]

K N Interstate Gas Transmission Co.; Notice of Refund Report Filing

October 19, 1995.

Take notice that on October 17, 1995, K N Interstate Gas Transmission Co. (KNI) filed a refund report pursuant to the Commission's February 22, 1995, Order issued in Docket No. RP95–124–001. KNI states that the refund report shows the refund received by KNI from Gas Research Institute over-collections in the amount of $153,649 and the *pro rata* allocation of that refund amount to KNI's eligible firm customers.

KNI states that copies of the filing were served upon all affected firm customers of KNI and applicable state agencies.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 or 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 26, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–26392 Filed 10–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–9–000]

Mississippi River Transmission Corporation; Notice of Refund Report

October 19, 1995.

Take notice that on October 17, 1995, Mississippi River Transmission Corporation (MRT) submitted a refund report reflecting the flow through of the Gas Research Institute (GRI) refund received by MRT on September 29, 1995.

MRT states that pursuant to the 1993 GRI settlement, and in compliance with the Commission Order approving such settlement, it has credited such refund proportionally to its firm customers of non-discounted service based on the GRI surcharges those customers paid during the calender year 1994. MRT states that each customer's credit was reflected on its invoice for September, 1995 services issued on or about October 10, 1995.

MRT states that a copy of this filing is being mailed to each of MRT's affected customers and the state commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions and protests should be filed on or before October 26, 1995. 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 available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–26393 Filed 10–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–11–000]

National Fuel Gas Supply Corporation; Notice of Refund Report

October 20, 1995.

Take notice that on October 18, 1995, National Fuel Gas Supply Corporation (National) tendered for filing a refund report pursuant to the Commission's May 3, 1995, "Order Granting Clarification" issued in Docket No. RP95–124–001.

National states that it has refunded the Gas Research Institute (GRI) demand surcharge based on the non-discounted GRI dollars paid by each firm shipper during the 1994 calendar year as a percentage of the total non-discounted GRI demand dollars paid by all firm shippers. National further states that it made these refunds in the form of credits to invoices issued on October 11, 1995. The total credit amounted to $486,097.

National states that copies of National's filing were served on National's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with Rule 214 or 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions to intervene or protests should be filed on or before October 27, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95-26508 Filed 10-24-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP96-18-000]

National Fuel Gas Supply Corporation; Notice of Request Under Blanket Authorization

October 20, 1995.

Take notice that on October 10, 1995, National Fuel Gas Supply Corporation (National), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP96-18-000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate a sales tap for a new customer of National Fuel Gas Distribution Corporation (Distribution) under National's blanket certificate issued in Docket No. CP83-4-000 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.

National proposes to construct and operate a sales tap for a new customer of Distribution in Jefferson County, Pennsylvania, in order to deliver about 150 Mcf annually. It is stated that there would be minimal impact on National's peak day and annual deliveries.

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 Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed 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. 95-26505 Filed 10-24-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP96-24-000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

October 20, 1995.

Take notice that on October 13, 1995, NorAm Gas Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP96-24-000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate certain facilities in Ouachita County, Arkansas, under NGT's blanket certificate issued in Docket No. CP82-384-000, *et al.*, 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.

NGT proposes to upgrade and operate an existing rural delivery tap currently serving ARKLA, a distribution division of NorAm Energy Corporation, to a 2-inch U-Shape meter station to provide increased volumes to ARKLA's new Rural Extension No. 1348 for redelivery to domestic and commercial customers in Ouachita County, Arkansas. The estimated volumes are 3,250 MMBtu annually and 17 MMBtu on a peak day. ARKLA will construct the meter station at its cost and convey ownership to NGT.

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 Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed 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. 95-26507 Filed 10-24-95; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP95-611-001]

Northern Natural Gas Company; Notice of Amendment

October 20, 1995.

Take notice that on October 10, 1995, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124-1000, filed in Docket No. CP95-611-001 an amendment to the pending application filed on July 11, 1995, in Docket No. CP95-611-000, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

By the pending application in Docket No. CP95-611-000, Northern requested authorization under Sections 157.205 and 157.212 of the Commission's Regulations to install and operate a new delivery point in Section 32, T96N, R20W located in Cerro Gordo County, Iowa, to accommodate natural gas deliveries to AG Processing, Inc. (AGP) under Northern's blanket certificate issued in Docket No. CP82-401-000 pursuant to Section 7 of the Natural Gas Act. On August 28, 1995, Interstate Power Company filed a protest in Docket No. CP95-611-000 and was not withdrawn within 30 days after the end of the 45-day prior notice period. Therefore, Northern's prior notice application will be treated procedurally as an application under Section 7(c) of the Natural Gas Act.

In Docket No. CP95-611-001, Northern states that pursuant to a

request by AGP, Northern has filed a revised Attachment A which changes the location of the delivery point from Section 32, T96N, R20W, Cerro Gordo County, Iowa, to Section 24, T96N, R21W, Cerro Gordo County, Iowa.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 13, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 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. All persons who have heretofore filed need not file again.

Lois D. Cashell,

Secretary.

[FR Doc. 95–26504 Filed 10–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–23–000]

Northern Natural Gas Company; Notice of Application

October 20, 1995.

Take notice that on October 13, 1995, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP96–23–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a compressor in Stevens County, Kansas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Northern proposes to abandon a compressor in Stevens County, Kansas, since it is no longer required due to changes in operating conditions, and therefore would not result in abandonment of service to any of Northern's existing shippers or producers. It is stated that there would be no adverse impact on Northern's capacity.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 13, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–26506 Filed 10–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–6–006]

Northwest Pipeline Corporation; Notice of Compliance Filing

October 20, 1995.

Take notice that on October 18, 1995, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets with a proposed effective date of November 6, 1994:

Third Substitute Third Revised Sheet No. 232
Fourth Substitute Original Sheet No. 232–B
Third Substitute Original Sheet No. 232–D

Northwest states that the purpose of this filing is to comply with the Commission's October 6, 1995 Order on Rehearing and Compliance Filing (Order), pertaining to operational flow orders (OFOs) in Docket Nos. RP95–6–004 and RP95–6–005. This Order directs Northwest to make specified revisions to Northwest's tariff sheets submitted on June 23, 1995 in this proceeding and to file revised tariff sheets by October 20, 1995.

Northwest states that a copy of this filing has been served upon all intervenors in Docket No. RP95–6 and upon relevant state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before October 27, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. 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. 95–26511 Filed 10–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–12–000]

Pacific Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

October 20, 1995.

Take notice that on October 18, 1995, Pacific Gas Transmission Company (PGT) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1–A and Second Revised Volume No. 1, revised tariff sheets listed on Appendix A to the filing.

PGT states that the tariff sheets which it is submitting reflect the relocation of its corporate headquarters and various other departments from San Francisco, California and Spokane, Washington to Portland, Oregon. PGT further states that these changes are purely ministerial and do not affect the rates or services PGT has been providing. PGT requests the revised tariff sheets become effective November 18, 1995.

PGT further states it has served a copy of this filing upon all interested state regulatory agencies and PGT's jurisdictional customers.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with Sections

385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 27, 1995. 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. 95–26509 Filed 10–24–95; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP95–397–000]

Panhandle Eastern Pipe Line Company; Notice of Technical Conference

October 19, 1995.

In the Commission's order issued August 24, 1995,[1] the Commission held that the filing in the above captioned proceeding raises issues that should be addressed in a technical conference.

Take notice that the technical conference will be held on Thursday, November 9, 1995, at 1:00 p.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. All interested parties and Staff are permitted to attend.

Lois D. Cashell,
Secretary.
[FR Doc. 95–26395 Filed 10–24–95; 8:45 am]
BILLING CODE 6717–01–M

[1] Panhandle Eastern Pipeline Co., 72 FERC ¶61,185 (1995).

[Docket No. RP96–11–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 19, 1995.

Take notice that on October 13, 1995, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Revised Sheet No. 374Q, which tariff sheet is proposed to be effective September 1, 1995.

Transco states that the purpose of the instant filing is to revise Section 50.4 of the General Terms and Conditions of Transco's Volume No. 1 Tariff in order to extend certain cash out benefits to shippers transporting liquefiables pursuant to a liquefiable transportation agreement with Transco. Currently, shippers transporting liquefiables pursuant to a liquefiable transportation agreement are subject to the provisions of Section 5.3 of Rate Schedule IT, but not subject to the provisions of Section 5.5 of Rate Schedule IT.

In this filing, Transco states that it proposes to revise Section 50.4(b) of the General Terms and Conditions to provide that a shipper's imbalance associated with transportation service provided under a liquefiable transportation agreement be aggregated with that shipper's imbalance associated with transportation service under Rate Schedule IT. These combined imbalance volumes will then be minimized in accordance with Section 5.5 of Rate Schedule IT so as to reduce the transportation volumes subject to cash out.

Transco states that it is serving copies of the instant filing to its customers, State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 26, 1995. 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. 95–26397 Filed 10–24–95; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RP95–197–000 and RP95–197–001]

Transcontinental Gas Pipe Line Corporation; Notice of Informal Settlement Conference

October 19, 1995.

Take notice that an informal settlement conference will be convened in this proceeding on Tuesday, October 31, 1995, at 10:00 a.m., for the purpose of exploring the possible settlement of the above-referenced proceeding. The conference will be held at the offices of the Federal Energy Regulatory Commission, 888 First Street NW., Washington, DC.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations. *See* 18 CFR 385.214.

For additional information, please contact Warren C. Wood at (202) 208–2091 or Donald A. Heydt at (202) 208–0740.

Lois D. Cashell,
Secretary.
[FR Doc. 95–26394 Filed 10–24–95; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. MG88–54–006]

Trunkline Gas Company; Notice of Filing

October 20, 1995.

Take notice that on September 7, 1995, Trunkline Gas Company (Trunkline) filed revised standards of conduct under Order Nos. 497 *et seq.*[1] and Order Nos. 566, *et seq.*[2] Trunkline states that it is revising its standards of conduct because it has a new marketing affiliate, Associated Gas Services, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211

[1] Order No. 497, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶30,820 (1988); Order No. 497–A, *order on rehearing*, 54 FR 52781 (December 22, 1989), III FERC Stats. & Regs. 30,868 (1989); Order No. 497–B, *order extending sunset date*, 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶30,908 (1990); Order No. 497–C, *order extending sunset date*, 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F. 2d 1187 (D.C. Cir. 1992); Order No. 497–D, *order on remand and extending sunset date*, III FERC Stats. & Regs. ¶30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, *order on rehearing and extending sunset date*, 59 FR 243 (January 4, 1994), 65 FERC ¶61,381 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification*, 59 FR 15336 (April 1, 1994), 66 FERC ¶61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date*, 59 FR 32884 (June 27, 1994), III FERC Stats. & Regs. ¶30,996 (June 17, 1994).

[2] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), III FERC Stats. & Regs. ¶30,997 (June 17, 1994); order No. 566–A, *order on rehearing*, 59 FR 52896 (October 20, 1994), 69 FERC ¶61,044 (October 14, 1994); Order No. 566–B, *order on rehearing*, 59 FR 65707 (December 21, 1994); 69 FERC ¶61,334 (December 14, 1994); *appeal docketed, Concoco, Inc. v. FERC*, D.C. Cir. No. 94–1745 (December 13, 1994).

or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before November 6, 1995. 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. 95–26503 Filed 10–24–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT96–3–000]

Williams Natural Gas Company; Notice of Refund Report

October 19, 1995.

Take notice that on October 13, 1995, Williams Natural Gas Company (WNG) tendered for filing a report of refunds made to customers, pursuant to Commission order issued February 22, 1995, in Docket No. RP95–124–000.

WNG states that the February 22 order directed each pipeline receiving a refund from GRI to credit such refunds pro rata to its eligible firm customers, and within 15 days of making these credits, file a refund report with the Commission. WNG states that the attached refund report reflects refunds of $457,480 made by WNG to its eligible firm customers on October 13, 1995.

WNG states that a copy of its filing was served on all customers receiving a refund and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, in accordance with 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 26, 1995. 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. 95–26390 Filed 10–24–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5319–7]

Agency Information Collection Activities

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 EPA is planning to submit the following renewal Information Collection Request (ICR) to the Office of Management and Budget (OMB). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collections as described below.

DATES: Comments must be submitted on or before December 26, 1995.

ADDRESSES: Office of Air Quality Planning and Standards, Emissions Monitoring, and Analysis Division (MD–14), Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: David Lutz, Emissions Monitoring and Analysis Division (MD–14), U.S.Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–5476, FAX (919) 541–1903.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those State and local air pollution control agencies which collect and report ambient air quality data for the criteria pollutants to EPA.

Title: Ambient Air Quality Surveillance, OMB Number 2060–0084, EPA ICR # 940.13, expires 1/31/96.

Abstract: The general authority for the collection of ambient air quality data is contained in sections 110 and 319 of the Clean Air Act (42 USC 1857). Section 110 makes it clear that State generated air quality data is central to the air quality management process through a system of State implementation plans (SIP). Section 319 was added via the 1977 Amendments to the Act and spells out the key elements of an acceptable monitoring and reporting scheme. To a large extent, the requirements of section 319 had already been anticipated in the detailed strategy document prepared by EPA's Standing Air Monitoring Work Group (SAMWG). The regulatory provisions to implement these recommendations were developed through close consultation with the State and local agency representatives serving on SAMWG and through reviews by ad-hoc panels from the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials. These modifications to the previous regulations were issued as final rules on May 10, 1979 (44 FR 27558) and are contained in 40 CFR part 58.

Major amendments, which affect the hourly burdens, were made in 1983 for lead, 1987 for PM–10, and 1993 for the enhanced monitoring for ozone. The specific required activities for the burden include establishing and operating ambient air monitors and samplers, conducting sample analyses for all pollutants for which a national ambient air quality standard (NAAQS) has been established, preparing, editing, and quality assuring the data, and submitting the ambient air quality data and quality assurance data to EPA.

Some of the major uses of the data are for judging attainment of the NAAQS, evaluating progress in achieving/maintaining the NAAQS or State/local standards, developing or revising SIP's, evaluating control strategies, developing or revising national control policies, providing data for model development and validation, supporting enforcement actions, documenting episodes and initiating episode controls, documenting population exposure, and providing information to the public and other interested parties.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: It is estimated that there are presently 136 State and local agencies which are currently required to submit the ambient air quality data and quality assurance data to EPA on a quarterly basis. The current annual burden for the collection and reporting of ambient air quality data has been estimated on the existing ICR to be 1,260,887 hours, which would average out to be approximately 9,270 hours per respondent. As a part of this ICR renewal, an evaluation will be made of the labor burden associated with this activity.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9.

Send comments regarding these matters, or any other aspect of the information collection, including suggestions for reducing the burden, to the address listed above.

Dated: October 16, 1995.

William F. Hunt, Jr.,

Director, Emissions, Monitoring, and Analysis Division.

[FR Doc. 95–26462 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL-5319-8]

Agency Information Collection Activities Up for Renewal; Water Quality Standards Regulation

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) listed below is coming up for renewal. Before submitting the renewal package to the Office of Management and Budget (OMB), EPA is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before December 26, 1995.

ADDRESSES: Water Quality Standards Branch, U.S. EPA, 401 M Street SW., Mailcode 4305, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Karen Gourdine, Telephone Number: (202) 260-1328, Facsimile Number: (202) 260-9830.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities affected by this action are Indian Tribes that are seeking or have EPA authorization to administer the water quality standards program contained in Section 303 of the Clean Water Act and the 50 States and 7 Territories (the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Island).

Title: Information Collection Request for the Water Quality Standards Regulation (OMB Control #2040-0049; Expiration Date: February 26, 1996).

Abstract: Water quality standards are provisions of Tribal, State, or Federal law which consist of designated uses for the waters of the United States, water quality criteria for the waters based on such uses, and an antidegradation policy to prevent the degradation of water quality. Water quality standards are established to protect the public health or welfare, protect and enhance the quality of water, and serve the purposes of the Clean Water Act ("CWA"). Such standards serve two primary purposes. First, they define water quality goals for water bodies. Second, they serve as a regulatory basis for establishing water quality-based treatment controls and strategies beyond technology-based treatment required by Sections 301 and 306 of the CWA. At a minimum, water quality standards must contain use designations for waterbodies, water quality criteria that protect the use designations, and an antidegradation policy that protect the both existing uses and high quality waters.

States are required by Federal law to establish water quality standards. Currently, CWA Section 303(c) of the CWA (33 U.S.C. 1313(c)) governs the water quality standards program. Section 303(c) requires Indian Tribes (that have received EPA authorization to adminster the water quality standards program and have had their water quality standards approved by EPA) as well as States to review and revise their water quality standards at least once every three years and to submit to EPA the results of the revisions. EPA then reviews each State or Tribal submission for approval or disapproval.

The Water Quality Standards Regulation (40 CFR Part 131) is the EPA regulation governing the implementation of the water quality standards program. The Water Quality Standards Regulation (the Regulation) describes requirements and procedures for the States and Tribes to develop, review, and revise their water quality standards and for EPA to review and approve the water quality standards. Section 131.6 establishes the following minimum requirements for a water quality standards submission: (a) use designations consistent with Section 101(a)(2) and 303(c)(2) of the Act, (b) methods used and analyses conducted to support water quality standards revisions, (c) water quality criteria sufficient to protect the designated uses, (d) an antidegradation policy consistent with 40 CFR 131.12, (e) certification by the State Attorney General or other appropriate legal authority that the water quality standards were duly adopted pursuant to State or Tribal law, and (f) information which will aid EPA in determining the adequacy of the scientific basis of the standards that do not include the uses specified in Section 101(a)(2) of the Act and information on general policies that may affect the application and implementation of the standards.

EPA's review of State and Tribal submissions is implemented through Section 131.5 of the Regulation. The review criteria are: (a) whether the adopted use designations are consistent with CWA requirements, (b) whether the criteria protect the designated water uses, (c) whether the State or Tribe has followed its legal procedures for revising or adopting standards, (d) whether the standards which do not include uses specified in Section 101(a)(2) of the Act are based on appropriate technical and scientific data and analyses, and (e) whether the submission meets the minimum elements from section 131.6 (above).

CWA Section 518(e) requires EPA to promulgate regulations specifying how Indian Tribes would qualify to administer the water quality standards program, and to establish a mechanism to resolve disputes which arise between States and Tribes over water quality standards on common waterbodies. Implementation of the regulatory revisions will likely include collection of information by EPA for purposes of determining if a Tribe is qualified to administer the water quality standards program, and determining if initiation of a formal EPA dispute resolution action is justified. Tribes are not required to apply for administering the water quality standards program, nor are Tribes/States required to request EPA assistance in resolving disputes. However, where Tribes desire to be authorized to administer the water quality standards program, or where Tribes/States desire a formal EPA dispute resolution action, information collection will be necessary.

Based on the review of their existing water quality standards, State and Tribal agencies make recommendations on any justified changes to the water quality standards. The State or Tribe must then provide an opportunity for at least one

public hearing (at least once every three years) for the purpose of receiving public input on the review and proposed revisions to the standards. Based on the record developed according to the State's or Tribe's administrative procedures requirements, the State and Tribes adopts those changes deemed justified.

The results of the review and other materials are submitted to the EPA for review (performed at the Regional offices). If the standards are consistent with the CWA, EPA must approve the standards within 60 days; if the standards are not consistent with the CWA, EPA will disapprove the standards. If the State or Tribe does not make changes necessary to the standards within 90 days, EPA may propose to promulgate a Federal regulation to remedy the disapproval.

Where an Indian Tribe desires to seek authorization for administering its own water quality standards program, the Tribe will be required to submit an application containing sufficient information for EPA to determine if the Tribe is qualified. The application includes: (a) Evidence that the Tribe is recognized by the Secretary of the Interior; (b) A narrative statement that the Tribe is currently carrying out substantial governmental duties and powers over a Federal Indian reservation; and, (c) A narrative statement of the Tribe's authority to regulate the quality of reservation waters, and a narrative statement describing the capability of the Tribe to administer an effective water quality standards program. Because the application process to seek authorization of the water quality standards program is a one-time effort on the part of Tribes, there are no reporting frequencies associated with this information submission.

Where a dispute arises between a Tribe and a State over a common waterbody, and the Tribe or State desires EPA to initiate a formal dispute resolution action, the Tribe or State will be required to submit a written request to EPA. Some of the information needed includes: (a) A statement of the alleged unreasonable consequences that have arisen due to the differing water quality standards; (b) A description of the actions which have been taken to resolve the dispute (c) An identification of the water quality standards provision(s) which has resulted in the dispute, and (d) A statement of the relief sought.

State and Tribal water quality standards are used in several ways including serving as water quality goals for each waterbody, helping Federal, State, Tribal, and local governments develop water quality management plans and objectives, helping land use planners plan future growth helping industries make facility citing decisions, and helping State and local governments plan for and protect water supplies. Most importantly, water quality standards serve as the foundation of regulatory requirements for controlling pollutant discharges. The water quality standards program provides the basis for water quality-based pollutant controls which must be implemented where technology-based controls do not enable the water quality standards to be met. The water quality standards program also identifies situations where non-point sources need controlling and serve as the basis for establishing wasteload allocations and water quality-based permit limits for point source dischargers. If this activity were not carried out, explicit requirements of the Clean Water Act would be violated.

EPA will use the information submitted by the State or Tribes for initiation of a formal EPA dispute resolution action to determine if initiation of such a dispute resolution is justified under CWA Section 518(e). Because requesting EPA dispute resolution is optional, there are no reporting frequencies associated with any of the dispute resolution request information submission requirements. EPA assumes that requests for dispute resolution will occur only where desired by States or Tribes, and only once per dispute.

To minimize the information submission burden on States and Tribes pertaining to dispute resolution, the submission of a formal written request is not necessary where informal EPA mediation of disputes is desired. Written requests and information submission are only required where a State or Tribe desires a formal EPA dispute resolution action. Because each dispute over water quality standards will be unique, and the information required to be submitted pertains solely to the dispute it is very unlikely that Tribes will be required to re-submit information which has previously been provided when requesting an EPA dispute resolution action.

EPA has developed numerous detailed program and technical guidance documents to assist States and Tribes in reviewing their standards, performing UAAs, deriving site-specific criteria, conducting wasteload allocations, and incorporating water quality-based control requirements into National Pollution Discharge Elimination System (NPDES) permits. EPA also provides assistance to help States and Tribes address certain water quality issues. Additionally, EPA provides a computerized system (STORET) which States and Tribes may use and which minimizes the burden to maintain records on water quality data. Furthermore, efforts has been made to to reduce the burden on Tribes that choose to apply for any CWA or SDWA programs.

The information collection schedule is pursuant to the mandates of Section 303(c) of the CWA and, thus, is not adjustable by the EPA. The triennial review cycle ensures that the latest scientific and other information are reflected in the standards. Application by Indian Tribes to administer the water quality standards program is a one-time collection of information per respondent. Requests for dispute resolution also will be a one-time collection of information per respondent.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR Part 9. This ICR renewal does not involve third party and public disclosures not previously reviewed and approved by OMB.

The CWA and EPA's water quality standards regulation require reporting from 50 States and 7 commonwealths and territories, and Indian Tribes (that have developed their water quality standards and have EPA authorization to administer the water quality standards program). The reporting consists of submitting the reviewed, revised, and adopted water quality standards to EPA at least once every three years. Also, the reporting includes Tribal applications to administer the water quality standards program and State/Tribal requests for dispute resolution. The ICR renewal will not include the burden for third-party and public disclosures not previously reviewed and approved by OMB.

EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The existing estimated total annual burden to the respondents is 193,440 hours per year (based on 77 jurisdictions with 20 Indian Tribes qualifying for administer the water quality standards program). Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions, develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Send comments regarding these matters, or any other aspect of the information collection, including suggestions for reducing the burden, to: Karen Gourdine, Water Quality Standards Branch, U.S. EPA, 401 M Street SW., Mailcode 4305, Washington, DC 20460.

Dated: October 19, 1995.

Tudor T. Davies,

Director, Office of Science and Technology.

[FR Doc. 95–26458 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5318–1]

Office of Research and Development; Ambient Air Monitoring Reference and Equivalent Methods; Reference and Equivalent Method Designations

Notice is hereby given that the EPA, in accordance with 40 CFR part 53, has designated one additional reference method and two additional equivalent methods for ambient air monitoring. The reference method is for the measurement of ambient concentrations of carbon monoxide, and the two equivalent methods are for the measurement of ambient concentrations of lead in suspended particulate matter.

The new reference method for carbon monoxide is an automated method (analyzer) which utilizes the measurement principle based on infrared absorption combined with gas filter correlation and the calibration procedure specified in Appendix C of 40 CFR part 50. This new designated method is identified as follows:

RFCA–0995–108, "Environnement *[sic]* S.A. Model CO11M Ambient Carbon Monoxide Analyzer," operated with a full scale range of 0–50 ppm, at any temperature in the range of 15 °C to 35 °C, with a 5-micron PTFE sample particulate filter, with the following software settings: Automatic response time ON, Minimum response time set to 40 seconds (RT 13), Automatic ZERO–REF cycle programmed every 24 hours, and with or without any of the following options: RS 232–422 Interface; Internal Printer.

Note: In addition to the standard U.S. electrical power voltage and frequency (115 Vac, 60 Hz), this analyzer is approved for use, with proper factory configuration, on 50 Hertz line frequency and any of the following voltage ranges: 105–125 Vac (115 volts nominal) and 210–250 Vac (230 volts nominal).

This method is available from Environnement *[sic]* S.A., 111, bd Robespierre, 78300 Poissy, France or from Environnement *[sic]* U.S.A., 570 Higuera Street, Suite 25, San Luis Obispo, California 93401. A notice of receipt of application for this method appeared in the **Federal Register**, Volume 60, Number 111, June 9, 1995, page 30535.

A test analyzer representative of this method has been tested by the applicant, in accordance with the test procedures specified in 40 CFR part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with part 53, that this method should be designated as a reference method.

The two new equivalent methods for the determination of lead in suspended particulate matter collected from ambient air are identified as follows:

(1) EQL–0995–109, "Determination of Lead Concentration in Ambient Particulate Matter by Inductively Coupled Argon Plasma-optical Emission Spectrometry (Pima County, Arizona)."

(2) EQL–0995–110, "Determination of Lead Concentration in Ambient Particulate Matter by Inductively Coupled Plasma–Mass Spectrometry (Pima County, Arizona)."

The applicant's request for equivalent method determinations for these two methods was received on June 25, 1995. These methods have been tested by the applicant, Pima County, Wastewater Management Department, Tucson, Arizona, in accordance with the test procedures prescribed in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that these methods should be designated as equivalent methods. Both of these methods use the sampling procedure specified in the reference method for the determination of lead in suspended particulate matter collected from ambient air (40 CFR 50, Appendix G). In each of these methods, lead in the particulate matter is solubilized by extraction with nitric acid facilitated by heat. In method (1), the lead content of the sample extract is analyzed with a Leeman Labs PS–5 inductively coupled argon plasma-optical emission spectrometer operating at a frequency of 40 MHz and using the 220.353 nm lead adsorption line. In method (2), the lead content of the sample extract is analyzed with a VG PlasmaQuad 1 inductively coupled argon plasma-mass spectrometer operating at a frequency of 27 MHz. In both methods, the instrumental operating conditions have been optimized by the user-laboratory. Technical questions concerning these methods should be directed to Pima County, Wastewater Management Department, 201 North Stone Avenue, Tucson, Arizona 85701–1207.

The information submitted by these two applicants will be kept on file at EPA's National Exposure Research Laboratory, Research Triangle Park, North Carolina 27711 and will be available for inspection to the extent consistent with 40 CFR part 2 (EPA's regulations implementing the Freedom of Information Act).

As a designated reference or equivalent method, each of these methods is acceptable for use by States and other air monitoring agencies under requirements of 40 CFR part 58, Ambient Air Quality Surveillance. For such purposes, each method must be used in strict accordance with the operation or instruction manual associated with the method or the procedures and specifications provided in the method description and subject to any limitations (e.g., operating temperature range) specified in the applicable designation (see description of the methods above). Vendor modifications of a designated method used for purposes of part 58 are permitted only with prior approval of the EPA, as provided in part 53. Provisions concerning modification of such methods by users are specified under Section 2.8 of Appendix C to 40 CFR part 58 (Modifications of Methods by Users).

In general, a designation applies to any analyzer which is identical to the analyzer described in the designation. In some cases, similar analyzers manufactured prior to the designation may be upgraded (e.g., by minor modification or by substitution of a new operation or instruction manual) so as to be identical to the designated method and thus achieve designated status at a modest cost. The manufacturer should be consulted to determine the feasibility of such upgrading. States or other agencies wishing to use a method similar to either of the new lead methods that employs procedures and specifications significantly different from those in either EQL–0995–109 or EQL–0995–110 must seek specific approval for their particular method under the provisions of Section 2.8 of Appendix C to 40 CFR Part 58 (Modification of Methods by Users), or may seek designation of such a method as an equivalent method under the provisions of 40 CFR Part 53.

Part 53 requires that sellers of designated method analyzers comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B–1 of part 53 for at least one year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with part 53.

(5) If such an analyzer has two or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(6) An applicant who offers analyzers for sale as reference or equivalent method is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzer has been canceled or if adjustment of the analyzer is necessary under 40 CFR part 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representation), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR part 53.14(c) that the original designation or a new designation applies to the method as modified, or until he has applied for and received notice under 40 CFR 53.8(b) of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated noncompliance with any of these conditions should be reported to: Director, National Exposure Research Laboratory, Air Measurements Research Division (MD–78A), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of these reference and equivalent methods is intended to assist the States in establishing and operating their air quality surveillance systems under part 58. Technical questions concerning any of the methods should be directed to the applicant. Additional information concerning this action may be obtained from Frank F. McElroy, Air Measurements Research Division (MD–77), National Exposure Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541–2622.

Joseph K. Alexander,

Acting Assistant Administrator.

[FR Doc. 95–26464 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5317–9]

Office of Research and Development; Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Application for an Equivalent Method Determination

Notice is hereby given that on August 21, 1995, the Environmental Protection Agency received an application from Horiba Instruments, Incorporated, 17671 Armstrong Avenue, Irvine, California, 92714, to determine if their Model APOA–360 Ambient Ozone Monitor should be designated by the Administrator of the EPA as an equivalent method under 40 CFR Part 53. If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the **Federal Register**. For additional information regarding receipt of this application, contact Frank F. McElroy (MD–77), National Exposure Research Laboratory, U.S. EPA, Research Triangle Park, NC, 27711 (919–541–2622).

Joseph K. Alexander,

Acting Assistant Administrator for Research and Development.

[FR Doc. 95–26463 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–M

[PF–637; FRL–4984–6]

Carbofuran; Tolerance Extension

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received from the U.S. Canola Association a request that the Agency self-initiate an extension of the existing time-limited tolerance for use of carbofuran on canola. The tolerance currently is scheduled to expire on February 22, 1997. The extension would be for 1 year.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, 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. 1132 at the Virginia address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form

must be identified by the docket number [PF-637]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis Edwards Jr., Product Manager (PM) 19, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703)-305-6386; e-mail: edwards.dennis@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This notice announces that EPA has received from the U.S. Canola Association, a request that the Agency initiate an extension of the existing time-limited tolerance for use of carbofuran on canola. The current tolerance was established in the **Federal Register** of February 22, 1995 (60 FR 9781) for carbofuran (2,3-dihydro-2,2-dimethyl-7-benzoate-*N*-methylcarbamate), its carbamate metabolite, 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methylcarbamate, and its phenolic metabolites, 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol, in or on canola at 1.0 part per million (ppm) with an expiration date of February 22, 1997. The U.S. Canola Association has requested that EPA initiate a 1-year extension of the tolerance to establish a new expiration date of February 22, 1998. EPA can establish tolerances on its own initiative under under the Federal Food, Drug and Cosmetic Act (FFDCA sections 408(e) and 409(d)).

A record has been established for this rulemaking under docket number [PF-637] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

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

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

List of Subjects

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

Authority: 21 U.S.C. 346a and 348.

Dated: October 17, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–26473 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30397; FRL–4986–4]

Armatron International, Inc.; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing a new active not included any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by November 24, 1995.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30397] and the file symbol (34473–U) to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will be accepted on disks in Wordperfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30397]. No "Confidential Business Information" (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

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. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Michael Mendelsohn, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8715; e-mail: mendelsohn.mike@epamail,epa.gov.

SUPPLEMENTARY INFORMATION: EPA received an application from Armatron International, Inc., Melrose, MA 02176, to register the pesticide product, Flowtron Octenol (EPA File Symbol 34473–U), containing the active ingredient 1-octen-3-OL at 73 percent, an active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(4) of FIFRA. This product is used as a mosquito attractant to make electric insect killers more effective in luring and killing certain mosquitoes and biting flies. Notice of receipt of this application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for

requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

A record has been established for this notice under docket number [OPP–30397] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

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

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

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division at the address provided from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: October 19, 1995.

Flora Chow,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 95–26477 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30378A/30385A; FRL–4979–6]

Certain Companies; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications to register the pesticide products Checkmate PTB Technical Pheromone, Checkmate PTB Dispenser, Neem Oil TGAI, and NeemGuard, containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person: Contact each person named in the registration at the following office location/telephone number:

Contact Person	Office location/telephone number	Address
Rita Kumar,	5th Fl, CS #1 (703–308–8712); e-mail: kumar.rita@epamail.epa.gov.	Environmental Protection Agency Westfield Building North Tower 2800 Crystal Drive Arlington, VA 22202
Paul Zubkoff,	5th Fl, CS #1 (703–308–8694); e-mail: zubkoff.paul@epamail.epa.gov.	-Do-

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of January 13, 1995 (60 FR 3209), which announced that Consep, Inc., 213 Southwest Columbia St., Bend, OR 97702, had submitted applications to register the pesticide products Checkmate PTB Technical Pheromone and Checkmate PTB Dispenser (EPA File Symbols 56336–RL and 56336–RA) containing the active ingredients (*E*)-5-decenyl acetate 77 and 7.92 percent and (*E*)-5-decenol 16.00 and 1.65 percent respectively. (Rita Kumar)

EPA also issued a notice published in the **Federal Register** of April 12, 1995 (60 FR 18599), which announced that W.R. Grace and Co.-Conn., 7379 Route 32, Columbia, MD 21044, had submitted applications to register pesticide products Neem Oil TGAI and NeemGuard (EPA File Symbols 11688–I and 11688–O), containing the active ingredient clarified hydrophobic extract of neem oil at 100 and 90 percent respectively, active ingredients not included in any previously registered products. (Paul Zubkoff)

EPA approved two products for Consep, Inc. on February 14, 1995, and two products for W.R. Grace Co.-Conn, on July 20, 1995, as listed below:

1. Checkmate PTB Technical Pheromone (EPA Registration Number 56336–15) for use in manufacturing or formulating use only.
2. Checkmate PTB Dispenser (EPA Registration Number 56336–16) for control of peach twig borer.
3. Neem Oil TGAI (EPA Registration Number 11688–8) for manufacturing use only.
4. NeemGuard (EPA Registration Number 11688–9) for use on nonfood/nonfeed crops (ornamentals, trees, and shrubs) in and around commercial nurseries, and residential structures.

The Agency has considered all required data on risks associated with the proposed use of (*E*)-5-decenyl acetate, (*E*)-5-decenol, and clarified hydrophobic extract of neem oil, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has

considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health safety determinations which show that use of (*E*)-5-decenyl acetate, (*E*)-5-decenol, and clarified hydrophobic extract of neem oil when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

More detailed information on these registrations is contained in a Pesticide Fact Sheet on (*E*)-5-decenyl acetate, (*E*)-5-decenol, and clarified hydrophobic extract of neem oil.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1132, CM #2, Arlington, VA 22202 (703–305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 401 M St., SW., Washington, D.C. 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: October 11, 1995.

Janet L. Andersen,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 95–26476 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30348A; FRL–4984–5]

E.I. DuPont de Nemours and Company; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications to conditionally register the pesticide products Fortress Technical, Fortress 5G Granular Insecticide, and Fortress 2.5G Granular Insecticide; containing a new active ingredient not included in any previously registered product pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis H. Edwards, Product Manager (PM 19) Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–305–6386; e-mail: edwards.dennis@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of February 18, 1993 (58 FR 8945), which announced that E.I. du Pont de Nemours and Company had submitted applications to register the pesticide products Fortress Technical and Fortress 5G Granular Insecticide containing the active ingredient, chlorethoxyfos.

The company later submitted an application to register Fortress 2.5G Granular Insecticide (File Symbol 352–LTO). However, since the notice of receipt did not publish in the **Federal Register** as required by FIFRA, as amended, interested parties may submit written or electronic comments within 30 days after date of publication for this product only.

The applications were approved as conditional registrations on September 18, 1995, for a 3-year period, to control northern, western, and southern corn rootworms, wireworms, cutworms, seedcorn maggots, white grubs and symphylans (EPA Registration Numbers 352–553, 352–552, and 352–579 respectively).

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on the condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and, that use of the pesticide is in the public interest.

The Agency has considered the available data on the risks associated with the proposed use of phosphorothioic acid, *O,O*-diethyl *O*-(1,2,2,2-tetrachloroethyl) ester and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature of its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of phosphorothioic acid, *O,O*-diethyl *O*-(1,2,2,2-tetrachloroethyl) ester during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is in the public interest.

Consistent with section 3(c)(7)(C), the Agency has determined that this conditional registration is in the public interest. Use of the pesticide is of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticide will not result in unreasonable adverse effects to man and/or the environment.

More detailed information on these conditional registrations is contained in a Pesticide Fact Sheet on chlorethoxyfos (Fortress).

A copy of the Fact Sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved labels and the list of data references used to support registration are available for public inspection in the office of the Product Manager (PM). The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1132, CM #2, Arlington, VA 22202, (703)–305–5805. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A101), 401 M St.,

SW, Washington, D.C. 20460. Such requests should: (1) identify the product name and registration number, and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: October 18, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–26478 Filed 10-24–95; 8:45 am]

BILLING CODE 6560–50–F

[PF–635; FRL–4982–4]

Pesticide Tolerance Petitions; Filings and Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces initial filings and amendments of pesticide petitions (PP) and food and feed additive petitions (FAP) proposing the establishment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, 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. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF-635]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, contact the PM named in each petition at the following office location/telephone number:

Product Manager	Office location/telephone number/e-mail	Addresses
George LaRocca (PM 13)	Rm. 204, CM #2, 703-305-6100; e-mail: larocca.george@epamail.epa.gov..	1921 Jefferson Davis Hwy., Arlington, VA.
Robert Forrest (PM 14)	Rm. 219, CM #2, 703-305-6600; e-mail: forrest.robert@epamail.epa.gov..	Do.
Dennis Edwards (PM 19)	Rm. 207, CM #2, 703-305-6386; e-mail: edwards.dennis@epamail.epa.gov..	Do.
Connie Welch (PM 21)	Rm. 227, CM #2, 703-305-6226; e-mail: welch.connie@epamail.epa.gov..	Do.
Joanne Miller (PM 23)	Rm. 237, CM #2, 703-305-7830; e-mail: miller.joanne@epamail.epa.gov..	Do.
Phillip Hutton (PM 90)	5th Floor, CS #1, 703-308-8260; e-mail: hutton.phillip@epamail.epa.gov..	2800 Jefferson Davis Hwy., Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions and food/feed additive petitions as follows proposing the amendment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

Initial Filings

1. *PP 5E4516*. Monsanto Co., 700 Chesterfield Parkway North, St. Louis, MO 63198, has submitted the petition requesting that 40 CFR part 180 be amended to establish an exemption from the requirement of a tolerance for the plant pesticide formulation inert ingredient 5-enolpyruvylshikimate-3-phosphate synthase from *Agrobacterium sp.* strain CP4 (CP4 EPSPS) and the genetic material necessary for the production of this protein in or on all raw agricultural commodities when used as a plant-pesticide inert ingredient. (PM 90)

2. *PP 5E4517*. Northrup King Co., 7500 Olson Memorial Hwy., Golden Valley, MN 55427, has submitted the petition proposing that 40 CFR 180.1001 be amended to establish an exemption from the requirement of a tolerance for the inert plant pesticide ingredient phosphinothricin acetyltransferase (PAT) as produced in corn by the PAT gene and its controlling sequences as found on plasmid vector pZO1502. Its use will be as a selection tool. (PM 90)

3. *PP 5F04445*. Champon 100% Natural Products, Inc., 10528 Mendocino Lane, Boca Raton, FL 33428, proposes that 40 CFR part 180 be amended to establish an exemption from the requirement of a tolerance for

allyl isothiocyanate (a component of oil of mustard) in or or all fruits and vegetables, nuts, berries, and grains. (PM 14)

4. *PP 5F4473.* Monsanto Co., 700 Chesterfield Parkway North, St. Louis, MO 63198, has submitted the petition requesting that 40 CFR 180.1011 be amended to include an exemption from the requirement of a tolerance for the plant pesticide *Bacillus thuringiensis* subsp. *kurstaki* Insect Control Protein (CryIA(b)) as produced in plant cells. (PM 90)

5 *PP 5F4481.* Meiji Milk Products Co., Ltd., 2-Chome, Kyabashi Chuo-ku, Tokyo, Japan 250, has submitted the petition requesting that 40 CFR part 180 be amended to establish an exemption from the requirement of a tolerance for residues of the fungicide sodium bicarbonate in or on citrus (lemons, limes, oranges, grapefruit, and tangerines). (PM 90)

6. *PP 5F4544.* Northrup King Co., 7500 Olson Memorial Hwy., Golden Valley, MN 55427, has submitted the petition proposing that 40 CFR part 180 be amended to include an exemption from the requirement of a tolerance for the delta endotoxin protein in corn by a CryIA(b) gene from *Bacillus thuringiensis* subsp. *kurstaki* HD-1 and inserted in the plant expression vector pZO1502. (PM 90)

7. *PP 5F4576.* Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419, proposes that 40 CFR part 180 be amended by establishing a regulation to permit the residues of the insecticide cyromazine, N-cyclo-propyl-1,3,5-triazine-2,4,6-triamine, plus its major metabolite melamine, 1,3,5-triazine-2,4-6-triamine, calculated as cyromazine in or on the raw agricultural commodities of crop group bulb vegetables (garlic, leeks, onions, shallots), following treatment of seed at 5.0 ppm. (PM 13)

8. *PP 5F4578.* AgrEvo USA Co., 2711 Centerville Rd., Wilmington, DE 19808, has submitted the petition requesting that 40 CFR 180.473 be amended for the herbicide glufosinate ammonium, butanoic acid, 2-amino-4-(hydroxymethyl phosphinyl), and its metabolites 2-acetamido-4-methylphosphinico-butanoic acid and 3-methylphosphinico-propionic acid, expressed as glufosinate free-acid equivalents in or on the following raw agricultural comodities: corn, field, grain at 0.2 ppm; corn, field, forage at 4.0 ppm; corn, field silage at 3.5 ppm; corn, field, fodder at 5.5 ppm; soybean seed at 2.0 ppm; and soybean hulls at 6.0 ppm. The proposed analytical method for determining residues is high-performance liquid chromatography. (PM 23)

9. *PP 5F4581.* AgrEvo USA Co., 2711 Centerville Rd., Wilmington, DE 19808, proposes amending 40 CFR 180.345 by establishing tolerances for the residues/combined residues of the herbicide ethofumeate (2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzufuranyl methanesulfonate) and its metabolites 2-hydroxy-2,3-dimethyl-5-benzofuranyl methanesulfonate and 2,3-dihydro-3,3-dimethyl-2-oxo-5-benzofuranyl methanesulfonate (both calculated as the parent compound) in or on the raw agricultural commodities grass forage at 1.0 ppm and grass, seed screenings at 0.5 ppm. The proposed analytical method for determining residues is GLC with FPD. (PM 23)

10. *PP 5F4584.* Gustafson, Inc., P.O. Box 660065, Dallas, TX 75266-0065, has submitted the petition that proposes that 40 CFR 180.472 be amended for the insecticide imidacloprid, 1-[(6-chloro-3-pyridinyl)methyl-N-nitro-2-imidazolidinimine, in or on barley, forage at 1.5 ppm, barley, straw at 0.2 ppm, and barley, grain at 0.05 ppm. (PM 19)

11. *PP 5F4585.* DowElanco, 9330 Zionsville Rd., Indianapolis, IN 46268-1054, proposes that 40 CFR part 180 be amended to establish an exemption from the requirement of a tolerance for residues resulting from the use of *S. spinosa* fermentation based products on all crops. (PM 13)

Amended Filings

12. *FAP 2H5640.* EPA gave notice in the **Federal Register** of June 10, 1992 (57 FR 24647), that Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419, proposed that 40 CFR parts 185 and 186 be amended by establishing a food/feed additive regulation to permit combined residues of the insecticide cyromazine, *N*-cyclo-propyl-1,3,5-triazine-2,4,6-triamine plus its major metabolite, melamine, 1,3,5-triazine-2,4-6-triamine, calculated as cyromazine, in or on processed tomato products at 1.2 ppm and dry tomato pomace at 1.6 ppm. The company has amended the petition to propose tolerances for the chemical in or on tomato products excluding juice at 2.5 ppm and tomato pomace, wet and dried, at 2.5 ppm. (PM 13)

13. *PP 6F3333.* EPA gave notice in the **Federal Register** of March 10, 1993 (58 FR 13261), that Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419, proposed to amend 40 CFR 180.414 by establishing a tolerance for the insecticide cyromazine, *N*-cyclo-propyl-1,3,5-triamine-2,4,6-triamine plus its major metabolite, melamine, 1,3,5-triazine-2,4-6-triamine calculated as cyromazine, in or on raw agricultural commodity tomatoes at 0.5 ppm. Ciba-Geigy has submitted a revised petition that proposes to increase the tolerance for the combined residues of the insecticide cyromazine, plus its major metabolite, melamine, on tomatoes at 1.0 ppm. In addition, Ciba-Geigy proposes to amend 40 CFR 180.414 by establishing separate tolerances for residues of cyromazine in meat, fat, and meat byproducts (including liver and kidney) of cattle, goats, hogs, horses, and sheep at 0.05 ppm and milk at 0.02 ppm under § 180.414(b) and (c), respectively, and establish a separate tolerance for residues of the metabolite 1-methylcyromazine (1-methyl-N-cyclopropyl-1,3,5-triazine-2,4,6-triamine), calculated as cyromazine, in liver and kidney of cattle, goats, hogs, horses, and sheep at 0.05 ppm. Ciba-Geigy also proposes to amend the established tolerances for cyromazine and melamine in or on fat, meat, and meat byproducts of chickens under 40 CFR 180.414(b) and (c) by removal of the restriction "from chicken layer hens and chicken breeder hens only." (PM 13)

14. *PP 6F3417.* Rhone-Poulenc Ag Co., P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangel Park, NC 27709, has submitted an amended petition that proposes that 40 CFR 180.407 be amended so that tolerances for thiodicarb and its metabolite for broccoli, cabbage, and cauliflower at 7 ppm be extended for 1 year with an expiration date of August 15, 1997. Notice of the petition appeared in the **Federal Register** of January 15, 1992 (57 FR 1733). Tolerances were extended to August 15, 1996, by a rule in the **Federal Register** of May 10, 1995 (60 FR 24785). (PM 19)

15. *PP 7F3516.* Rhone-Poulenc Ag Co., P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangel Park, NC 27709, has submitted an amended petition that proposes that 40 CFR 180.407 be amended so that tolerances for thiodicarb and its metabolite for leafy vegetables at 7 ppm be extended for 1 year with an expiration date of August 15, 1997. Notice of the petition appeared in the **Federal Register** of October 5, 1989 (54 FR 41160). Tolerances were extended to August 15, 1996, by a rule in the **Federal Register** of May 10, 1995 (60 FR 24785). (PM 19)

16. *PP 8F3578.* Rhone-Poulenc Ag Co., P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangel Park, NC 27709, has submitted an amended petition that proposes that 40 CFR 180.407 be amended for the insecticide thiodicarb proposing a tolerance for sweet corn forage of 300 ppm. Notice of this petition appeared in the **Federal**

Register of December 16, 1987 (52 FR 47754). (PM 19)

A record has been established for this rulemaking under docket number [PF-635] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

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

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

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 136a.

Dated: October 12, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 95–26471 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1070–DR]

Alabama; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Alabama, (FEMA–1070–DR), dated October 4, 1995, and related determinations.

EFFECTIVE DATE: October 18, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Alabama dated October 4, 1995, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 4, 1995:

The counties of Cullman and DeKalb for Individual Assistance, Public Assistance and Hazard Mitigation Assistance.

The counties of Etowah and St. Clair for Public Assistance. (Already designated for Individual Assistance and Hazard Mitigation Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Chief of Staff.

[FR Doc. 95–26449 Filed 10–24–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1069–DR]

Florida; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida (FEMA–1069–DR), dated October 4, 1995, and related determinations.

EFFECTIVE DATE: October 17, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for Lee and Collier Counties is reopened and amended to be October 4, 1995 and continuing. The incident period for all other counties designated is October 4 through and including October 11, 1995.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Craig S. Wingo,

Division Director, Infracture Support Division.

[FR Doc. 95–26450 Filed 10–24–95; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1066–DR]

Oklahoma; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Oklahoma (FEMA–1066–DR), dated September 1, 1995, and related determinations.

EFFECTIVE DATE: October 18, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Oklahoma dated September 1, 1995, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 1, 1995:

The County of Kiowa for Public Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Craig S. Wingo,

Division Director, Infrastructure Support Division.

[FR Doc. 95–26451 Filed 10–24–95; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Berkshire Financial Services, Inc.; Notice to Engage in Certain Nonbanking Activities

Berkshire Financial Services, Inc., Lee, Massachusetts, has provided notice pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), through its subsidiary, Berkshire Financial Centers, Inc., Lee, Massachusetts (Company), to provide securities brokerage and mortgage origination services pursuant to 12 CFR 225.25(b)(1) and 12 CFR 225.25(b)(15). Company would also market employee benefits plans offered by third parties.

The Board previously has permitted bank holding companies to offer employee benefits services directly. *See Centerre Bancorporation*, 73 Federal Reserve Bulletin 365 (1987).

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Boston.

Comments regarding this application must be received not later than November 8, 1995.

Board of Governors of the Federal Reserve System, October 19, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–26407 Filed 10–24–95; 8:45 am]

BILLING CODE 6210–01–F

FCB Holdings, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than November 17, 1995.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. FCB Holdings, Inc., Guthrie, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of First Capital Bancorp, Inc., Guthrie, Oklahoma, and thereby indirectly acquire First Capital Bank, Guthrie, Oklahoma.

Board of Governors of the Federal Reserve System, October 19, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–26408 Filed 10–24–95; 8:45 am]

BILLING CODE 6210–01–F

GreatBanc, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 8, 1995.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. GreatBanc, Inc., Aurora, Illinois; to acquire Local Loan Company, Chicago Heights, Illinois, and thereby engage in the activity of acting as principal, agent or broker for insurance related to its extension of credit, pursuant to § 225.25(b)(8)(i) & (ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 19, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–26409 Filed 10–24–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974; Computer Matching Program

AGENCY: Office of Child Support Enforcement (OCSE), ACF, DHHS.

ACTION: Notice of Computer Matching Program.

SUMMARY: OCSE is providing notice of new crossmatches between delinquent obligors and Federal personnel records. The crossmatches, which are required by Executive Order 12953 (60 FR 11013, February 28, 1995), will compare records in the Federal Tax Offset System Master File of Delinquent Obligors (compiled annually) against personnel records maintained by the Department of Defense (DoD) and the United States Postal Service (USPS). The names of Federal personnel who are identified as potentially delinquent obligors will be given to State IV–D agencies to determine whether wage withholding or other appropriate enforcement action should be initiated.

EFFECTIVE DATE: The new crossmatches will be implemented no sooner than November 24, 1995.

FOR FURTHER INFORMATION CONTACT: Harold Staten, OCSE, Division of Program Operations, Program Operations Branch, 370 L'Enfant Promenade, SW, 4th Floor—East, Washington, DC 20447, (202) 401–5752.

SUPPLEMENTARY INFORMATION: Pursuant to section 304 of Executive Order 12953, beginning in November 1995, OCSE will conduct periodic crossmatches between its Federal Tax Offset System Master File of Delinquent Obligors (Tax Offset File) and personnel/payroll files maintained by: (1) The Department of Defense; and (2) the United States Postal Service. The data to be matched consist of the Noncustodial parent's (NCP's) name and Social Security Number (SSN). When a match occurs between data on the Tax Offset File and on a DoD or USPS personnel/payroll file, the

names of Federal personnel who are identified as potentially delinquent obligors will be given to State IV-D agencies. The State agencies will verify the information and use it to determine whether wage withholding or other appropriate enforcement action should be initiated.

Notice of Computer Matching Program

1. General

Pub. L. 100–503, the Computer Matching and Privacy Protection Act of 1988, added several provisions to the Privacy Act to better safeguard the rights of individuals whose records are involved in computer matching programs. Section 7201 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101–508, further amended the provisions of the Privacy Act pertaining to computer matching. Matches conducted by OCSE for the purpose of locating absent parents are usually exempt from these provisions. See OMB Final Guidance on Pub. L. 100–503, 54 FR 25817 at 25823 (1989). However, Executive Order 12953 specifically mandated that the match described in this notice be conducted in accordance with the computer matching provisions of the Privacy Act set forth at 5 U.S.C. 552a(o)–(u). These sections require Federal agencies involved in computer matching programs to:

a. Negotiate written agreements with source agencies;

b. Provide notice to the affected individuals that their records are subject to matching;

c. Verify match findings before taking any adverse action against the individual whose records were matched;

d. Furnish detailed reports to Congress and OMB; and

e. Establish a Data Integrity Board that must approve matching agreements.

2. Crossmatches To Be Conducted by HHS/ACF/OCSE

a. Participating Agencies. HHS will conduct separate crossmatches with DoD records and with USPS records, as described more fully in paragraph (d) below.

b. Purpose of Crossmatches. HHS will conduct crossmatches with personnel/payroll records maintained DoD and USPS to enable it to identify, for State child support enforcement agencies, those Federal personnel who appear to have child support delinquencies. This information is provided so that States may verify the information and determine whether wage withholding or other enforcement actions should be commenced.

c. Authority for Conducting Crossmatches. The crossmatches will be conducted pursuant to section 304 of Executive Order 12953, dated February 27, 1995 (60 FR 11013, February 28, 1995). As required by this Executive Order, the crossmatches will also be performed in accordance with 5 U.S.C. 552a(o)-(u).

d. Categories of Records and Individuals Covered by the Match.

The records which will be accessed in this match are records of federal military or civilian employees which are located in the following systems of records:

(1) Federal Tax Refund Offset System, DHHS/OCSE No. 09–09–0074, last published at 55 FR 34764 on August 24, 1990;

(2) Federal Creditor Agency Debt Collection Data Base, S322.11 DMDC, last published at 58 FR 10875 on February 22, 1993;

(3) Finance Records—Payroll System, USPS 050.020, last published at 57 FR 57515 on December 4, 1992.

OCSE will submit to DoD and USPS the following data elements:

a. Noncustodial parent's (NCP's) Social Security Number (SSN)
b. NCP's name

USPS and DoD will disclose to OCSE the following information for each match:

a. NCP name
b. NCP's Social Security Number (SSN)
c. NCP's date of birth (if available)
d. Employer's name
e. Employer's address
f. Type of employment (if available)
g. Annual salary

Note: No disclosures will be made where such disclosures would violate national policy or security interests of the United States or the confidentiality of Census data. DoD shall notify OCSE immediately in all cases where it has identified such concerns.

e. Inclusive Dates of Matches. The crossmatches will begin no sooner than 30 days from the date copies of the approved agreement, and the notice of the matching program are sent to the Office of Management and Budget, the Senate Committee on Governmental Affairs and the House of Representatives Committee on Government Operations, or 30 days after publication of this notice in the **Federal Register**, whichever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

System Manager(s) and Address

Donna Bonar, Director, Division of Program Operations, Office of Child Support Enforcement, Department of Health and Human Services, 370 L'Enfant Promenade, SW, 4th Floor East, Washington, DC 20447

Dated: October 12, 1995.

David Gray Ross,

Deputy Director.

[FR Doc. 95– 26366 Filed 10–24 –95; 8:45 am]

BILLING CODE 4184–01P

Agency for Toxic Substances and Disease Registry

[ATSDR–103]

Notice of Availability of Administrative Reports of Health Effects Studies

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces the availability of Administrative Reports of twelve ATSDR health effects studies.

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Lybarger, M.D., M.S., Director, Division of Health Studies, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–31, Atlanta, Georgia 30333, telephone (404) 639–6200.

SUPPLEMENTARY INFORMATION: Sections 104(i)(1),(7), (8), and (9) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended [42 U.S.C. 9604(i)(1),(7),(8), and (9)], provide the Administrator of ATSDR with the authority to conduct pilot studies, epidemiologic and other health studies, and to initiate health surveillance programs to determine the relationship between human exposure to hazardous substances in the environment and adverse health outcomes.

On February 13, 1990, ATSDR published in the **Federal Register** [55 FR 5136] a final rule entitled, "Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities." The primary purpose of that rule, which created a new regulation at 42 CFR Part 90, was to set forth general procedures that ATSDR will follow relating to certain agency activities, including the conduct of health effects studies. Section 90.11 of the regulation concerns the reporting of results of health assessments and health effects studies, and provides that reports of health effects studies conducted under section 104(i) of CERCLA be available to the general public upon request.

Availability

The reports of the health effects studies listed below are now available through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22151, telephone 1–800–553–6847. There is a charge for these items as determined by NTIS.

Health effects study	NTIS document No.
Pancreatic Cancer Mortality and Residential Proximity to Railroad Refueling Facilities in Montana. ATSDR/HS–95/45	PB95–191359
Biologic Indicators of Exposure to Heavy Metals in Fish Consumers, American Samoa. ATSDR/HS–95/46	PB95–182994
Multisite Lead and Cadmium Exposure Study with Biological Markers Incorporated. ATSDR/HS–95/47	PB95–199188
Madison County Lead Exposure Study. ATSDR/HS–95/48	PB95–209631
Missouri Respiratory Study: Forest City and Glover, Missouri. ATSDR/HS–95/49	PB95–212742
Symptom and Illness Prevalence with Biomarkers Health Study for Calvert City and Southern Livingston County, Kentucky. ATSDR/HS–95/50.	PB95–222808
Analytic Study to Evaluate Associations Between Hazardous Waste Sites and Birth Defects. ATSDR/HS–95/51	PB95–199196
National Exposure Registry, Benzene Subregistry, Baseline Technical Report. ATSDR/HS–95/52	PB95–255766
Development and Evaluation of a Statewide Surveillance System: Hazardous Waste Sites and Cancer Incidence in New York State. ATSDR/HS–95/53.	PB95–230553
Biologic Indicators of Exposure to Cadmium and Lead: Palmerton, Pa., Part II. ATSDR/HS–95/54	PB95–225207
End-Stage Renal Disease Study, New York. ATSDR/HS–95/55	PB95–25389
A Case-Control Study to Determine Risk Factors for Elevated Blood Lead Levels in Children: Silver Valley, Idaho. ATSDR/HS–95/56.	PB95–253837

In accordance with 42 CFR 90.11, copies of these final reports have been distributed to the Environmental Protection Agency, the appropriate State and local government agencies, and the affected local communities.

ATSDR previously announced the availability of 44 final reports of health effect studies and a software package for the analysis of disease clusters (55 FR 31445, August 12, 1990; 57 FR 29091, June 30, 1992; 58 FR 29413, May 20, 1993; 58 FR 63378, December 1, 1993; 59 FR 47879, September 19, 1994; and 60 FR 25236, May 11, 1995). Additional final reports will be announced semiannually in the **Federal Register** as they become available.

Dated: October 19, 1995.

Claire V. Broome,

Deputy Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 95–26445 Filed 10–24–95; 8:45 am]

BILLING CODE 4163–70–P

Food and Drug Administration

[Docket No. 94F–0395]

Ecological Chemical Products Co.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 4B4432), filed by Ecological Chemical Products Co., proposing that the food additive regulations be amended to provide for the safe use of 2-hydroxy-propanoic acid homopolymer and (2-hydroxy-propanoic acid/ caprolactone) block copolymer as components of adhesives intended to contact food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 23, 1994 (59 FR 60364), FDA published a notice that it had filed a petition (FAP 4B4432) on behalf of Ecological Chemical Products Co., 305 Water St., Newport, DE 19804. The petition proposed to amend the food additive regulations in § 175.105 *Adhesives* (21 CFR 175.105) to provide for the safe use of 2-hydroxy-propanoic acid homopolymer and (2-hydroxy-propanoic acid/caprolactone) block copolymer as a component of adhesives intended to contact food. Ecological Chemical Products Co. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: October 10, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–26502 Filed 10–24–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95E–0260]

Determination of Regulatory Review Period for Purposes of Patent Extension; ULTRAVIST®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for ULTRAVIST® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs

(HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product ULTRAVIST® (iopromide). ULTRAVIST® is indicated for intra-arterial digit subtraction and visceral angiography; cerebral, peripheral, and coronary arteriography; left ventriculography, aortography, peripheral venography, and contrast-enhanced, computed tomographic imaging of the head and body, and excretory urography. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for ULTRAVIST® (U.S. Patent No. 4,364,921) from Schering Aktiengesellschaft, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated August 18, 1995, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of ULTRAVIST® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for ULTRAVIST® is 2,518 days. Of this time, 1,353 days occurred during the testing phase of the regulatory review period, while 1,165 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective:* June 19,1988. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on June 19, 1988.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* March 2, 1992. FDA has verified the applicant's claim that the new drug application (NDA) for ULTRAVIST® (NDA 20–220) was initially submitted on March 2, 1992.

3. *The date the application was approved:* May 10, 1995. FDA has verified the applicant's claim that NDA 20–220 was approved on May 10, 1995.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,825 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before December 26, 1995, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before April 23, 1996, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 5, 1995.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 95–26501 Filed 10–24–95; 8:45 am]

BILLING CODE 4160–01–F

Characterization of Biological/ Biotechnology Pharmaceutical Products; Notice of Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public workshop on Characterization of Biological/Biotechnology Pharmaceutical Products. The workshop will discuss the types of data that are necessary to characterize biological/ biotechnology pharmaceutical products to assure their safety, identity, purity, potency, quality, and consistency. Discussions will address the current abilities and limitations of analytical technologies for characterization of biotechnology products.

DATES: The public workshop, to include plenary and technical breakout sessions, will be held on December 11, 12, and 13, 1995, from 8 a.m. to 5 p.m. Participants may pick up their information packages and badges for admission to the sessions beginning each morning at approximately 7:30 a.m.

ADDRESSES: The public workshop will be held at the Omni Shoreham Hotel, 2500 Calvert St. NW., Washington, DC 20008. There is no registration fee for this workshop, but advance registration is requested. Interested parties are encouraged to register early because space is limited.

FOR FURTHER INFORMATION CONTACT:

Regarding information on registration and other logistical matters contact: Dawn Apple, KRA Corp., 1010 Wayne Ave., suite 850, Silver Spring, MD 20910, 301–495–1591, or FAX 301–495–2919.

Regarding information on this document contact: Rosanna L. Harvey, Center for Biologics Evaluation and Research (HFM–20), 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–0377, or FAX 301–827–0440.

SUPPLEMENTARY INFORMATION: FDA recognizes that there have been technology developments in process

control and new methodologies that can be applied to product characterization and is interested in exploring with the public and industry whether biological/biotechnology pharmaceutical products can be well characterized. FDA intends to develop a definition for well characterized biological/biotechnology pharmaceutical products manufactured using biotechnology.

The goals of this meeting are to: (1) Discuss those analytical techniques, process validations, and parameters that are critical in the characterization of biological/biotechnology pharmaceutical products to assure safety, identity, purity, potency, quality, and consistency; and (2) develop a functional definition for well characterized biological/biotechnology pharmaceutical products. The information generated at the workshop may be used by FDA in developing future scientific and regulatory policies.

Dated: October 20, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95-26500 Filed 10-24-95; 8:45 am]

BILLING CODE 4160-01-F

Health Resources and Services Administration

Agency Forms Undergoing Paperwork Reduction Act Review

Periodically, the Health Resources and Services Administration (HRSA) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review:

1. Data Collection and Reporting Requirements for Healthy Start—Extension and Revision—Patient records and aggregate data are being collected from Healthy Start grantees in order to evaluate the overall effectiveness of the initiative and the value of specific interventions for varying groups of target women. A number of minor revisions have been proposed based on consultations with grantees regarding availability and utility of the data. Burden estimates are as follows:

Type of report	No. of respondents	Responses per respondent	Average burden per response (hrs)	Total burden hours
Patient Data	15	4	80	4,800
Midyear Reports	15	1	5	75
Aggregate Reports	15	1	40	600

Estimated Total Annual Burden: 5,475 hours.

Written comments and recommendations concerning the proposed information collections should be sent within 30 days of this notice to: Allison Eydt, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: October 20, 1995.

J. Henry Montes,

Associate Administrator for Policy Coordination.

[FR Doc. 95-26496 Filed 10-24-95; 8:45 am]

BILLING CODE 4160-15-P

National Institutes of Health

National Cancer Institutes; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Cancer Institutes Initial Review Group:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: Subcommittee F—Manpower and Training.

Date: November 8–10, 1995.

Time: 8 a.m.

Place: The Holiday Inn Georgetown, 2101 Wisconsin Ave., N.W., Washington, D.C. 20007.

Contact Person: Mary Bell, Ph.D., 6130 Executive Blvd., Room 611A, Bethesda, MD 20892, Telephone: 301–496–7978.

Committee Name: Subcommittee G—Education.

Date: November 14–15, 1995.

Time: 8 a.m.

Place: The Holiday Inn Georgetown, 2101 Wisconsin Ave., N.W., Washington, D.C. 20007.

Contact Person: Neil B. West, Ph.D., 6130 Executive Blvd., Room 611D, Bethesda, MD 20892, Telephone: 301–402–2785.

Committee Name: Subcommittee C—Basic and Preclinical.

Date: December 4–6, 1995.

Time: December 4–7:30 p.m., December 5–6, 1995, 8 a.m.

Place: Ramada Inn, 8400 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Virginia Wray, Ph.D., 6130 Executive Plaza, Room 635D, Bethesda, MD 20892, Telephone: 301–496–9236.

Committee Name: Subcommittee B—Comprehensive.

Date: December 7–8, 1995.

Time: 8:30 a.m.

Place: Ramada Inn, 8400 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Dr. David E. Maslow, 6130 Executive Blvd., Room 643A, Bethesda, MD 20892, (301) 496–2330.

The meetings will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552(c)(6), Title 5, U.S.C. 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 could constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: October 18, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95-26384 Filed 10-24-95; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Cancer Institute Special Emphasis Panel (SEP):

Name of SEP: Developmental Therapeutics.

Date: November, 13. 1995.

Time: 9 a.m.

Place: 6130 Executive Blvd., Conference Room F, Rockville, MD 20852.

Contact Person: Lalita Palekar, Ph.D., Scientific Review Administrator, National

Cancer Institute, 6130 Executive Blvd., Room 609, Rockville, MD 20852, (301) 496–7575.

Purpose/Agenda: This meeting will be devoted to the review, discussion, and evaluation of individual contract proposals.

Name of SEP: Small Business Innovation Research Program.

Date: November 15, 1995.

Time: 1:30 p.m.

Place: 6130 Executive Blvd., Room 609, Rockville, MD 20852.

Contact Person: Courtney Michael Kerwin, Ph.D., Scientific Review Administrator, National Cancer Institute, 6130 Executive Blvd., Room 609, Rockville, MD 20852.

Purpose/Agenda: Grant Teleconference.

Name of SEP: Epidemiology.

Date: November 7, 1995.

Time: 9 a.m.

Place: 6130 Executive Blvd., Conference Room J, Rockville, MD 20852.

Contact Person: Courtney Michael Kerwin, PH.D., Scientific Review Administrator, National Cancer Institute, 6130 Executive Blvd., Room 609, Rockville, MD 20852, (301) 496–7421.

Purpose/Agenda: Review of Contract Proposals.

The meetings will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395; Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower, 93.399, Cancer Control.)

Dated: October 18, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–26383 Filed 10–24–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Notice of a Meeting of the Research Priorities Subcommittee of the NDCD Advisory Council

Notice is hereby given of the meeting of the Research Priorities Subcommittee of the NDCD Advisory Council on October 31, 1995. The meeting will take place from 1 to 3 pm as a telephone conference call in Conference Room 7, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting, which is open to the public, will be held to discuss new research priorities in the areas of deafness and communication disorders. Attendance by the public is limited to space available.

Summaries of the meeting and a roster of members may be obtained from Dr. Earleen Elkins, Acting Director, Division of Extramural Activities, NIDCD, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, Maryland 20892, 301–496–8693, upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Elkins in advance of the meeting.

Due to an administrative error, this **Federal Register** notice is being published less than 15 days before the meeting date.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: October 20, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–26531 Filed 10–20–95; 4:03 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of a Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meeting:

Name of SEP: Research Career Development Awards (K02) and Mentored Clinical Scientist Development Awards (K08).

Date: November 29–30, 1995.

Time: 7:30 p.m.

Place: Ramada Inn at Congressional Plaza, Rockville, Maryland.

Contact Person: S. Charles Selden, Ph.D., Rockledge II, Room 7196, Bethesda, Maryland 20892–7924, (301) 435–0288.

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. 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.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institute of Health.)

Dated: October 18, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–26388 Filed 10–24–95; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Initial Review Group (IRG) meeting:

Name of IRG: Heart, Lung, and Blood Program Project Review Committee.

Date: November 30, 1995.

Time: 8:00 a.m.

Place: Holiday Inn Chevy Chase, Chevy Chase, Maryland.

Contact Person: Dr. Jeffrey H. Hurst, 6701 Rockledge Drive, Rm. 7208, Bethesda, Maryland 20892, (301) 435–0303.

Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. 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.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institute of Health.)

Dated: October 18, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–26387 Filed 10–24–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Mental Health, for November 1995.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the entire meeting will be closed for the review, discussion, and evaluation of staff scientists and individual programs and projects. The subject matter to be reviewed contains information of a confidential nature, including consideration of personnel qualifications and performance, the

competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Agenda/Purpose: To evaluate recent reviews of intramural research staff and projects from the Laboratory of Cell Biology and the Laboratory of Clinical Science.

Committee Name: Board of Scientific Counselors, National Institute of Mental Health.

Date: November 29, 1995.

Time: 9:00 a.m.

Place: Building 36, Room 1B07, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Bob Dennis, Executive Secretary, Building 10, Room 4N224, 9000 Rockville Pike, Bethesda, MD 20892, Telephone: 301, 496–4183.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: October 18, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–26385 Filed 10–24–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Neurological Disorders and Stroke; Notice of Meeting, Board of Scientific Counselors

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke, Division of Intramural Research on December 3–5, 1995, at the National Institutes of Health, Medical Board Room, Building 10, Rm. 2C116, 9000 Rockville Pike, Bethesda, Maryland, 20892.

This meeting will be open to the public from 8:15 a.m. to 12:15 p.m. and from 1:15 p.m. to 5:15 p.m. on December 4th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 8:00 p.m. to 10:00 p.m. on December 3rd, and from 8:30 a.m. until adjournment on December 5th, for the review, discussion and evaluation of individual programs and projects conducted by the NINDS. The programs and discussions include consideration of personnel qualifications and performances, the competence of individual investigators and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Freedom of Information Coordinator, Ms. Mary Whitehead, Federal Building, Room 1012, 7550 Wisconsin Avenue, Bethesda, MD 20892, telephone (301) 496–9231 or the Acting Executive Secretary, Dr. Story Landis, Director, Division of Intramural Research, NINDS, Building 10, Room 5N220, National Institutes of health, Bethesda, MD 20892, telephone (301) 435–2232, will furnish a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Acting Executive Secretary in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: October 18, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–26386 Filed 10–24–95; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Proposed Data Collection Available for Public Comment

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the SAMHSA Reports Clearance Officer on (301) 443–0525.

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

Proposed Project: 1996 Client/Patient Sample Survey of Mental Health Programs—New—This survey will update the previous client/patient sample survey conducted in 1986. National estimates will be generated on the number, utilization patterns, and characteristics of clients/patients treated in specialty mental health organizations. A sample of 2,500 organizations/programs will provide information on an average of 20 client/patient admissions and clients under care at those organizations. Where feasible, data will be collected electronically through State systems and sampled organizations may respond electronically. The annual burden estimate is shown below:

	No. of respondents	No. of responses per respondent	Avg. burden/response (hrs.)	Total annual burden (hrs.)
Mental Health Organizations	2,500	1	5.25	13,125

Send comments to Deborah Trunzo, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: October 19, 1995.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 95–26442 Filed 10–24–95; 8:45 am]

BILLING CODE 4162–20–P

Office for Women's Services; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a teleconference meeting of the Advisory Committee for Women's Services of the Substance Abuse and Mental Health Services

Administration (SAMHSA) in November 1995.

The meeting will be held by telephone conference call. The meeting agenda of the Advisory Committee for Women's Services will include a continuation of a discussion of women's substance abuse and mental health service needs that was begun at the Committee's September meeting, including a discussion of the following: The SAMHSA fiscal year 1996 budget; the SAMHSA reauthorization; regional meetings regarding the proposed Performance Partnership Grants; policy on inclusion and attention to the needs of women and racial/ethnic minority populations through SAMHSA's extramural programs; activities of the National Women's Resource Center for the Prevention and Treatment of Alcohol, Tobacco and Other Drug Abuse and Mental Illness; a report on the representation of women in senior-level positions at SAMHSA; and the response to resolutions passed at the committee's September meeting.

A summary of the meeting and/or a roster of committee members may be obtained from: Pamela J. McDonnell, Executive Secretary, Advisory Committee for Women's Services, Office for Women's Services, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 13–99, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5184.

Substantive information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Advisory Committee for Women's Services.

Meeting Date: November 21, 1995.

Place: 5600 Fishers Lane, Parklawn Building, Room 12–94, Rockville, Maryland 20857.

Open: 2 p.m. to 4 p.m.

Contact: Pamela J. McDonnell, Room 13–99, Parklawn Building, Telephone: (301) 443–5184.

Dated: October 19, 1995.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 95–26413 Filed 10–24–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–714601

Applicant: The Burke Memorial Museum, Seattle, WA.

The applicant requests renewal of their permit to export and re-import shipments of nonliving museum/herbarium specimens of endangered and threatened species [excluding bald eagle (*Halieaeetus leucocephalus*)] previously accessioned into their collections for the purpose of scientific research. This notice covers activities conducted by the applicant over a five year period.

PRT–807780

Applicant: Hartley Boss, Orrville, OH.

The applicant requests a permit to import four pairs of captive-hatched Cabot's tragopan (*Tragopan caboti*) from Peter Verbeek, Wyoming, Ontario, Canada for the purpose of enhancement of the species through captive propagation.

PRT–721476

Applicant: James Clement, Wasilla, AK.

The applicant requests a permit to reexport and reimport African elephant (Loxodonta africana) and progent of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

PRT–737979

Applicant: Helen Carpenter, Jefferson, TX.

The applicant requests a permit to reexport and reimport captive-born Leopard (*Panthera pardus*), Tiger (*Panthera tigris*), and Jaguar (*Panthera onca*) and progeny of the animals currently held by the applicant and any of these animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

PRT–806954

Applicant: University of California—San Diego, LaJolla, CA.

The applicant requests a permit to import blood and tissue samples from up to ten wild-caught San Esteban chuckwallas, (*Sauromalus varius*), to enhance the survival of the species through scientific research.

PRT–807615

Applicant: Alan Sackman, Sands Point, NY.

The applicant requests a permit to import a sport-hunted trophy of one male bontebok (*Damaliscus pygarcus dorcas*) culled from the captive herd maintained by F.W.M. Bowker, "Thornkloof" Grahamstown, Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–807708

Applicant: Philadelphia Zoological Garden, Philadelphia, PA.

The applicant requests a permit to import one captive-born female bicolored tamarin (*Saguinus bicolor bicolor*) from the Jersey Wildlife Preservation Trust, Channel Islands, United Kingdom for the purpose of enhancement of the survival of the species through captive propagation.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(C), Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: October 20, 1995.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 95–26457 Filed 10–24–95; 8:45 am]

BILLING CODE 4310–55–M

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the 27G Pipeline Replacement Project, Kern County, California

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice of Availability.

SUMMARY: This notice advises the public that Chevron Pipeline Company has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as

amended (Act). The application has been assigned permit number PRT–807634. The proposed permit would authorize the incidental take of the endangered San Joaquin kit fox (*Vulpes macrotis mutica*), blunt-nosed leopard lizard (*Gambelia silus*), giant kangaroo rat (*Dipodomys ingens*), San Joaquin woollythreads (*Lembertia congdonii*), California jewelflower (*Caulanthus californicus*), Kern mallow (*Eremalche kernensis*) and the threatened Hoover's eriastrum (*Eriastrum hooveri*) and/or their habitat during the implementation of the pipeline replacement activities. The permit will become effective for the following currently unlisted, covered species if they are listed under the Act: San Joaquin whipsnake (*Masticophis flagelium ruddocki*), short-nosed kangaroo rat (*Dipodomys nitatoides brevinasus*), San Joaquin pocket mouse (*Perognathus inoratus*), Tulare grasshopper mouse (*Onychomys torridus tulerensis*), San Joaquin LeConte's thrasher (*Toxostoma lecontei macmillanorum*), western burrowing owl, (*Athene cunicularia hypugea*), oil nest straw (*Stylocline citroiem*), forked fiddleneck (*Amsinckia vernicosa*) and heart scale (*Atriplex cordulata*).

The Service also announces the availability of an environmental assessment (EA) for the incidental take permit application, which includes the proposed habitat conservation plan (HCP) fully describing the proposed project and mitigation, and the accompanying implementing agreement (IA). This notice is provided pursuant to section 10(a) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6). All comments, including names and addresses, received will become part of the official administrative record and may be made available to the public.

DATES: Written comments on the permit application, EA and IA should be received on or before November 24, 1995.

ADDRESSES: Comments regarding the application or adequacy of the HCP, EA and IA should be addressed to Mr. Joel Medlin, Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Field Office, 2800 Cottage Way, Room E–1823, Sacramento, California 95825. Please refer to permit number PRT–807634 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Horton or Ms. Sheila Larsen, U.S. Fish and Wildlife Service, Sacramento Field Office (address above), telephone (916–979–2725).

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of the documents should immediately contact the Service's Sacramento Field Office at the above referenced address, or by telephone at (916) 979–2725. Documents will also be available for public inspection, by appointment, during normal business hours at the above address.

Background

Section 9 of the Act prohibits the "taking" of a species listed as threatened or endangered. However, the Service, under limited circumstances, may issue permits to take listed species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened and endangered species are promulgated at 50 CFR 17.22 and 17.32.

Chevron Pipeline Company proposes to replace the pipeline located in Kern County, Sections 27, 29, 31, 32, and 33, T31S, R24E, and Section 1, T32S, R23E, MDB&M. The pipeline construction corridor is 50 feet wide and 22,240 feet long, covering an area of approximately 25.5 acres, entirely within the sections listed above. The HCP boundary is the same as the pipeline corridor. In the eastern half of the proposed pipeline route, the pipeline will be installed under an existing paved road; the western half of the pipeline route consists of an existing pipeline right-of-way characterized by disturbed saltbush scrub habitat. Project activities may result in take of covered species and temporary disturbance to their habitats within the 25.5-acre project area. The proposed project will temporarily disturb the San Joaquin kit fox, blunt-nosed leopard lizard, giant kangaroo rat, San Joaquin woollythreads, California jewelflower, Kern mallow and the threatened Hoover's eriastrum and/or their habitat during the implementation of the pipeline replacement activities. The HCP involves implementation of measures to minimize effects to the environment by utilizing existing roadways for all construction related activities, and designating Habitat Management Lands to compensate for the natural land lost. Chevron Pipeline Company will dedicate 28 acres of land in Chevron Corporation's Lokern Land Bank, or another approved land bank in consultation with the Service, for preservation in perpetuity. In addition, direct harassment of covered species will be avoided to the greatest extent practicable.

The EA considers the environmental consequences of three alternatives. The no action alternative may result in the accidental release of crude oil, which would have adverse impacts on the surrounding habitat. The no action alternative also would likely result in an increased amount of maintenance activity and consequently, an increased amount of disturbance. Alternative 3 would involve similar construction activities in a project area south of the proposed route. The alternative route is less developed and would, therefore, have a greater potential for take of listed or candidate species. Both alternatives have been thoroughly reviewed and eliminated from further consideration because they would have the potential for greator adverse environmental impacts in both the short and long term. The Service considers implementation of the proposed HCP in connection with a section 10(a)(1)(B) permit to be an effective means to reconcile oil drilling activities with the section 9 listed species take prohibition and other conservation mandates under the Act.

This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act of 1969 (NEPA) regulations (40 CFR 1506.6). The Service will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of NEPA regulations and section 10(a) of the Act. If it is determined that the requirements are met, a permit will be issued for the incidental take of the listed species. The final NEPA and permit determination will be made no sooner than 30 days from the date of this notice.

Dated: October 18, 1995.

William F. Shake,

Acting Deputy Regional Director, Region 1, Portland, Oregon.

[FR Doc. 95–26444 Filed 10–24–95; 8:45 am]

BILLING CODE 4310–55–P

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Vintage Petroleum Inc.'s Two Exploratory Well Site Locations, Kern County, CA

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that Vintage Petroleum Inc. has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The application has been assigned permit number PRT–807633. The proposed permit would

authorize the incidental take of the endangered San Joaquin kit fox (*Vulpes macrotis mutica*), blunt-nosed leopard lizard (*Gambelia silus*), Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), San Joaquin woollythreads (*Lembertia congdonii*), California jewelflower (*Caulanthus californicus*), Kern mallow (*Eremalche kernensis or E. parryi ssp. kernensis*) and the threatened Hoovers eriastrum (*Eriastrum hooveri*) and/or their habitat during the implementation of oil drilling activities.

The Service also announces the availability of an environmental assessment (EA) for the incidental take permit application, which includes the proposed habitat conservation plan (HCP) fully describing the proposed project and mitigation, and the accompanying implementing agreement (IA). This notice is provided pursuant to section 10(a) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the permit application, EA and IA should be received on or before November 24, 1995

ADDRESSES: Comments regarding the application or adequacy of the EA and IA should be addressed to Mr. Joel Medlin, Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Field Office, 2800 Cottage Way, Room E–1823, Sacramento, California 95825. Please refer to permit number PRT–807633 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Horton or Ms. Jody Brown, U.S. Fish and Wildlife Service, Sacramento Field Office, 2800 Cottage Way, Room E–1823, Sacramento, California 95825 (916–979–2725).

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of the documents should immediately contact the Service's Sacramento Field Office at the above referenced address, or by telephone at (916) 979–2725. Documents will also be available for public inspection, by appointment, during normal business hours at the above address.

Background

Section 9 of the Act, and its implementing regulations, prohibits the taking of a species listed as threatened or endangered. However, the Service, under limited circumstances, may issue permits to take listed species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened and endangered species are promulgated at 50 CFR 17.22 and 17.32.

Vintage Petroleum Inc. is proposing to drill two exploratory oil wells to determine whether the suspected oil reserves actually exist. Many of the oil fields in Kern County are nearing the end of their productivity. Therefore, efforts to continue oil recovery are becoming more difficult, often requiring steam injection or other means to extract trapped oil. However, because of advancements in technology, previously unidentified strata may now be mapped and identified. By drilling an exploratory well, it can be determined whether or not the oil reservoirs are sufficient for the well to be commercially productive. Though the proposed project would remove 5 acres of suitable habitat for the San Joaquin kit fox, blunt-nosed leopard lizard, Tipton kangaroo rat, San Joaquin woollythreads, California jewelflower, Kern mallow and Hoovers eriastrum, the HCP involves implementation of measures to minimize effects to the environment by utilizing existing roadways for all construction related activities, and designating Habitat Management Lands to compensate for the natural lands lost. Compensation ratios for permanently disturbed habitat areas will be 3:1 (3 acres preserved for every 1 acre permanently disturbed); for areas considered to be temporarily disturbed, a ratio of 1.1 will be used (1.1 acres preserved for every 1 acre temporarily disturbed). In addition, direct harassment of any endangered species will be avoided to the greatest extent practicable.

The EA considers the environmental consequences of three alternatives. The no action alternative would result in no immediate environmental impacts, but was rejected because it would deny Vintage Petroleum Inc. the opportunity to develop and recover potential oil resources at this site. Alternative 1 would relocate the well center to an area where disturbance and associated impacts will be reduced. This alternative, however, may not be feasible dependant upon drilling limitations, distance the well hole would be moved, and the potential to hit the predicted oil reservoirs below. Moving the well location could result in a greater loss of habitat as well as impacts to threatened and endangered species. This alternative has been thoroughly reviewed and eliminated from further consideration because it would have the potential for greater adverse ground impacts in the short and long term. The Service considers implementation of the proposed HCP in connection with a section 10(a)(1)(B) permit to be an effective means to reconcile oil drilling activities with the section 9 listed species take prohibition and other conservation mandates under the Act.

This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act of 1969 (NEPA) regulations (40 CFR 1506.6). The Service will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of NEPA regulations and section 10(a) of the Act. If it is determined that the requirements are met, a permit will be issued for the incidental take of the listed species. The final NEPA and permit determination will be made no sooner than 30 days from the date of this notice.

Dated: October 18, 1995.

William F. Shake,

Acting Deputy Regional Director, Region 1, Portland, Oregon.

[FR Doc. 95–26440 Filed 10–24–95; 8:45 am]

BILLING CODE 4310–55–P

Availability of Draft Environmental Impact Statement for Proposed Issuance of a Permit to Allow Incidental Take of Golden-Cheeked Warbler, Black-Capped Vireo, and Six Karst Invertebrates in Travis County, Texas

AGENCY: Fish and Wildlife Service. Department of the Interior.

ACTION: Notice of availability of a draft Environmental Impact Statement (EIS) for the proposed issuance of a section 10(a)(1)(B) permit to allow the incidental take of golden-cheeked warblers, black-capped vireos, and six karst invertebrates for land development on private lands in Travis County, Texas.

SUMMARY: The city of Austin and Travis County have applied for a permit for the U.S. Fish and Wildlife Service to allow for incidental take of federally-listed endangered species black-capped vireo, golden-cheeked warbler, and six karst invertebrates under section 10(a)(1)(B) of the Endangered Species Act. This will be incidental to otherwise lawful activities that would occur as a result of clearing of vegetation and grading or other earth-moving activities necessary for residential, commercial, and industrial construction and infrastructure projects within Travis County, Texas.

The proposed permit will allow approved incidental take outside of proposed preserve lands within the proposed permit boundaries. In general,

this area includes all of the lands within Travis County, excluding that portion of Balcones Canyonlands National Wildlife Refuge that falls within Travis County, and the city limits and planning jurisdictions of municipalities not participating in the Balcones Canyonlands Conservation Plan. The permit period is 30 years. Potential development for this time period is estimated to affect between 30,000 and 60,000 acres within the permit area. Of the approximately 2,000 acres of known occupied black-capped vireo habitat located within Travis County, 933 acres will be preserved within the Conservation Plan area and approximately 1,000 acres will be subject to incidental take in the permit area. For the golden-cheeked warbler, approximately 26,753 acres of potential habitat is located within the permit area and may be subject to incidental take. This potential warbler habitat could support from 1,605 to 3,210 pairs of warblers. Of the 45,368 acres of potential karst invertebrate habitat occurring in the permit area, approximately 38,349 acres will be unprotected by the proposed Conservation Plan.

To minimize and mitigate the impacts of take, the applicants propose to conserve a minimum of 30,428 acres of black-capped vireo and golden-cheeked warbler habitat in a preserve system; provide for the ongoing maintenance, patrol, and biological management of the conserved habitat; conduct the biological monitoring and research activities in support of the Conservation Plan; and provide funds to implement the habitat Conservation Plan. Alternatives considered include no action; issuance of the permit with the submitted Balcones Canyonlands Conservation Plan and a 30,428 acre preserve; and issuance of the permit with the submitted Balcones Canyonlands Conservation Plan and a 35,428 acre preserve.

DATES: Comments will be accepted until 60-days from the date of publication of the Notice of Availability by the Environmental Protection Agency in the **Federal Register**.

ADDRESSES: Comments should be sent to the U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200; Austin Texas 78758.

FOR FURTHER INFORMATION CONTACT: Joseph E. Johnston, U.S. Fish and Wildlife Service, Ecological Services Field Office, 10711 Burnet Road, Suite 200; Austin, Texas (telephone (512) 490–0063; facsimile (505) 490–0974.

SUPPLEMENTARY INFORMATION: A limited number of individual copies of the draft EIS may be obtained by contacting the above address. Copies of the draft EIS summary will be sent to everyone currently on the U.S. Fish and Wildlife Service's mailing list for information on the Balcones Canyonlands Conservation Plan. Copies of the draft EIS summary are available upon request.

Copies of the draft EIS are available for inspection at public locations throughout Travis County. For specific locations contact Joseph E. Johnston at the above address.

A public hearing is scheduled to be held from 6 to 10 p.m. on Tuesday November 14, 1995, at the Lake Travis District Auditorium, 3323 Ranch Road 620 South, Austin, Texas, 78734.

Dated: October 6, 1995.

Lynn B. Starnes,

Acting Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 95–26441 Filed 10–24–95; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[OR–094–05–6310–04: G6–009]

Amendment to Emergency Closure of Public Lands; Douglas County, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency closure of public lands and access roads in Douglas County, Oregon.

SUMMARY: Notice is given that Emergency Closure Notice published in **Federal Register**, Volume 60, No. 189, Friday, September 29, 1995, page 50638 is hereby amended. The closure is made under the authority of 43 CFR 8364.1. Notice is given that certain public lands and access roads in Douglas County, Oregon are temporarily closed to all public use, including but not limited to vehicle operation, camping, shooting, hiking, and sightseeing from September 26, 1995 through May 31, 1996.

The public lands affected by this emergency closure are specifically identified as follows:

Willamette Meridian, Oregon

T. 19 S., R. 8 W.

Sec. 7: All that portion of Section 7 lying North and West of Dunn Ridge Road (BLM Road No. 18–8–28.1).

All roads on the public lands listed above are closed, including but not limited to BLM Roads Nos. 19–8–7, 19–8–7.2, 19–8–7.3 and 19–8–7.4.

Through traffic only will be permitted on Dunn Ridge Road (BLM Road No. 18–8–28.1). No loitering, stopping, parking, or pedestrian traffic is permitted within 100 yards south and east of Dunn Ridge Road (BLM Road No. 18–8–28.1) lying within Section 7.

The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: Bureau employees; state, local and federal law enforcement and fire protection personnel; the holders of BLM road use permits that include roads within the closure area; and the purchaser of BLM timber within the closure area including its employees and subcontractors. Access by additional parties may be allowed, but must be approved in advance in writing by the Authorized Officer.

Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000.00 and/or imprisonment not to exceed 12 months, as well as the penalties provided under Oregon State law.

The public lands and roads temporarily closed to public use under this order will be posted with signs at points of public access.

The purpose of this emergency temporary closure is to protect persons from potential harm from logging operations, to protect valuable public timber resources from unauthorized damage, and to facilitate authorized timber harvest operations.

DATES: This closure is effective from September 26, 1995 through May 31, 1996.

ADDRESSES: Copies of the closure order and maps showing the location of the closed lands and roads are available from the Eugene District Office, P. O. Box 10226 (2890 Chad Drive), Eugene, Oregon 97440–2226.

FOR FURTHER INFORMATION CONTACT: Terry Hueth, Coast Range Area Manager, Eugene District Office, at (503) 683–6600.

Dated: October 19, 1995.

Terry Hueth,

Coast Range Area Manager.

[FR Doc. 95–26406 Filed 10–24–95; 8:45 am]

BILLING CODE 4310–33–P

[NM–931–06–1020–00]

New Mexico Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Council Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C.

Appendix, The Department of the Interior, Bureau of Land Management, announces the meeting of the New Mexico Resource Advisory Council (RAC). The two day agenda includes presentations by Bureau of Land Management (BLM), Forest Service and the Soil Conservation Service on existing rangeland conditions, a half day field trip to examine functioning and nonfunctioning watersheds, 3 RAC member presentations, standards and guidelines discussions and for the next RAC meeting development of a draft agenda, selection of a location and a date to meet. The meeting is open to the public. The public may present written comments to the Council. The public may also address the Council during the public comment period scheduled. Depending on the number of persons wishing to comment and the time available, the time for individual comments may be limited. The RAC Meeting will be from 8:30 a.m. to 11:00 a.m. on November 30, 1995 at the Las Cruces Hilton Hotel, 705 South Telshor Blvd., Las Cruces, NM 88011.

Telephone 505–522–4300. After lunch at 12:30 p.m. the remainder of the RAC meeting will be a field trip to the Jim Winder Ranch to examine functioning and nonfunctioning watersheds.

DATES: The RAC will meet on Thursday, November 30, 1995 from 8:30 a.m. to 6:00 p.m. and on Friday, December 1, 1995 from 8:30 a.m. to 4:00 p.m. The public may address the Council during the public comment period on December 1, 1995 starting at 9:30 a.m.

FOR FURTHER INFORMATION CONTACT:

Bob Armstrong, New Mexico State Office, Policy and Planning Team, Bureau of Land Management, 1474 Rodeo Road, P.O. Box 27115, Santa Fe, New Mexico 87502–0115, telephone (505) 438–7436.

SUPPLEMENTARY INFORMATION: The purpose of the Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of public lands. The Council's responsibilities include providing advice on long-range planning and establishing resource management priorities; and assisting the BLM to identify State and regional standard for ecological health and guidelines for grazing.

Dated: October 18, 1995.

William C. Calkins,

State Director.

[FR Doc. 95–26367 Filed 10–24–95; 8:45 am]

BILLING CODE 4310–FB–M

[CO–070–06–1020–00]

Northwest Colorado Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given that the next meeting of the Northwest Colorado Resource Advisory Council will be held on Thursday, November 16, and Friday, November 17, 1995 in Craig, Colorado.

DATES: The meeting is scheduled for Thursday, November 16 and Friday, November 17, 1995.

ADDRESSES: For further information, contact Lynda Boody, Bureau of Land Management (BLM), Grand Junction District Office, 2815 H Road, Grand Junction, Colorado 81506; Telephone (970) 244–3000; TDD (970) 244–3011.

SUPPLEMENTARY INFORMATION:

The meeting is scheduled to begin Thursday at 9:00 a.m. at the Shadow Mountain Clubhouse, Shadow Mountain Village, 1055 County Road 7, Craig, CO 81625. The meeting on Friday is scheduled to begin at 8:00 a.m. at the Holiday Inn, 300 S. Colorado Highway 12, Craig, Colorado 81625. The agenda for this meeting will focus on the development of standards for rangeland health and guidelines for livestock grazing. Other agenda items will include: the Bangs Canyon Subgroup report, training opportunities, Congressional legislation update that affect the Resource Advisory Council, a report on the Colorado State Land Trust, discussion of a technical review team, and discussion of a rangeland resource team.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the Grand Junction/Craig District Manager.

Summary minutes for the Council meeting will be maintained in the Grand Junction and Craig District Offices and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Dated: October 13, 1995.

Mark T. Morse,

District Manager.

[FR Doc. 95–26362 Filed 10–24–95; 8:45 am]

BILLING CODE 4310–70–M

[CA–026–1020–00]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given in accordance with Public Law 95–579 (FLPMA) that the Bureau of Land Management's Susanville Resource Advisory Council will meet Friday and Saturday, November 17 and 18, 1995, in the Bureau of Land Management Office at 705 Hall Street in Susanville, California. The November 17 session will convene at 10 a.m. at the BLM Wild Horse and Burro Corrals on Highway 395 north of Litchfield. It will include a field tour into parts of the Western Great Basin. The tour will return to Susanville at about 4 p.m. The November 18 meeting will begin at 9 a.m. in the conference room at 705 Hall Street. Items to be discussed include the council's work on regional rangeland standards and guidelines, council coordination with subgroups and other Resource Advisory Councils, and council organizational business. The council will hear updates from BLM area managers, and hear a progress report on the East Lassen Plan.

The meeting is open to the public, and public comments will be taken at 1 p.m. Saturday, November 18. Depending on the number of persons wishing to speak, a time limit may be imposed.

Summary meeting minutes will be maintained at the Susanville BLM Office, 705 Hall Street, Susanville, CA.

FOR FURTHER INFORMATION, CONTACT: Jeff Fontana (916) 257–5381.

Linda D. Hansen,

Eagle Lake Resource Area Manager.

[FR Doc. 95–26361 Filed 10–24–95; 8:45 am]

BILLING CODE 4310–40–P

[WO–300–1310–00]

Notice of Extension of Public Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: The public comment period has been extended to November 15, 1995, for the draft Inspection and Enforcement Transfer Report (dated September 1995). The information contained in the document outlines the proposed transfer of the oil and gas Inspection and Enforcement (I&E) and Environmental Compliance responsibilities that are currently administered by the Bureau of Land Management (BLM) to individual States and Indian tribes.

ADDRESSES: Written comments on the draft report must be received by November 15, 1995. Address comments to: Mike Pool, Bureau of Land Management, Farmington District Office, 1235 La Plata Highway, Farmington, NM 87401.

FOR FURTHER INFORMATION CONTACT: Mike Pool, (505) 599–8910.

Dated: October 18, 1995.

Mike Pool,

District Manager.

[FR Doc. 95–26439 Filed 10–24–95; 8:45 am]

BILLING CODE 4310–FB–M

[ID–957–1910–00–4733]

Idaho: Filing of Plats of Survey

The plat, in two sheets, of the following described land will be officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., November 30, 1995.

The plat representing the dependent resurvey of portions of the south and west boundaries, subdivisional lines, and 1893 meanders of the right bank of the Snake River, the subdivision of sections 21 and 29, meanders of the 1994 right bank of the Snake River, the survey of certain islands in the Snake River, T. 8 S., R. 30 E., Boise Meridian, Idaho, Group No. 888, was accepted, October 11, 1995.

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., October 13, 1995.

The plat representing the dependent resurvey of portions of the west boundary and the 1893 meanders of the right bank of the Snake River, T. 9 S., R. 30 E., Boise Meridian, Idaho, Group No. 888, was accepted, October 11, 1995.

These surveys were executed to meet certain administrative needs of the Bureau of Reclamation.

All inquiries concerning the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: October 13, 1995.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 95–26376 Filed 10–24–95; 8:45 am]

BILLING CODE 4310–GG–M

[NM–010–1430–01; NMNM 94904]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) proposes to withdraw 1,188.30 acres of public lands and 988.40 acres of federally reserved mineral interests underlying private surface estate in Sandoval County to protect an area having high potential for development of a mineral material, humate (a carbonaceous shale). This notice closes 1,188.30 acres of public lands for up to 2 years from surface entry and mining and closes 988.40 acres of federally reserved mineral interests from mining under the United States mining laws, subject to valid existing rights. The lands will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by January 23, 1995.

ADDRESSES: Comments and requests for a public meeting should be sent to the Albuquerque District Manager, BLM, 435 Montano Road NE., Albuquerque, New Mexico 87107.

FOR FURTHER INFORMATION CONTACT: Debby Lucero, BLM Rio Puerco Resource Area Office, (505) 761–8787.

SUPPLEMENTARY INFORMATION: On October 18, 1995, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public lands from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

New Mexico Principal Meridian

T. 19 N., R. 1 W.,
Sec. 4, lots 1 and 3, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 10, W½W½SW¼;
Sec. 17, E½E½SE¼;
Sec. 20, NE¼, N½SW¼, and NW¼SE¼.
T. 20 N., R. 1 W.,
Sec. 27, S½N½, NE¼SW¼, S½SW¼, and N½SE¼;
Sec. 33, NW¼SW¼.

The area described aggregates approximately 1,188.30 acres in Sandoval County.

And, to withdraw the following described federally reserved mineral interests underlying private surface estate from mining under the United States mining laws, subject to valid existing rights:

T. 19 N., R. 1 W.,
Sec. 3, lot 3, SW¼NW¼, and W½SW¼;
Sec. 4, lot 2;
Sec. 9, E½ and E½W½;
Sec. 21, NE¼.
T. 20 N., R. 1 W.,
Sec. 33, NE¼SW¼ and S½SW¼;
Sec. 34, W½W½SW¼.

The area described aggregates approximately 988.40 acres in Sandoval County.

The purpose of the proposed withdrawal is to segregate the above described lands from mineral entry so a mineral material, humate (a carbonaceous shale) can be offered for sale.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Albuquerque District Manager of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Albuquerque District Manager within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature but only with the approval of an authorized officer of the Bureau of Land Management.

Dated: October 19, 1995.

Michael R. Ford,

District Manager.

[FR Doc. 95–26443 Filed 10–24–95; 8:45 am]

BILLING CODE 4310–FB–P

National Park Service

Revised Draft Development Concept Plan and Environmental Impact Statement for the South Side, Denali National Park and Preserve, Alaska

ACTION: Notice of Intent.

SUMMARY: The National Park Service is preparing a revised draft development concept plan (DCP) and environmental impact statement (EIS) for the south side of Denali National Park and Preserve. Major issues for the south side include the scale and locations of visitor centers, trails, and other visitor support facilities. The State of Alaska, the Denali Borough and the Matanuska-Susitna Borough will be cooperating agencies on this DCP/EIS.

This cooperative planning effort will build on earlier planning for the region, including a draft DCP/EIS issued in 1993. All comments received on the 1993 draft will be considered in developing the revised DCP/EIS.

The Denali task force formed in 1994, at the request of the Secretary of the Interior, provided recommendations through the National Park System Advisory Board, regarding visitor facilities and services in and near Denali National Park and Preserve, including the south side. Two of its fundamental conclusions are that an array of visitor facilities and services is needed to serve different users and that no single facility site can meet all objectives or serve all users. The task force's recommendations were accepted by the National Park System Advisory Board in December 1994, and its recommendations for south Denali form the basis of a new proposed action in the revised draft DCP/EIS. The new proposed action includes interpretive pullouts along the George Parks Highway, trail and campground improvements in Denali State Park, visitor facilities in the Talkeetna and Byers Lake areas, an upgrade and extension of the Petersville Road, and a new visitor center at the end of the Petersville Road upgrade in the western end of Denali State Park overlooking the Tokositna Glacier. Up to five campsites would be established at Chelatna Lake, along with up to two public use cabins and a hiking trail. Up to four public use cabins would be constructed on state park land in the Tokositna area.

In addition to the proposed action, two other action alternatives and a no-action alternative will be evaluated. The focus of both of the action alternatives is to provide visitor facilities and services within easy access from the George Parks Highway. In one alternative a visitor center would be located at either the central or southern development nodes of Denali State Park, with short hiking/interpretive trails established near the visitor center and at some wayside exhibits along the George Parks Highway. An expansion of the campground at Byers Lake State Park is also included in this alternative. No public use cabins are included in this alternative. In the other action alternative a visitor center would be located at the northern node of the state park, with short hiking/interpretive trails established near the visitor center only. No campgrounds would be constructed under this alternative; however, as for all of the action alternatives, construction of full-service campgrounds on private lands would be encouraged. No public use cabins are included in this alternative. Development nodes are defined in the 1989 Alaska State Parks Master Plan.

The EIS will be prepared in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4331 et seq.), and its implementing regulations at 40 CFR Part 1500.

Interested groups, organizations, individuals, and government agencies are invited to comment on the plan at any time. The draft DCP/EIS is anticipated to be available for public review in February 1996. Public meetings likely will be scheduled in March 1996 after release of the draft DCP/EIS. The final EIS is expected to be released in July 1996.

FOR FURTHER INFORMATION CONTACT: Steven P. Martin, Superintendent, Denali National Park and Preserve, P.O. Box 9, Denali, Alaska 99755. Telephone: (907) 683-2294. FAX: (907) 683-9612.

Dated: October 11, 1995.

Robert D. Barbee,

Field Director, Alaska Field Office.

[FR Doc. 95-26453 Filed 10-24-95; 8:45 am]

BILLING CODE 4310-70-M

Gates of the Arctic Subsistence Resource Commission; Meetings

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Gates of the Arctic National Park and the Chairperson of the Subsistence Resource Commission for Gates of the Arctic National Park announce a forthcoming meeting of the Gates of the Arctic National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Call to order.
(2) Roll call.
(3) Approval of summary of minutes.
(4) Review agenda.
(5) Superintendent's introductions and review of the SRC's function and purpose.
(6) Superintendent's management/research reports.
(7) Public and agency comments.
(8) Old business:
  a. Correspondence.
  b. Federal Subsistence Program update.
  c. Regions 6 and 10 boundary adjustments.
  d. NPS firearms/trapping regulation clarification.
  e. Review of Hunting Plan Recommendation #11.
(9) New business:
  a. Combining of the Administration Offices for Yukon-Charley Rivers National Preserve and Gates of the Arctic National Park and Preserve.
  b. Federal assumption of fisheries management.
  c. Proposed 1996-97 subsistence hunting regulations.
  d. Hunting plan work session.
(10) Set time and place of next SRC meeting.
(11) Adjournment.

DATES: The meeting will be held Tuesday through Thursday, November 7-9, 1995. The meeting will begin at 8:30 a.m. and end at 5 p.m. on Tuesday and Wednesday and begin at 8:30 a.m. and end at 12 noon on Thursday.

LOCATION: The meeting will be held at Sophie's Station in Fairbanks, Alaska.

FOR FURTHER INFORMATION CONTACT: Dave Mills, Superintendent, Gates of the Arctic National Park, P.O. Box 74680, Fairbanks, Alaska 99707. Phone (907) 456-0281.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96-487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Paul R. Anderson,

Acting Field Director.

[FR Doc. 95-26377 Filed 10-24-95; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Public Meeting and Request for Public Comments; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Public meeting; correction.

SUMMARY: On October 6, 1995 (60 FR 52412), the Office of Surface Mining Reclamation and Enforcement (OSM or we) of the U.S. Department of the Interior published a notice of a public meeting for developing its recommendations to the President for the FY 1997 budget. In that notice the dates scheduled for the public meeting were October 31 and November 1, 1995. Due to the continuing resolution in effect, the uncertainty of OSM's budget, and the separation of approximately 30% of OSM's employees because of a reduction-in-force, this meeting is being postponed until November 28, 1995. We are still seeking written comments and will accept them until the dates of the meeting. In addition, we are requesting those of you who wish to provide oral comments, or who would like to serve as an active participant in the interactive roundtable discussions, respond by November 21, 1995, by notifying OMS by telephone (202) 208–7851; by FAX (202) 501–4734; or by E–Mail address on the internet vchristi@osmre.gov. If you are providing oral comments, an accompanying written version of your oral presentation would be appreciated.

DATES: *Written comments:* We will accept written comments on the priority of our business lines and program activities for fiscal year 1997 until 4:00 p.m., eastern time on November 29, 1995.

Public meeting: We will hold a public meeting in an interactive forum on our business lines and program activities for fiscal year 1997 in Washington, D.C. on November 28, 1995, beginning at 9:00 a.m. If more time is needed we will continue the meeting on November 29, 1995.

ADDRESSES: *Written comments:* Mail or hand-deliver to Victor J. Christiansen at the address provided under **FOR FURTHER INFORMATION CONTACT.**

Public meeting: The public meeting will be held at the South Interior Building's Auditorium, 1951 Constitution Ave., N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Victor J. Christiansen. Mr. Christiansen can supply information on our FY 1995–1996 budget for those interested, and may be reached at: Office of Surface Mining Reclamation and Enforcement, Room 244, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; Telephone (202) 208–7851; FAX (202) 501–4734; E–Mail address on the internet: vchristi@osmre.gov.

Dated: October 18, 1995.

Ed Kay,

Deputy Director, Office of Surface Mining.

[FR Doc. 95–26398 Filed 10–24–95; 8:45 am]

BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–32 (Sub-No. 64X)]

CSX Transportation, Inc.—Abandonment Exemption—Rensselaer County, NY

Boston and Maine Corporation (B&M) has filed a verified notice under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon the 5.04-mile Bennington Branch line between mileposts 0.00 and 5.04 in Hoosick, Rensselaer County, NY.

B&M 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 complainant's favor within the last 2 years; and (4) the requirements at 49 CFR 1105.7 (environmental report), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 and 1152.50(d)(1) (notice to government agencies), and 49 CFR 1105.12 (newspaper publication) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether employees are adequately protected, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

This exemption will be effective November 24, 1995, unless stayed or a statement of intent to file an offer of financial assistance (OFA) is filed. Petitions to stay that do not involve environmental issues,[1] statements 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 November 6, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 14, 1995. An original and 10 copies of any such filing must be sent to the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. In addition, one copy must be served on John R. Nadolny, Boston and Maine Corporation, Iron Horse Park, North Billerica, MA 01862.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

B&M has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Commission's Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by October 30, 1995. A copy of the EA may be obtained by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes 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: October 18, 1995.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–26446 Filed 10–24–95; 8:45 am]

BILLING CODE 7035–01–P

[1] The Commission will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Commission in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Commission may take appropriate action before the exemption's effective date.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.,* 4 I.C.C.2d 164 (1987).

[3] The Commission will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that a proposed Settlement Agreement in *In re: Envirodyne Industries, Inc., et al.,* Case No. 93 B 319, was lodged with the United States Bankruptcy Court for the Northern District of Illinois, on *Oct. 10, 1995,* among the United States, on behalf of the Environmental Protection Agency ("EPA") and the Economic Development Administration of the

Department of Commerce ("EDA"), Navistar International Transportation Corp. ("Navistar"), and the debtors. The United States filed a claim against the debtors in this action for the debtors' liability under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9601 *et seq.*, for investigation and clean-up costs at the Wisconsin Steel Works site, in Chicago, Illinois. Under the Settlement Agreement, the debtors will pay EPA $5,000 in cash, and will provide an allowed claim of $1,000,000 to Navistar for use in Navistar's investigation and clean-up of the site. The Settlement Agreement includes a covenant not to sue by the United States under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, and under Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. 6973 ("RCRA").

The Department of Justice will receive comments relating to the proposed Settlement Agreement for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530. All comments should refer to *In re: Envirodyne Industries Inc., et al.*, D.J. Ref. 90–11–3–1064A. Commenters may request an opportunity for a public hearing in the affected area, in accordance with Section 7003(d) of RCRA.

The proposed Settlement Agreement may be examined at the office the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and at the Consent Decree Library, 1120 G Street, N.W., 4th floor, Washington, D.C. 20005, 202–624–0892. A copy of the proposed Settlement Agreement may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please enclose a check in the amount of $5.75 for the decree (25 cents per page reproduction costs) payable to the Consent Decree Library. When requesting a copy, please refer to *In re: Envirodyne Industries, Inc., et al.*, D.J. Ref. 90–11–3–1064A.

Bruce S. Gelber,

Acting Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–26364 Filed 10–24–95; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 as Amended

In accordance with Department of Justice policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *International Paper Company, et al.*, Civil No. 94–4681 (BDP), was lodged on September 29, 1995, with the United States District Court for the Southern District of New York. The decree resolves claims of the United States against defendants I.S.A. In New Jersey, Inc. ("ISA") and Round Lake Sanitation Corporation ("Round Lake") in the above-referenced action under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") for contamination at the Warwick Superfund Site in the Town of Warwick, Orange County, New York (the "Site"). In the proposed consent decree, the defendants agree to pay the United States $487,500 in settlement of the United States' claims for past response costs incurred by the Environmental Protection Agency at the Site and $262,500 in settlement of the United States' claims for civil penalties and damages for ISA's and Round Lakes' failure or refusal to comply with Unilateral Administrative Orders issued to them. The payments will be made from an escrow account as noted below.

In 1991, ISA, Round Lake, and other entities and individuals were indicted by a grand jury empaneled in the United States District Court for the Southern District of New York on numerous federal felony charges. According to a subsequent plea agreement, ISA and Round Lake, and other entities, were required to be sold to unrelated third parties. In 1994, the United States entered into an Agreement and Covenant Not To Sue under CERCLA with Browning-Ferris Industries of New York, Inc.; Browning-Ferris Industries of Paterson, N.J., Inc.; and Browning-Ferris Industries of South Jersey, Inc. (collectively referred to as "BFI") regarding BFI's prospective purchase of the assets of ISA, Round Lake, and the other entities. In exchange for this Agreement and Covenant Not To Sue, BFI paid $250,000 to the United States, from which $187,500 was paid towards past response costs incurred by EPA at the Warwick Site. Upon the sale of the assets of ISA, Round Lakes, and the other entities, ISA and Round Lake paid $1,000,000 of the sale price into an escrow account to be used to resolve certain liability to the United States pursuant to CERCLA at several sites, including the Warwick Site, the Hertel Superfund Site in the Town of Plattekill, New York, the Ramapo Superfund Site in the Town of Ramapo. New York, and the Kin-Buc Superfund Site in Edison, New Jersey. The balance of the proceeds of BFI's purchase of the assets of ISA, Round Lake, and the other entities has been used to satisfy a $5,000,000 criminal fine, $3,500,000 in federal and state tax liability, and $300,000 of liabilities to other creditors.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. International Paper Company, et al.*, DOJ Ref. Number 90–11–3–812.

The proposed consent decree may be examined at the Office of the United States Attorney, 100 Church Street, New York, NY, 10007; the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, NY 10278; and the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W. 4th Floor, Washington, D.C. 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $5.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–26363 Filed 10–24–95; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 16, 1995, Eli Lilly Industries, Inc., Chemical Plant, Kilometer 146.7, State Road 2, Mayaguez, Puerto Rico 00680, made written request to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Dextropropoxyphene, bulk (non-dosage forms) (9273).

The firm plans to manufacture bulk product for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 26, 1995.

Dated: October 19, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95-26447 Filed 10-24-95; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controller Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 20, 1995, Nycomed Inc., 33 Riverside Avenue, Rensselaer, New York 12144, made a written request to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Meperidine (9230).

The firm plans to manufacture bulk product for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments on objections to the issuance of the above application.

Any such comments or objections may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 26, 1995.

Dated: October 19, 1995.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 95-26448 Filed 10-24-95; 8:45 am]

BILLING CODE 4410-09-M

Federal Bureau of Investigation

Criminal Justice Information Service (CJIS) Advisory Policy Board

The Criminal Justice Information Services (CJIS) Advisory Policy Board will meet on December 6-7, 1995, from 9 a.m. until 5 p.m., at the Savannah Marriott Riverfront Hotel, 100 General McIntosh Boulevard, Savannah, Georgia, telephone 912-233-7722, to formulate recommendations to the Director, Federal Bureau of Investigation (FBI) on the security, policy, and operation of the National Crime Information Center (NCIC), NCIC 2000, the Integrated Automated Fingerprint Identification System (IAFIS), and the Uniform Crime Report (UCR) and National Incident Based Reporting System (NIBRS) programs.

The topics to be discussed will include the progress of the NCIC 2000 and IAFIS projects, status of the Brady Handgun Violence Prevention Act, and other topics related to the management of the FBI's criminal history information systems.

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public may file a written statement concerning the FBI CJIS Division programs or related matters with the Board, before or after. Anyone wishing to address this session of the meeting should notify the Designated Federal Employee, at least 24 hours prior to the start of the session. The notification may be by mail, telegram, cable, facsimiles, or a hand-delivered note. It should contain the requestor's name; corporate designation, consumer affiliation, or Government designation; along with a short statement describing the topic to be addressed; and the time needed for presentation. A nonmember requestor will ordinarily be allowed not more than 15 minutes to present a topic, unless specifically approved by the Chairman of the Board.

Inquires may be addressed to the Designated Federal Employee, Mr. Demery R. Bishop, Section Chief, Programs Development Section, CJIS Division, FBI, 10th and Pennsylvania Avenue, Northwest, Washington, DC 20535, telephone 202-324-5084, facsimile 202-324-8906.

Dated: October 17, 1995.

Demery R. Bishop,

Section Chief, Programs Development Section, Federal Bureau of Investigation, Designated Federal Employee.

[FR Doc. 95-26375 Filed 10-24-95; 8:45 am]

BILLING CODE 4410-02-M

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On September 11, 1995, the National Science Foundation published a notice in the **Federal Register** of permit applications received.

Permits were issued on October 16, 1995 to the following applicants:

Colin Harris, Permit #96-013
William R. Fraser, Permits #96-021, #96-022, and #96-023

Nadene G. Kennedy,

Permit Office.

[FR Doc. 95-26374 Filed 10-24-95; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Physics (1208).

Date and Time: November 8, thru November 11, 1995, 8:00 a.m.-6:00 p.m.

Place: Room 1120, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Marvin Goldberg, Program Director for Elementary Particle Physics, Division of Physics, Room 1015, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306-1894.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Elementary Particle Physics Career proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 20, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95-26486 Filed 10-24-95; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–366]

Georgia Power Company, et al.; Edwin I. Hatch Nuclear Plant, Unit 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an exemption from the requirements of 10 CFR Part 50, Appendix J, to Facility Operating License No. NPF–5, issued to Georgia Power Company, et al. (GPC or the licensee), for operation of the Edwin I. Hatch Nuclear Plant, Unit 2, located in Appling County, Georgia.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant an exemption from 10 CFR Part 50, Appendix J, Sections III.A.5(b)(1), III.A.5(b)(2), III.B.3, III.C.2(a), and III.C.3, for the Hatch Nuclear Plant, Unit 2, in conjunction with License Amendment No. 132 issued March 17, 1994, which permitted an increase in the allowable main steam isolation valve (MSIV) leak rate from 11.5 standard cubic feet per hour (scfh) for any one MSIV to 100 scfh for any one MSIV, with a total maximum leak rate of 250 scfh through all four steam lines and the deletion of the leakage control system (LCS).

Appendix J to 10 CFR Part 50, Sections II.H.4 and III.C.2 require leak rate testing of the MSIVs at the calculated peak containment pressure related to the design-basis accident, and Section III.A.5, III.B.3 and III.C.3 requires that the measured MSIV leak rates be included in the combined leak rate test results. The proposed exemption allows the exclusion of the measured MSIV leakage from the combined test results. The increase of the MSIV leak rate does not affect a previously approved exemption, stated in the Technical Specifications (TS), which allows the MSIV leak rate testing at a reduced pressure.

The proposed action for the exemption regarding leakage is in accordance with the licensee's letter dated June 20, 1995. The proposed action for the exemption from testing at accident pressure is based on the Commission's own initiative to account for a previously granted exemption as stated in the Hatch Unit 2 TS.

The Need for the Proposed Action

The exemption from the leakage acceptance criteria of 10 CFR Part 50, Appendix J, is needed because the MSIV leakage rate is accounted for separately in the radiological site analysis. The exemption from the pressure requirements of 10 CFR Part 50, Appendix J, is needed because the design of the MSIVs is such that the test pressure is applied between two MSIVs in the same line and testing in the reverse direction for one of the MSIVs tends to unseat the valve disc and would result in a meaningless test.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action related to the granting of an exemption from 10 CFR Part 50, Appendix J, Sections III.A.5(b)(1), III.A.5(b)(2), III.B.3, and III.C.3, proposed by the licensee, and concludes that the proposed actions will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. The proposed action for the exemption from testing at accident pressure, as required by Section III.C.2 of Appendix J to 10 CFR Part 50, is based on the Commission's own initiative to account for a previously granted exemption as stated in the Hatch Unit 2 TS, and the Commission concludes that the action will not increase the probabilty or consequences of accidents, no changes are being made in the types of effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure.

The MSIV leakage, along with the containment leakage is used to calculate the maximum radiological consequences of a design-basis accident. Section 15.1.39 of the Hatch Final Safety Analysis Report (FSAR) indicates that standard and conservative assumptions have been used to calculate the offsite and control room doses, including the doses due to MSIV leakage, which could potentially result from a postulated loss-of-coolant accident (LOCA). Further, the technical support center, control room, and offsite doses resulting from a postulated LOCA have recently been recalculated using currently accepted assumptions and methods. The doses at the site boundary and the doses that could be received by personnel in the technical support center and control room due to MSIV leakage were calculated independently of all other types of containment leakage. These analyses have demonstrated that the total leakage rate of 250 scfh results in dose exposures for the control room and offsite that remain within the limits of Appendix A to 10 CFR Part 100, as discussed in License Amendment No. 132.

With regard to potential nonradiological impacts, the proposed actions involve features located entirely within the restricted area as defined in 10 CFR Part 20. They do not affect nonradiological plant effluents and have no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed actions.

Alternatives to the Proposed Action

Since the Commission has concluded there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed actions. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alterative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Hatch Nuclear Plant.

Agencies and Persons Consulted

In accordance with its stated policy, on September 28, 1995, the staff consulted with the Georgia State official, James L. Setser of the Department of Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed actions will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed actions.

For further details with respect to the proposed actions, see the licensee's letter dated June 20, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Dated at Rockville, Maryland, this 19th day of October 1995.

For the Nuclear Regulatory Commission.

Victor Nerses,

Acting Director, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–26422 Filed 10–24–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Company; Surry Power Station, Units 1 and 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations to Facility Operating License Nos. DPR–32 and DPR–37, issued to Virginia Electric and Power Company, (the licensee), for operation of the Surry Power Station, Units 1 and 2 located in Surry County, Virginia.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from certain requirements of 10 CFR 50.60, "Acceptance Criteria for Fracture Prevention Measures for Light-Water Nuclear Power Reactors for Normal Operation," to allow application of an alternate methodology to determine the low temperature overpressure protection (LTOP) setpoint for the Surry Power Station, Units 1 and 2. The proposed alternate methodology is consistent with guidelines developed by the American Society of Mechanical Engineers (ASME) Working Group on Operating Plant Criteria (WGOPC) to define pressure limits during LTOP events that avoid certain unnecessary operational restrictions, provide adequate margins against failure of the reactor pressure vessel, and reduce the potential for unnecessary activation of pressure-relieving devices used for LTOP. These guidelines have been incorporated into Code Case N–514, "Low Temperature Overpressure Protection," which has been approved by the ASME Code Committee. The content of this code case has been incorporated into Appendix G of Section XI of the ASME Code and published in the 1993 Addenda to Section XI.

The philosophy used to develop Code Case N–514 guidelines is to ensure that the LTOP limits are still below the pressure/temperature (P/T) limits for normal operation, but allow the pressure that may occur with activation of pressure-relieving devices to exceed the P/T limits, provided acceptable margins are maintained during these events. This philosophy protects the pressure vessel from LTOP events, and still maintains the Technical Specification P/T limits applicable for normal heatup and cooldown in accordance with Appendix G to 10 CFR Part 50 and Sections III and XI of the ASME Code.

The Need for the Proposed Action

Pursuant to 10 CFR 50.60, all light-water nuclear power reactors must meet the fracture toughness and material surveillance program requirements for the reactor coolant pressure boundary as set forth in Appendices G and H to 10 CFR Part 50. Appendix G to 10 CFR Part 50 defines P/T limits during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests, to which the pressure boundary may be subjected over its service lifetime. It is specified in 10 CFR 50.60(b) that alternatives to the described requirements in Appendices G and H to 10 CFR Part 50 may be used when an exemption is granted by the Commission under 10 CFR 50.12.

To prevent transients that would produce pressure excursions exceeding the Appendix G P/T limits while the reactor is operating at low temperatures, the licensee installed an LTOP system. The LTOP system includes pressure relieving devices in the form of Power-Operated Relief Valves (PORVs) that are set at a pressure low enough that if a transient occurred while the coolant temperature is below the LTOP enabling temperature, they would prevent the pressure in the reactor vessel from exceeding the Appendix G P/T limits. To prevent these valves from lifting as a result of normal operating pressure surges (e.g., reactor coolant pump starting, and shifting operating charging pumps) with the reactor coolant system in a water solid condition, the operating pressure must be maintained below the PORV setpoint.

The reactor coolant system pressure/temperature operating window at low temperatures is defined by the LTOP setpoint. Minimal operating margin is available between the LTOP setpoint and the pressure experienced at low temperatures due to the startup of a reactor coolant pump, or as a result of normal operating pressure surges with the reactor coolant system in a water solid condition. Implementation of a LTOP setpoint that is valid from 15 EFPY to the end-of-license without the additional margin allowed by ASME Code Case N–514 would restrict the pressure/temperature operating window and would potentially result in undesired PORV lifts. Therefore, the licensee proposed that in determining the PORV setpoint for LTOP events for Surry, the allowable pressure be determined using the safety margins developed in an alternate methodology in lieu of the safety margins required by Appendix G to 10 CFR Part 50. The alternate methodology is consistent with ASME Code Case N–514. The content of this code case has been incorporated into Appendix G of Section XI of the ASME Code and published in the 1993 Addenda to Section XI.

An exemption from 10 CFR 50.60 is required to use the alternate methodology for calculating the maximum allowable pressure for LTOP considerations. By application dated June 8, 1995, the licensee requested an exemption from 10 CFR 50.60.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action.

Appendix G of the ASME Code requires that the P/T limits be calculated: (a) using a safety factor of 2 on the principal membrane (pressure) stresses, (b) assuming a flaw at the surface with a depth of one-quarter (1/4) of the vessel wall thickness and a length of six (6) times its depth, and (c) using a conservative fracture toughness curve that is based on the lower bound of static, dynamic, and crack arrest fracture toughness tests on material similar to the Surry reactor vessel material.

In determining the PORV setpoint for LTOP events, the licensee proposed to use safety margins based on an alternate methodology consistent with the proposed ASME Code Case N–514 guidelines. The ASME Code Case N–514 allows determination of the setpoint for LTOP events such that the maximum pressure in the vessel would not exceed 110% of the P/T limits of the existing ASME Appendix G.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed change involves use of a lower safety margin on fracture toughness for

determining the PORV setpoint during LTOP events; but reduces the potential for activation of pressure relieving devices, thereby improving plant safety. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Surry Power Station, Units 1 and 2.

Agencies and Persons Consulted

In accordance with its stated policy, on October 13, 1995, the staff consulted with the Virginia State official, Mr. Foldesi of the State Health Department, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated June 8, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Rockville, Maryland, this 18th day of October 1995.

For the Nuclear Regulatory Commission

David B. Matthews,

Director, Project Directorate II-1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95-26420 Filed 10-24-95; 8:45 am]

BILLING CODE 7590-01-P

[Docket Nos. 50-390 and 50-391]

Watts Bar Nuclear Plant, Units 1 and 2 Environmental Assessment and Finding of No Significant Impact

The U. S. Nuclear Regulatory Commission (the Commission) is considering granting an exemption from certain requirements of its regulations to Watts Bar Nuclear Plant, Units 1 and 2, located in Spring City, Tennessee. Operating licenses have not been issued for Watts Bar; Units 1 and 2 are currently under Construction Permits CPPR-91 and CPPR-92, respectively.

Environmental Assessment

Identification of Proposed Action

By letter dated July 19, 1995, as supplemented by letters of July 26 and September 6, 1995, Tennessee Valley Authority (TVA) requested an exemption from the ingestion pathway portion of the requirement in 10 CFR Part 50, Appendix E, Section IV.F.2(a), which states that a full-participation exercise shall be conducted within 2 years before the issuance of the initial operating license for full power (authorizing operation above 5 percent of rated power) of the first reactor and shall include participation by each State and local government within the plume exposure pathway emergency planning zone (EPZ) and each State within the ingestion exposure pathway EPZ. Specifically, TVA requested relief from the requirement to include participation of each State within the ingestion exposure pathway EPZ during the Watts Bar exercise scheduled for November 1995, because in 1992 and 1993 the State of Tennessee participated in full-participation exercises which included the ingestion pathway EPZs at Sequoyah and Watts Bar, respectively. The State of Tennessee supported TVA's request for an exemption because it would encounter financial hardship if it has to participate.

The Need for the Proposed Action

The NRC may grant exemptions from the requirements of 10 CFR Part 50 which, pursuant to 10 CFR 50.12(a), are (1) authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and (2) present special circumstances. Section 50.12(a)(2) of 10 CFR Part 50 describes the special circumstances for an exemption. Special circumstances are present when the application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule [10 CFR 50.12(a)(2)(ii)]. The underlying purpose of Appendix E, Section IV.F.2(a) is to demonstrate the integrated capabilities of appropriate local and State authorities and licensee personnel to adequately assess and respond to an accident at a commercial nuclear power plant within 2 years before the issuance of the initial operating license for full power (authorizing operation above 5 percent of rated power) of the first reactor on a site. Special circumstances are also present when compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted [10 CFR 50.12(a)(2)(iii)]. Additionally, special circumstances are present when the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation [10 CFR 50.12(a)(2)(v)].

Environmental Impacts of the Proposed Action

The applicant's request for exemption involves aspects of the upcoming full-participation emergency exercise, but does not involve any design or construction activity. The proposed action will not increase the probability or consequences of accidents, makes no changes in the types of any effluents that may be released offsite, and does not increase the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any activity that results in release of any nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not

be evaluated. As an alternative to the proposed action, the Commission considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement and Supplement 1 related to operation of the Watts Bar Nuclear Plant, dated December 1978 and April 1995, respectively.

Agencies and Persons Consulted

In accordance with its stated policy, the NRC staff consulted with the Tennessee State official regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the request for exemption dated July 26, 1995, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee.

Dated at Rockville, Maryland, this 2nd day of October 1995.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Senior Project Manager, Project Directorate II-3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–26423 Filed 10–24–95; 8:45 am]

BILLING CODE 7590-01-P

Proposed Generic Communication; Licensee Qualification for Performing Safety Analyses (M91599)

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to issue Supplement 1 to Generic Letter 83–11 concerning licensee qualification for performing their own safety analyses. This draft generic letter supplement provides an alternative method for licensee qualification. The NRC is seeking comment from interested parties regarding both the technical and regulatory aspects of the proposed generic letter supplement presented under the Supplementary Information heading.

This proposed generic letter supplement was endorsed by the Committee to Review Generic Requirements (CRGR) on September 26, 1995. The relevant information that was sent to the CRGR will be placed in the NRC Public Document Room. The NRC will consider comments received from interested parties in the final evaluation of the proposed generic letter supplement. The NRC's final evaluation will include a review of the technical position and, as appropriate, an analysis of the value/impact on licensees. Should this generic letter supplement be issued by the NRC, it will become available for public inspection in the NRC Public Document Room.

In addition to the proposed supplement to Generic Letter 83–11, the NRC staff is also investigating modified procedures for reducing the resource effort for acceptance of new or revised licensee or vendor analysis methods. Currently, topical reports are submitted to the NRC which require a relatively long review and approval process. In this regard, the NRC requests comments on the following:

(1) To what extent can an organization other than the NRC (a third party) review a new methodology or a significant change to an existing methodology?

(a) What capabilities should be required of a third-party reviewer?

(b) What is the safety significance of not having the NRC perform the review?

(c) What documentation should be submitted to the NRC by the third-party reviewer and/or by the licensee?

(d) What type of acceptance (e.g., a safety evaluation report) should be issued?

(e) How would approved references (e.g., Core Operating Limits Report (COLR) parameters in technical specification reporting requirements) be handled?

(f) What information, if any, should be available for NRC audit?

(2) What other viable approaches can be used for accepting new or revised methods?

(a) Should a regulatory guide be developed?

(b) Can a set of criteria, as proposed in the generic letter supplement for previously approved generic methods, also be developed for new methods?

(3) To what technical disciplines should this process apply? Commentors should clearly differentiate any comments submitted in response to these questions from comments on the generic letter supplement.

DATES: Comment period expires Decenber 11, 1995. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSEES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Mail Stop T–6D–69, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, from 7:30 am to 4:15 pm, Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, N.W. (Lower Level), Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Laurence I. Kopp (301) 415–2879.

SUPPLEMENTARY INFORMATION:

NRC Generic Letter 83–11, Supplement 1: Licensee Qualification for Performing Safety Analyses

Addressees

All holders of operating licenses or construction permits for nuclear power reactors.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this supplement to Generic Letter (GL) 83–11 to notify licensees and applicants of modifications to the Office of Nuclear Reactor Regulation (NRR) practice regarding licensee qualification for performing their own safety analyses. It is expected that recipients will review the information for applicability to their facilities. However, suggestions contained in this supplement to the generic letter are not NRC requirements; therefore, no specific action or written response is required.

Background

Over the past decade, substantially more licensees have been electing to perform their own safety analyses to support such tasks as reload applications and technical specification amendments, rather than contract the work out to their nuclear steam supply

system (NSSS) vendor, fuel vendor, or some other organization. The NRC encourages utilities to perform their own safety analyses since doing this significantly improves licensee understanding of plant behavior. GL 83-11 presented guidance on the information that NRC needs in order to qualify licensees to perform their own safety analyses using approved computer codes.

Description of Circumstances

NRC experience with safety analyses using large, complex computer codes has shown many times that errors or discrepancies discovered in safety analyses can be traced to the user rather than to the code itself. This realization has led the NRC to place additional emphasis on assuring the capabilities of the code users as well as on assuring the codes themselves. In the past, NRC obtained this assurance by reviewing the code verification information submitted by the licensee. The review focused primarily on the licensee's quality assurance practices and the technical competence of the licensee with respect to their ability to set up an input deck, execute a code, and properly interpret the results. The information which was reviewed generally included comparisons (performed by the user of the code results) with experimental data, plant operational data, or other benchmarked analyses, as well as compliance with any restrictions or limitations stated in the generic NRC Safety Evaluation Report (SER) that approved the code.

Since GL 83-11 was issued, many licensees have submitted information in the form of topical reports demonstrating their ability to perform their own safety analyses, such as reload analyses, using NRC-approved methods and codes. The preparation and review of a qualification topical report is resource intensive for both the licensee and the staff, and because the review is usually assigned a low priority, it is difficult to schedule the review for timely completion.

Discussion

To help shorten the lengthy review and approval process, the NRC has adopted a generic set of guidelines which, if met, would eliminate the need to submit detailed topical reports for NRC review before a licensee could use approved codes and methods. These guidelines are presented in Attachment 1. Using this approach, which is consistent with the regulatory basis provided by Criteria II and III of Appendix B to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR 50), the licensee would institute a program (such as training, procedures, and benchmarking) that follows the guidelines, and would notify NRC by letter that it has done this and that the documentation is available for NRC audit.

Summary

The revised guidance on licensee qualification for using safety analysis codes is intended for licensees who wish to perform their own licensing analyses using methods that have been reviewed and approved by the NRC.

Backfit Discussion

This supplement does not involve a backfit as defined in 10 CFR 50.109(a)(1), it provides guidance as to an acceptable means by which a licensee may verify to the NRC its qualifications to use approved codes and methods for performing safety analyses. Therefore the staff has not prepared a backfit analysis.

Attachment 1—Guidelines for Qualifying Licensees To Use Generically Approved Analysis Methods

1.0 Introduction

This attachment presents a simplified approach for qualifying licensees to use NRC-approved analysis methods. Typically, these methods are developed by a fuel vendor or an organization such as the Electric Power Research Institute, Incorporated (EPRI). To use these approved methods, the licensee would institute a program (e.g., training, procedures) that follows the guidelines below and notify the NRC that it has done so.

2.0 Guidelines

A commitment on the part of a licensee to implement the guidelines delineated in this document is sufficient information for the NRC to accept the licensee's qualification to use an approved code or method to perform safety-related evaluations. To document its qualification in this manner, the licensee must send the NRC a notification of its having followed the guidelines at least three months before the date of its intended first licensing application.

2.1 Eligibility

The only codes and methods that are addressed by this process are those that NRC has reviewed and approved.

2.2 Application Procedures

In-house application procedures, which ensure that the use of approved methods is consistent with the code qualification and approved application of the methodology, should be established and implemented. These procedures should contain a section describing the application of the code and a section delineating the code limitations and restrictions, including any defined in the licensing topical report, correspondence with the NRC, and the safety evaluation report (SER).

2.3 Training and Qualification of Licensee Personnel

A training program should be established and implemented to ensure that each qualified user of an approved methodology has a good working knowledge of the codes and methods, and will be able to set up the input, to understand and interpret the output results, to understand the applications and limitations of the code, and to perform analyses in compliance with the application procedure.

2.4 Comparison Calculations

Licensees should verify their ability to use the methods by comparing their calculated results to an appropriate set of benchmark data, such as physics startup tests, measured flux detector data during an operating cycle, and vendor results. These comparisons should be documented in a report which is part of the licensee's quality assurance (QA) records. Any deviations in the calculations of safety-related parameters should be justified in the report. All comparisons with startup test data should agree within the acceptance criteria defined in the plant startup test plan.

2.5 Quality Assurance and Change Control

All safety-related licensing calculations performed by a licensee using NRC-approved codes and methods should be conducted under the control of a Quality Assurance (QA) program which complies with the requirements of Appendix B to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR 50). The licensee's QA program should also include the following:

(1) A provision for implementing vendor updates in codes, methods, and procedures (if applicable); and

(2) A provision for informing vendors of any problems or errors discovered while using their codes, methods, or procedures.

Dated at Rockville, Maryland, this 18th day of October 1995.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 95–26421 Filed 10–24–95; 8:45 am]

BILLING CODE 7590–01–P

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from September 29, 1995, through October 13, 1995. The last biweekly notice was published on October 11, 1995 (60 FR 52927).

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 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By November 24, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if

proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (*Project Director*): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units Nos. 1, 2, and 3, Maricopa County, Arizona

Date of amendments request: June 13, 1995, as supplemented by letter dated August 16, 1995.

Description of amendments request: The proposed amendments would extend allowed outage times (AOTs) for a safety injection tank (SIT), a low-pressure safety injection (LPSI) subtrain, and an emergency diesel generator (EDG) and add the bases for the extended AOTs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Safety Injection Tanks (SITs) are passive components in the Emergency Core Cooling System. The SITs are not an accident initiator in any accident previously evaluated. Therefore, this change does not involve a significant increase in the probability of an accident previously evaluated.

SITs were designed to mitigate the consequences of Loss of Coolant Accidents (LOCA). These proposed changes do not affect any of the assumptions used in deterministic LOCA analysis. Hence the consequences of accidents previously evaluated do not significantly increase.

The allowed outage time (AOT) extension for boron concentration outside the prescribed limits does not involve a significant increase in the consequences of an accident as evaluated and approved by the NRC in NUREG–1432, "Standard Technical Specifications for Combustion Engineering Plants." These changes are applicable to PVNGS.

The changes pertaining to SIT inoperability based solely on instrumentation malfunction do not involve a significant increase in the consequences of an accident as evaluated and endorsed by the NRC in NUREG–1366, "Improvements to Technical Specifications Surveillance Requirements," and Generic Letter 93–05, "Line-Item Technical Specifications Improvements to Reduce Surveillance Requirements for Testing During Power Operations." These changes are applicable to PVNGS.

The AOT extension from one hour to 24 hours for a SIT that is inoperable due to reasons other than boron concentration not within limits or the inability to verify level or pressure does not involve a significant increase in the consequences of an accident. In order to fully evaluate the affect of the SIT AOT extension, probabilistic safety analysis (PSA) methods were utilized. The results of these analyses show no significant increase in the core damage frequencies (CDF). As a result, there would be no significant increase in the consequences of an accident previously evaluated. These analyses are detailed in CE NPSD–994, Combustion Engineering Owners Group "Joint Applications Report for Safety Injection Tank AOT/STI Extension," May 1995.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed change does not change the design, configuration, or method of operation of the plant. Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes do not involve a significant reduction in a margin of safety.

The proposed changes do not affect the limiting conditions for operation or their bases that are used in the deterministic analyses to establish the margin of safety. PSA evaluations were used to evaluate these changes. These evaluations demonstrated that the changes are either risk neutral or risk beneficial. These evaluations are detailed in CE NPSD–994.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involve no significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999.

NRC Project Director: William H. Bateman.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: September 11, 1995.

Description of amendment request: The proposed change is to (1) modify a limiting condition for operation (LCO), TS Section 3.10.1.3, to provide for temporary conditions in which the full length control rod insertion limits (RILs) are exceeded due to automatic plant responses or conservative operator actions and (2) add an allowance for RILs to be exceeded for a time no greater than the time criteria established by the axial power distribution methodology or 1 hour, whichever is sooner. An action is added for the reactor to be placed in the hot shutdown condition within 6 hours if compliance with the RILs cannot be restored within the specified time period.

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:

This proposed change does not involve a significant hazards consideration for the following reasons.

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change does not involve the addition or modification of plant equipment, nor does it alter the design, material, or operation of plant systems. No analyzed accidents are initiated by an entire control rod bank exceeding the RILs, due to automatic plant responses or conservative operator actions. The overall performance of the Reactor Control System, Power Distribution Control procedures, and Control Rod Drive System is not degraded. There is no increase in fatigue or number of operational cycles of equipment, and there is no change in system interfaces. The consequences of previously evaluated accidents are not increased since exceeding the RILs for a limited period is acceptable as the probability of a simultaneous occurrence of an independent accident is low. Therefore, an allowance for RILs to be exceeded for a maximum of one (1) hour does not affect the probability of occurrence or consequences of an analyzed accident.

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 adds an allowance for RILs to be exceeded for a maximum of one (1) hour. The proposed change does not involve the addition or modification of plant equipment, nor does it alter the design or operation of plant systems. The only procedural changes required will be those associated with recovery from the infrequent condition of exceeding the RILs. No new accident scenarios are introduced when the RILs are exceeded for a short period of time due to automatic plant responses or conservative operator actions because the probability of a simultaneous occurrence of an independent accident is low. Therefore, an allowance for RILs to be exceeded for a maximum of one (1) hour does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety. The proposed change adds an allowance for RILs to be exceeded for a maximum of one (1) hour. The proposed change does not involve the addition or modification of plant equipment, nor does it alter the design or operation of plant systems. The overall performance of the Reactor Control System, Power Distribution Control, and Control Rod Drive System is not degraded. There is no increase in fatigue or number of operational cycles of equipment, and there is no change in system interfaces. When the RILs are exceeded for a limited time period, due to automatic plant responses or conservative operator actions, the margin of safety is not reduced because the probability of a simultaneous occurrence of an independent accident is acceptably low. Therefore, an allowance for RILs to be exceeded for a maximum of one (1) hour does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Attorney for licensee: R.E. Jones, General Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: David B. Matthews.

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of amendment request: September 14, 1995.

Description of amendment request: The proposed amendment would allow the use of an alternate zirconium based fuel cladding, ZIRLO, and permit limited substitution of ZIRLO filler rods for fuel rods. The proposed amendment also includes a clarification and an editorial change.

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 methodologies used in the accident analyses remain unchanged. The proposed changes do not change or alter the design assumptions for the systems or components used to mitigate the consequences of an accident. Use of ZIRLO fuel cladding does not adversely affect fuel performance or impact nuclear design methodology. Therefore, accident analysis results are not impacted.

The operating limits will not be changed and the analysis methods to demonstrate operation within the limits will remain in accordance with NRC-approved methodologies. Other than the changes to the fuel assemblies, there are no physical changes to the plant associated with this Technical Specification change. A safety analysis will continue to be performed for each cycle to demonstrate compliance with all fuel safety design bases.

VANTAGE 5 fuel assemblies with ZIRLO clad fuel rods meet the same fuel assembly and fuel rod design bases as other VANTAGE 5 fuel assemblies. In addition, the 10 CFR 50.46 criteria are applied to the ZIRLO clad fuel rods. The use of these fuel assemblies will not result in a change to the reload design and safety analysis limits. Since the original design criteria are met, the ZIRLO clad fuel rods will not be an initiator for any new accident. The clad material is similar in chemical composition and has similar physical and mechanical properties as Zircaloy-4. Thus, the cladding integrity is maintained and the structural integrity of the fuel assembly is not affected. ZIRLO cladding improves corrosion performance and dimensional stability. No concerns have been identified with respect to the use of an assembly containing a combination of Zircaloy-4 and ZIRLO clad fuel rods. Since the dose predictions in the safety analyses are not sensitive to the fuel rod cladding material used, the radiological consequences of accidents previously evaluated in the safety analysis remain valid.

Replacing the reference to the Final Safety Analysis Report (FSAR) with a reference to the Updated Final Safety Analysis Report (UFSAR) is an editorial change to reflect the current document. Adding that reload fuel shall be similar in physical design to the initial core loading or previous cycle loading is a clarification. A reload analysis is completed for each cycle, in accordance with USNRC-approved methodologies.

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 accident previously evaluated.

VANTAGE 5 fuel assemblies with ZIRLO clad fuel rods satisfy the same design bases as those used for other VANTAGE 5 fuel assemblies. All design and performance criteria continue to be met and no new failure mechanisms have been identified. The ZIRLO cladding material offers improved corrosion resistance and structural integrity.

The proposed changes do not affect the design or operation of any system or component in the plant. The safety functions of the related structures, systems, or components are not changed in any manner, nor is the reliability of any structure, system, or component reduced. The changes do not affect the manner by which the facility is operated and do not change any facility design feature, structure, or system. No new or different type of equipment will be installed. Since there is no change to the facility or operating procedures, and the safety functions and reliability of structures, systems, or components are not affected, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The use of Zircaloy–4, ZIRLO, or stainless steel filler rods in fuel assemblies will not involve a significant reduction in the margin of safety because analyses using NRC-approved methodology will be performed for each configuration to demonstrate continued operation within the limits that assure acceptable plant response to accidents and transients. These analyses will be performed using NRC-approved methods that have been approved for application to the fuel configuration.

Use of ZIRLO cladding material does not change the VANTAGE 5 reload design and safety analysis limits. The use of these fuel assemblies will take into consideration the normal core operating conditions allowed in the Technical Specifications. For each cycle reload core, the fuel assemblies will be evaluated using NRC-approved reload design methods, including consideration of the core physics analysis peaking factors and core average linear heat rate effects.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration. *Local Public Document Room location:* For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Robert A. Capra.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: August 28, 1995.

Description of amendment request: The proposed amendments would support elimination of the Main Steam Isolation Valve Leakage Control System (MSIV LCS) and instead use the main steamline drains and condenser to process MSIV leakage. The proposed changes would also increase the allowable MSIV leakage from 100 standard cubic feet per hour (scfh) for all four main steam lines to 100 scfh per steam line (400 scfh for all four main steam lines).

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 increase in the probability or consequences of an accident previously evaluated because:

The proposed changes involve eliminating the requirement for the Main Steam Isolation Valve Leakage Control System (MSIV LCS). This system is manually initiated following a design basis Loss of Coolant Accident (LOCA). Since operation of the LCS is initiated after the accident has already begun, elimination of that system will not affect the probability of a LOCA. The LCS only interfaces with the main steamlines, with the exception of one MSIV LCS power supply which supplies power to the Reactor Protection System Scram Discharge Volume high level scram. This power supply will remain in place after the MSIV LCS is isolated from the main steamlines. Therefore, since the only significant system interface is with the main steamlines, and the system does not impact the reliability of any plant equipment, elimination of that system will not cause an increase in the likelihood that any accident might occur.

The proposed change to increase the allowable MSIV leakage limit from 100 scfh through all four main steam lines to 100 scfh per main steam line (400 scfh total) will not increase the probability of an accident. MSIV operability will not be degraded with the allowed increased leakage.

The consequences of a LOCA are not significantly increased and do not exceed the previously accepted licensing criteria for this accident. General Electric has calculated the revised LOCA doses, which have been added to the previous LOCA doses. These resulting values are well below the acceptance criteria of 10CFR100 and 10CFR50, Appendix A.

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because:

The proposed changes require the use of the main steam piping and condenser to process MSIV leakage. The analyses presented provide assurance that this additional function does not compromise the reliability of those systems. They will therefore continue to function as intended and not be subject to an increased failure rate or a failure of a different kind than previously considered.

In addition, MSIV functionality will not be adversely impacted as a result of the increased leakage limit. The MSIVs are not being modified in any way and will continue to provide their intended isolation function.

The MSIV LCS will be cut and capped, which will completely isolate it from other plant systems. Future degradation of its associated piping would not impact any other system or create a failure not previously analyzed. However, piping seismic Class II over I criteria must be maintained for the abandoned MSIV LCS piping until it is removed from the plant.

The proposed changes do not involve a significant reduction in a margin of safety because:

The proposed change has been evaluated with respect to dose limits contained in 10CFR100 and 10CFR50, Appendix A. The revised dose calculations verify that the use of the main steam lines and the condenser for leakage control, in place of the MSIV LCS, and with an allowable total leakage of 400 scfh, maintains adequate margins to the criteria listed above.

Even though there is a reduction in the margin to safety, the new doses remain well within the criteria of 10 CFR 100 and 10 CFR 50, Appendix A. This reduction in margin is not significant when compared to the increased reliability and capability of the main steam lines and condenser as a method of treating MSIV leakage. The new leakage pathway is consistent with the philosophy of protection by multiple barriers for limiting fission product release to the environment. In addition, the new method is passive and does not require any new logic control or interlocks. The new pathway is also capable of handling a larger amount of leakage than the MSIV LCS, which was previously subject to concerns that it would not function at leakage rates higher than its design capacity, or at reactor pressures greater than 35 psig.

The revised calculated LOCA doses remain well within the regulatory limits for MSIV leakage rates of 400 scfh for all four main steam lines (100 scfh per steam line), and the margin to safety is not significantly reduced as a result of the proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Robert A. Capra.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: September 1, 1995.

Description of amendment request: Generic Letter 88-16 provided guidance on removing cycle-specific parameters which are calculated using NRC-approved methodologies from the Technical Specifications (TS). The parameters are replaced in the TS with a reference to a named report which contains the parameters, and a requirement that the parameters remain within the limits specified in the report. The proposed changes incorporate NRC-approved methodologies, approved revisions to previously approved methodologies, or republished versions of previously approved methodologies into section 6.9.2 of the Oconee TS. The limits to which these methodologies are applied are (1) Axial Power Imbalance Protective Limits and Variable Low RCS Pressure Protective Limits, (2) Reactor Protective System Trip Setting Limits for the Flux/Flow/Imbalance and Variable Low Reactor Coolant System Pressure Trip Functions, and (3) Power Imbalance Limits. Since the proposed changes only incorporate NRC-approved methodologies into the TS, the licensee proposed that the changes are administrative in nature and can be assumed to have no impact, or potential impact, on the health and safety of the public.

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 will not create a significant hazards consideration, as defined by 10 CRF 50.92, because:

(1) The proposed changes will 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 affect any system, procedure, or manipulation of any equipment which could affect the probability or consequences of any accident.

(2) The proposed changes will not create the possibility of any new or different kind of accident from any accident previously evaluated.

The proposed changes are administrative in nature, and cannot introduce any new failure mode or transient which could create any accident.

(3) The proposed changes will not involve a significant reduction in a margin of safety.

The proposed changes are administrative in nature, and will not affect any operating parameters or limits which could result in 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: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: Herbert N. Berkow.

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of amendment request: September 25, 1995.

Description of amendment request: The proposed amendment adds a repair limit for circumferential cracks in steam generator tubes. It deletes the requirement to repair cracks that are within the repair limit. The proposed amendment also reduces the primary-to-secondary leak rate limit.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1—Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

Consistent with draft Regulatory Guide (RG) 1.121, "Basis for Plugging Degraded PWR Steam Generator Tubes," the traditional maximum depth based criteria for steam generator tube repair implicitly ensures that tubes accepted for continued service will retain adequate structural and leakage integrity during normal operating, transient, and postulated accident conditions. It is recognized that defects in tubes permitted to remain in service occasionally grow through-wall and develop small leaks. Limits on allowable primary-to-secondary leakage established in the technical specifications ensure timely plant shutdown before the structural and leakage integrity of the affected tube is challenged.

The proposed change to implement a circumferential crack repair limit in the expansion transition region for ANO-2 meets the criteria of RG 1.121. The 40% degraded area repair limit was determined by performing a structural analysis per the recommendations of the RG and applying the following uncertainties: 95% lower bound material properties, 95% lower bound burst curve, 95% lower bound eddy current measurement uncertainties, and 95% upper bound crack growth rate. The analysis demonstrates that tube leakage and conditional probability of burst are acceptably low during either normal operation or the most limiting accident condition, a postulated main steam line break (MSLB) event.

As part of the implementation of the circumferential crack repair limit, the distribution of End-of-Cycle (EOC) circumferential indications in the expansion transition region will be used to calculate the primary-to-secondary leakage. The allowable leakage is bounded by the maximum leakage which results in doses within the applicable dose limits (10CFR100 and General Design Criteria 19). The limit is calculated using the technical specification reactor coolant system (RCS) iodine activity. Application of the circumferential crack repair limit requires the projection of the postulated MSLB leakage based on the projected EOC distribution for the next cycle. The projected EOC distribution is developed using the most recent EOC eddy current results based on crack arc length.

The reduction in the leak rate limit reduces the possibility that a defect in a leaking tube will grow to a size that is not structurally acceptable.

Therefore, this change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

Criterion 2—Does not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

Implementation of the proposed circumferential crack repair limit does not introduce any significant changes to the plant design basis. The only accident possible from implementation of this limit is a tube rupture, which has already been evaluated in the ANO-2 Safety Analysis Report.

The maximum primary-to-secondary leakage rate has been reduced to 150 gallons per day through any one steam generator to help preclude the potential for excessive leakage during all plant conditions. The RG 1.121 criterion for establishing the operational leak rate limit considers: (1) the detection of a crack before potential tube rupture as a result of faulted plant conditions; (2) the maintenance of a margin to tube rupture of not less than three for normal operating conditions; and (3) that any leakage rate increase will be gradual to provide time for corrective action. The 150 gallon per day limit is intended to provide for leakage detection and plant shutdown in the event of an unexpected crack propagation resulting in excessive leakage.

Steam generator tube integrity is maintained through inservice inspection and primary-to-secondary leakage monitoring. Any tubes exceeding the circumferential crack repair limit are removed from service.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—Does not Involve a Significant Reduction in the Margin of Safety.

The use of the circumferential crack repair limit will maintain steam generator tube

integrity commensurate with the criteria of RG 1.121. Upon implementation of the limit, even under worst case conditions, the occurrence of circumferential cracking in the expansion transition region is not expected to lead to a steam generator tube rupture event during normal or faulted plant conditions. The distribution of crack indications left in service will result in acceptable primary-to-secondary leakage and conditional tube burst probability during all plant conditions.

The installation of steam generator tube plugs and sleeves reduces RCS flow margin. Implementation of the circumferential crack repair limit will decrease the number of tubes which must be repaired by plugging or sleeving, thereby retaining additional flow margin that would otherwise be reduced.

Therefore, this change does *not* involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Project Director: William D. Beckner.

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 5, 1995, as supplemented September 28, 1995.

Description of amendment request: The licensee proposes to change Turkey Point Units 3 and 4 Technical Specifications (TS) by revising TS 2.1.1, Safety Limit—Reactor Core; TS 2.2, Limiting Safety System Settings—Reactor Trip System Instrumentation Setpoints; TS 3/4.2.5 Power Distribution Limits— Departure from Nucleate Boiling (DNB) Parameters; TS 3/4.3.2 Engineered Safety Features Actuation System Instrumentation and the associated BASES. The proposed revision to the TS includes (a) the implementation of Westinghouse's NRC approved Revised Thermal Design Procedure (RTDP), and (b) a revision to the Steam Generator Water Level Low-Low trip setpoint.

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 licensee's analysis was presented separately for the following areas: core thermal limits, overtemperature [delta] T and overpower [delta] T reactor trip setpoint; steam generator process measurement accuracy; and DNB parameter surveillance requirements.

Core Thermal Limits, overtemperature [delta] T and overpower [delta] T Reactor Trip Setpoint

(1) Operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The revised Overtemperature and Overpower [delta] T reactor trip functions do not involve an increase in the probability or consequences of an accident previously evaluated because operation with these revised values will not cause any design or analysis acceptance criteria to be exceeded. The structural and functional integrity of all plant systems is unaffected. The Overtemperature and Overpower [delta] T reactor trip functions are part of the accident mitigation response and are not initiators for any transient. Therefore, the probability of occurrence previously evaluated are not affected.

The changes to the Overtemperature and Overpower [delta] T reactor trip functions do not affect the integrity of the fission product barriers utilized for mitigation of radiological dose consequences as a result of an accident. In addition, the off-site mass releases used as input to the dose calculations are unchanged from those previously assumed. Therefore, the off-site dose predictions remain within the acceptance criteria of 10 CFR Part 100 limits for each of the transients affected. Since it has been concluded that the transient analyses results are unaffected by the parameter modifications, it is concluded that the probability or consequences of an accident previously evaluated are not increased.

(2) The proposed license amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The revised Overtemperature and Overpower [delta] T reactor trip functions do not create the possibility of a new or different kind of accident from any accident previously evaluated because the setpoint adjustments do not affect accident initiation sequences. No new operating configuration is being imposed by the setpoint adjustments that would create a new failure scenario. In addition, no new failure modes or limiting single failures have been identified. Therefore, the types of accidents defined in the UFSAR continue to represent the credible spectrum of events to be analyzed which determine safe plant operation. Therefore, it is concluded that no new or different kind of accidents from those previously evaluated have been created as a result of these revisions.

(3) The proposed license amendments do not involve a significant reduction in a margin of safety.

The changes to the Overtemperature and Overpower [delta] T reactor trip functions do not involve a reduction in the margin of safety because the margin of safety associated with the Overtemperature and Overpower [delta] T reactor trip functions, as verified by the results of the accident analyses, are within acceptable limits. All transients impacted by implementation of the RTDP methodology have been analyzed and have met the applicable accident analyses acceptance criteria. The margin of safety required for each affected safety analysis is maintained. This conclusion is not changed by the Overtemperature and Overpower [delta] T setpoint modifications. The adequacy of the revised Technical Specifications values to maintain the plant in a safe operating condition has been confirmed. Therefore, the changes to the Overtemperature and Overpower [delta] T reactor trip functions do not involve a significant reduction in the margin of safety.

Steam Generator Process Measurement Accuracy

(1) Operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The revised reactor trip setpoints on Steam Generator water level do not involve a significant increase in the probability or consequences of an accident previously evaluated. Operation with these revised values will not cause any design or analysis acceptance criteria to be exceeded. The structural and functional integrity of any plant system is unaffected. The Steam Generator Water Level trip functions are part of the accident mitigation response and are not themselves initiators for any transient. Therefore, the probability of occurrence previously evaluated is not affected.

The changes to the reactor trip setpoints do not affect the integrity of the fission product barriers utilized for mitigation of radiological dose consequences as a result of an accident. The Steam Generator Water Level Low-Low trip setpoint assumed in the safety analyses has been revised and acceptable results were obtained. The Steam Generator Water Level-Low setpoint is not credited in the safety analysis. Consequently, the required margin of safety for each affected safety analysis has been maintained. In addition, the offsite mass releases used as input to the dose calculations are unchanged from those previously assumed. Therefore, the offsite dose predictions remain within the acceptance criteria of 10 CFR Part 100 limits for each of the transient analyses affected. Since it has been determined that the transient analysis results are unaffected by these parameter modifications, FPL concludes that the consequences of an accident previously evaluated are not increased.

(2) The proposed license amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The setpoint values do not affect the assumed accident initiation sequences. In addition, no new failure modes or limiting single failures have been identified for any

plant equipment. Therefore, the types of accidents defined in the UFSAR continue to represent the credible spectrum of events to be analyzed which determine safe plant operation. Therefore, the possibility of a new or different kind of accident from any accident evaluated is not increased.

(3) The proposed license amendments do not involve a significant reduction in the margin to safety.

The current Technical Specification trip setpoints and allowable values were changed to maintain the current safety analysis limits. The Steam Generator Water Level Low-Low trip setpoint assumed in the safety analyses has been revised and acceptable results were obtained. The Steam Generator Water Level-Low setpoint is not credited in the safety analysis. Consequently, the required margin of safety for each affected safety analysis has been maintained. Thereby, the adequacy of the revised Technical Specification values to maintain the plant in a safe operating condition is also confirmed.

DNB Parameter Surveillance Requirements

(1) Operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

With the retention of the previous Safety Analyses Limits for Departure from Nucleate Boiling (DNB) (T.S. 3/4.2.5) and the existing Reactor Coolant System (RCS) low flow trip Nominal Trip Setpoint (NTS), there is no increase in the probability or consequences of an accident previously evaluated because there is no change to any design or analysis acceptance criteria. The structural and functional integrity of any plant system is unaffected. The proposed license amendments revise the surveillance requirements for DNB parameters and incorporate the RTDP uncertainty analysis into the Westinghouse methodology for the RCS Loss of Flow determination of the Allowable Value.

The changes to the reactor trip functions do not affect the integrity of the fission product barriers utilized for mitigation of radiological dose consequences as a result of an accident. The margin to safety for the RCS Loss of Flow trip remains protected as the trip setpoints assumed in the safety analyses are not revised. In addition, the offsite mass releases used as input to the dose calculations are unchanged from those previously assumed. Therefore, the offsite dose predictions remain within the acceptance criteria of 10 CFR Part 100 limits for each of the transients affected. Since it has been determined that the transient results are unaffected by these parameter modifications, it is concluded that the consequences of an accident previously evaluated are not increased.

(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 revised Allowable Value does not create the possibility of a new or different kind of accident from any accident previously evaluated. Revision of the surveillance requirements merely provides clarification to more accurately reflect the surveillance activity.

The Allowable Value does not affect the assumed accident initiation sequences. In addition, no new failure modes or single failures have been identified for any plant equipment. Therefore, the types of accidents defined in the UFSAR continue to represent the credible spectrum of events to be analyzed which determine safe plant operation. Therefore, it is concluded that no new or different kind of accidents from those previously evaluated have been created as a result of these revisions.

(3) The proposed license amendments do not involve a significant reduction in the margin to safety.

The RCS Loss of Flow setpoint assumed in the safety analysis remains unchanged. Since the safety analysis limit setpoint value is unchanged and no safety analysis is affected, the required margin of safety for each affected safety analysis is maintained. Thereby, the adequacy of the revised Technical Specification values to maintain the plant in a safe operating condition is also confirmed. Therefore, the change to the RCS Loss of Flow Allowable Value 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: Florida International University, University Park, Miami, Florida 33199.

Attorney for licensee: J. R. Newman, Esquire, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: David B. Matthews.

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: July 26, 1995, as supplemented by letter dated October 4, 1995.

Description of amendment request: The licensee proposes to revise the technical specifications surveillance intervals and allowed outage times for the channel operational tests performed on the analog "bistable" comparator modules for the reactor trip, reactor trip permissive functions, engineered safety features actuation and permissive functions identified below.

TS Table 3.3–1—Revise ACTION Statements 2a, 6, 12 and 13; increase the time allowed for a channel to be inoperable or out of service in an untripped condition from 1 hour to 6 hours. Revise ACTION Statement 2b; increase the time a Nuclear Instrumentation System (NIS) channel in a functional group may be bypassed to perform testing from 2 to 4 hours.

TS Table 3.3–2—Revise ACTION Statement 14; increase the time to be in HOT STANDBY with the number of OPERABLE channels one less that the Minimum Channels OPERABLE requirement from 6 to 12 hours. Revise ACTION Statements 14, 20 and 22; increase the allowed outage time for test of the logic trains from 2 hours to 8 hours. Revise ACTION Statements 15, 18 and 25; increase the time allowed for a channel to be inoperable and out of service in an untripped condition from 1 hour to 6 hours.

TS Table 4.3–1—Revise the surveillance interval for Items 2.a, 4, 7, 8, 10, 11, 12 and Note (9) from monthly to quarterly. Revise the surveillance interval for Item 2.b from monthly to startup, and Item 3 from monthly/startup to startup only. Revise the surveillance interval for Items 17.a, 17.b, 17.c and 17.d from monthly to refueling. Revise Note (1) from "7 days" to "31 days" and delete Note (8).

TS Table 4.3–2—Revise the surveillance interval for Items 1.d, 1.e, 1.f, 4.d, 5.c, 6.b, and 8.a from monthly to quarterly.

TS BASES 3/4.3.1 and 3/4.3.2—Revise the BASES section for Technical Specification Sections 3/4.3.1 and 3/4.3.2 to reference the Westinghouse WCAPs 10271 and 10271, Supplement 2, and associated Nuclear Regulatory Commission (NRC) safety evaluation reports (SERs).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes in Technical Specification surveillance intervals and allowed outage times for the subject Reactor Protection System (RPS)/Nuclear Instrumentation System (NIS)/Engineered Safety Features Actuation System (ESFAS) analog instrumentation have been revised in accordance with the recommendations and criteria of Westinghouse WCAP–10271, WCAP 10271, Supplement 2, and the NRC's SERs on the same subject dated February 21, 1985 and dated February 22, 1989.

The proposed changes do not involve any hardware or setpoint changes. Similarly, the proposed changes do not alter the manner in which safety limits, limiting safety system setpoints or limiting conditions for operation

are determined. Implementation of the proposed changes does affect the probability of failure of the RPS, including NIS, and ESFAS, but does not alter the manner in which protection is afforded nor the manner in which limiting setpoint criteria are established for the RPS/ESFAS instrumentation systems. Consequently, the proposed changes do not result in an increase in the severity or consequences of any accident previously evaluated.

Implementation of the proposed changes is expected to result in an acceptably small increase in total RPS unavailability. This increase is primarily due to less frequent surveillances and was generically quantified to be less than 3% within WCAP–10271. WCAP–10271 also documents that the implementation of the proposed changes is also expected to result in a significant reduction in the probability of core melt from inadvertent reactor trips (WCAP–10271). This is the result of a reduction in the number of inadvertent reactor trips (0.5 fewer inadvertent reactor trips per unit per year) occurring during testing of the RPS instrumentation. This reduction is primarily attributable to testing in bypass for applicable channels and to less frequent surveillances. WCAP–10271 documents that the reduction in inadvertent core melt probability is sufficiently large to counter the increased core melt probability, resulting in an overall reduction in total core melt probability of approximately 1%.

A corresponding probabilistic risk assessment (WCAP–10271, Supplement 2) was documented by Westinghouse for the generic implementation of the proposed changes for ESFAS instrumentation. This Westinghouse evaluation along with the independent assessments performed by an NRC contractor demonstrated that a 6% core damage frequency increase represented an upper bound for Westinghouse plants. For more realistic testing strategies, the core damage frequency increase would be substantially less than this.

Consequently, the changes in Technical Specifications associated with an extension of the surveillance intervals and out of service times for the RPS/ESFAS instrumentation systems will have only a small impact on plant risk. On this basis, FPL concludes that the proposed changes will not have a significant effect on the probability or consequences of licensing basis events; and the probability or consequences of an accident previously evaluated for Turkey Point does not significantly increase.

(2) Operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes in Technical Specification surveillance intervals and allowed outage times for the subject RPS/ESFAS analog instrumentation have been revised in accordance with the recommendations and criteria of Westinghouse WCAP–10271, WCAP 10271, Supplement 2, and the NRC's SERs on the same subject dated February 21, 1985 and dated February 22, 1989.

The proposed changes do not involve any hardware or setpoint changes. Some existing instrumentation is designed to be tested in bypass and current Technical Specifications allow testing in bypass. Testing in bypass is also recognized by IEEE Standards.

Therefore, testing in bypass has been previously approved and implementation of the proposed changes for testing in bypass does not create the possibility of a new or different kind of accident from any previously evaluated. Furthermore, since the proposed changes do not alter the manner in which protection is afforded nor the manner in which limiting criteria are established for the RPS and ESFAS instrumentation systems, the possibility of a new or different kind of accident from any previously evaluated has not been created.

The proposed changes do not result in a change in the manner in which the RPS or ESFAS provides plant protection. No change is being made which alters the function of the RPS or ESFAS (other than in a test mode). Rather, the likelihood or probability of the RPS and ESFAS functioning properly is the only effect.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident nor involve a reduction in a margin of safety as defined in the Safety Analysis Report.

Consequently, the changes in Technical Specifications associated with an extension of the surveillance intervals and out of service times for the RPS/ESFAS instrumentation systems will not create the possibility of a new or different kind of accident from any previously evaluated by the NRC, and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The proposed changes in Technical Specification surveillance intervals and allowed outage times for the subject RPS/ESFAS analog instrumentation have been revised in accordance with the recommendations and criteria of Westinghouse WCAP–10271, WCAP 10271, Supplement 2, and the NRC's SERs on the same subject dated February 21, 1985 and dated February 22, 1989.

These changes in Technical Specifications only affect the frequency of the channel operational tests and the allowed outage times; they do not alter the manner in which protection is afforded nor the manner in which limiting setpoint criteria are established. In addition, the fundamental process to implement these channel operational tests remains the same.

The proposed changes do not alter the manner in which safety limits, limiting safety system setpoints or limiting conditions for operation are determined. The impact of reduced testing is to allow a longer time interval over which instrument uncertainties (e.g., drift) may act. The site specific review of historical drift data and the conservative application of drift in the Westinghouse methodology are sufficient to demonstrate that the basis of the Technical Specification setpoint determinations are not adversely affected by extending the surveillance interval from monthly to quarterly, that is, quarterly surveillance test intervals would not exceed the allowable instrument drift of these analog devices.

Implementation of the proposed changes is expected to result in an overall improvement in safety by:

(a) Fewer inadvertent reactor trips per unit per year. This is due to less frequent testing which minimizes the time spent in a partial trip condition.

(b) Higher quality repairs leading to improved equipment reliability due to longer allowed repair times.

(c) Improvements in the effectiveness of the operating staff in monitoring and controlling plant operation. This is due to less frequent distractions of the operator and shift supervisor from attending to instrumentation testing.

The Westinghouse analysis demonstrates that any expected increases in probability of core melt or core damage frequency are small and are therefore acceptable. Consequently, the changes in Technical Specifications associated with an extension of the surveillance intervals and out of service times for the RPS/ESFAS instrumentation systems will not significantly reduce the margin of plant 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: J.R. Newman, Esquire, Morgan, Lewis & Bockius, 1800 M Street NW., Washington, DC 20036.

NRC Project Director: David B. Matthews.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: July 24, 1995

Description of amendment request: The proposed amendment would modify Technical Specification (TS) 3.12.B by adding an Exception to permit a once-per-operating cycle 10 day restoration time for Remedial Action statement 3.12.B.2. The extended restoration time would allow maintenance to be completed on the emergency diesel generators. In addition, the Basis of TS 3.12 is supplemented in support of the proposed amendment.

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 amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The emergency diesel generators (EDG) are not accident initiators for any accident previously evaluated, nor does the proposed change affect any of the assumptions used in the deterministic safety analyses. To evaluate the effect of the proposed extended restoration time of the EDGs fully, probabilistic safety analysis (PSA) methods were used. The results of these analyses show no significant increase in core damage frequency. Thus, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not alter the design, configuration, or method of operation of the plant. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed change does not affect system or component limiting conditions for operation, or the bases used in the deterministic analyses to establish the margin of safety. The PSA evaluations used to evaluate the proposed change demonstrated that the changes are either risk neutral or risk beneficial. Thus the proposed change does not involve a significant reduction in a margin of safety.

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: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, ME 04578.

Attorney for licensee: Mary Ann Lynch, Esquire, Maine Yankee Atomic Power Company, 329 Bath Road, Brunswick, ME 04011.

NRC Project Director: Phillip F. McKee.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of amendment request: August 15, 1995.

Description of amendment request: The proposed amendment would allow reduced power operation as a function of total reactor coolant flow, for flow reductions as much as 5 percent below the currently specified minimum flow. Specifically, operation would be allowed with total flow rates below 360,000 gpm, if rated thermal power is reduced by 1.5 percent for each 1.0 percent that total reactor coolant flow is reduced.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not involve any changes in the configuration of the reactor coolant system. Thus, precursors to accidents previously evaluated are unchanged. The 5.0 percent reduction in reactor coolant flow introduces a relatively minor change to the overall plant heat balance, which is conservatively offset by the proposed requirement to reduce rated thermal power by 1.5 percent for each 1.0 percent reduction in reactor coolant system flow. Analysis by the licensee shows that a 1.0 percent reduction in rated thermal power for every 1.0 percent reduction in reactor coolant system flow is sufficient to ensure that the current departure from nuclear boiling ratio is maintained. The licensee asserts that achieving the reduced power and other, related limits, within 24-hours of a subject flow reduction will not significantly increase the probability or consequences of an accident previously evaluated. Thus, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment does not involve any modifications or additions to plant equipment, and the design and operation of the plant are not affected. The reduction in rated thermal power, reactor protection system trip points, and operating limits conservatively offset the reduction in reactor coolant system flow. Plant operating conditions remain bounded by Final Safety Analysis Report (FSAR) Chapter 14, Safety Analysis. Thus, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

Plant rated power is conservatively reduced, consistent with the reactor coolant flow reduction. The power reduction is specifically designed to maintain the margin to the specified acceptable fuel design limit on the departure from nuclear boiling ratio (DNBR), as defined in MY TS 2.2. The licensee has evaluated this margin using the methodologies identified in Maine Yankee Technical Specification 5.14. The reduction in power level, operating limits, and reactor protection system setpoints ensures that the DNBR margin is maintained for those FSAR Chapter 14 events that rely on automatic reactor trip protection. Power level reductions ensure that the total sensible heat in the reactor coolant system is conservative for those events dependent on initial system energy. Thus, the proposed change does not involve a significant reduction in a margin of safety.

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 this amendment request involves no significant hazards consideration.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, ME 04578.

Attorney for licensee: Mary Ann Lynch, Esquire, Maine Yankee Atomic Power Company, 329 Bath Road, Brunswick, ME 04011.

NRC Project Director: Phillip F. McKee.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit Nos. 2, New London, Connecticut

Date of amendment request: September 19, 1995.

Description of amendment request: The proposed amendment would reduce the frequency of the surveillance interval of the Safety Injection Tanks (SITs) boron concentration from once per 31 days to once per 6 months.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (SHC), which is presented below:

Pursuant to 10CFR50.92, Northeast Nuclear Energy Company (NNECO) has reviewed the proposed change. NNECO concludes that the change does not involve a significant hazards consideration since the proposed change satisfies the criteria in 10CFR50.92(c). That is, the proposed change does not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The revised Safety Injection Tank (SIT) surveillance requirements meet all design and performance criteria. The change has no [e]ffect on the ability of the SIT to perform its designed function of providing borated water to the core following a depressurization as a result of a Loss of Coolant Accident (LOCA). Therefore, the changes to SIT surveillance requirements will not increase the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The revised SIT surveillance requirements meet all design and performance criteria. The change has no [e]ffect on the ability of the SIT to perform its design function of providing borated water to the core following a depressurization as a result of a LOCA. The change to the SIT surveillance requirement will not create the possibility of a new or different kind of accident from any previously analyzed.

3. Involve a significant reduction in the margin of safety.

The boron concentration of the SIT will not be affected by the change to the surveillance requirement. The boron concentration within the SIT will continue to be monitored on a basis consistent with the historical performance. These changes will have no impact on the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270.

NRC Project Director: Phillip F. McKee.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit Nos. 2, New London, Connecticut

Date of amendment request: September 29, 1995.

Description of amendment request: The proposed amendment would modify the Technical Specifications 3.4.2.1, 3.4.2.2, 3.7.1.1, and Table 4.7-1.

The proposed license amendment combines three separate changes to the Millstone Unit No. 2 Technical Specifications which pertain to safety valves. The first proposed modification would expand the as-found tolerance of the lift setting pressure for the pressurizer and the main steam safety valves from the current value of plus or minus 1 percent to plus or minus 3 percent. Clarifications have also been proposed by specifying that the lift setting pressure shall be determined at normal operating conditions and shall be set within plus or minus 1 percent of the required lift setting. The second portion of the modification would eliminate the need to verify the main steam safety valve orifice size. The third modification would modify the main steam safety valve action statement to reflect that if a main steam safety valve is inoperable and compensating action cannot be taken that the plant must be brought to hot shutdown (Mode 4) in 12 hours instead of cold shutdown (Mode 5) in 30 hours.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (SHC), which is presented below:

* * * 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 change in the as-found pressurizer safety valve tolerance will not increase the probability of occurrence of any of the design basis accidents. Even with the larger tolerance, the setpoint will provide margin to normal operation, the reactor setpoint, and PORV [power-operated relief valve setpoint]. This minimizes the challenges to safety valves and assures that there is no increase in the probability of an inadvertent opening of a pressurizer safety valve. Similarly, even with the increase in allowed as-found tolerance for the main steam safety valves, the setpoints will still provide margin to normal operation. Thus, there is no impact on the probability of an inadvertent opening of a steam generator safety valve.

The loss of load event and the inadvertent closure of one main steam isolation valve have been reanalyzed to show that even with a [plus or minus] 3 percent tolerance for the pressurizer safety valves and the main steam safety valves, that both the peak RCS [reactor coolant system] pressure and the peak steam generator pressure remain below 110 percent of design. Thus, even with the larger as-found tolerances, the margin of safety for RCS and steam generator overpressurization is maintained.

The steam generator tube rupture has been reanalyzed to take into account the [plus or minus] 3 percent as-found tolerance and to extend the margin for operator action to one hour. A comparison of the calculated doses shows that with the new assumptions, there would be a very small increase in calculated doses. The increased calculated doses, however, remain well below the Standard Review Plan acceptance criteria.

The proposed change in the shutdown mode does not impact the probability or consequences of an accident previously evaluated. The proposed change makes the action required for inoperable main steam safety valves consistent with the modes that the technical specification is applicable and would not modify the assumptions made in any accident previously analyzed.

The change to delete the main steam safety valve orifice size from technical specifications has no impact on any design basis accident analysis.

Based upon these evaluations, it is concluded that the proposed changes do not significantly increase the probability or consequences of any design basis accident.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes do not create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes do not change the as-left setpoints. The change in as-found tolerances for the safety valves is being made to reflect the results of past surveillances that indicate that the setpoints can drift more than the current criteria. However, there is no change in the plant configuration or in as-left setpoints.

The proposed change which requires the plant to go to Mode 4 in 12 hours instead of Mode 5 in 30 hours if the action statement is not met, is consistent with the applicable modes of the technical specification (i.e., the technical specification is not applicable in Mode 4). No new or different kind of accident from those previously analyzed can be postulated as a result of this proposed change.

Thus, the changes do not create the possibility of a new or different kind of accident from any previously analyzed.

3. Involve a significant reduction in the margin of safety.

As discussed above, the loss of load event and the inadvertent closure of one main steam isolation valve have been reanalyzed to show that even with a [plus or minus] 3 percent tolerance for the pressurizer safety valves and the main steam safety valves, that both the peak RCS pressure and the peak steam generator pressure remain below 110 percent of design. Thus, even with the larger as-found tolerances, the margin of safety for RCS and steam generator overpressurization

is maintained. In addition, the steam generator tube rupture has been reanalyzed with a [plus or minus] 3 percent tolerance on the steam generator safety valves and the results show an insignificant increase in the calculated doses.

The proposed change also directs the operator to bring the plant to hot shutdown instead of cold shutdown to be consistent with the applicable modes of the technical specification. There is no impact on the assumptions made or the results of any accident previously analyzed.

Therefore, it is concluded that the 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: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: September 18, 1995

Description of amendment request: The proposed amendment would relocate Fire Protection requirements from the Technical Specifications to the Technical Requirements Manual. In addition, the proposed amendment would revise Technical Specifications to include the requirement for a program and procedure to implement the Technical Requirements Program, and also revises Technical Specifications to add the requirement for the Plant Operations Review Committee to review all proposed changes to the Technical Requirements Program and to forward copies of reviewed changes to the Susquehanna Review Committee.

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:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change relocates the provisions of the Fire Protection Program that are contained in the Technical Specifications and places them in the Technical Requirements Manual. No requirements are being added or deleted. Review and approval of those portions of the Fire Protection Program contained in the Technical Requirements Manual and revisions thereto will be the responsibility of the Plant Operations Review Committee just as it was their responsibility to review changes to the fire protection Limiting Condition for Operation and Surveillance Requirements when they were part of the Technical Specifications. Requiring review by the Plant Operations Review Committee reinforces the importance of the Technical Requirements Manual and the requirements controlled by it and assures a multidisciplined review. Approved Technical Requirements or changes thereto are provided to the Susquehanna Review Committee for information. No design basis accidents are affected by the change, nor are safety systems adversely affected by the change. Therefore, there is no impact on the probability of concurrence [occurrence] or the consequences of any design basis accidents.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes relocate the provisions of the Fire Protection Program that are contained in the Technical Specifications and places them in the Technical Requirements Manual. No requirements are being added or deleted by the Technical Requirements Manual. There are no new failure modes associated with the proposed changes. Therefore, since the plant will continue to operate as designed, the proposed changes will not modify the plant response to an 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 relocated, and the requirements contained therein are being incorporated into the Technical Requirements Manual. Plant procedures will continue to provide the specific instructions necessary for the implementation of the requirements, just as when the requirements resided in the Technical Specifications. Fire Protection Program changes will be subject to the provisions of 10 CFR 50.59 and the current fire protection license condition. As such, the changes do not directly affect any protective boundaries nor does it [do they] impact the safety limits for the boundary. Review and approval of those portions of the Fire Protection Program contained in the Technical Requirements Manual and the revisions thereto will be the responsibility of the Plant Operations Review Committee just as it was their responsibility to review changes to the fire protection Limiting Condition for Operation and Surveillance Requirements when they were part of the Technical Specification. Approved Technical Requirements or changes thereto are provided to the Susquehanna Review Committee for information. Thus, there are no adverse impacts on the protective boundaries, safety limits, or margin of safety.

Since operability and surveillance requirements will remain in a controlled document, the changes do not reduce the effectiveness of Technical Specification requirements. Any changes to the Fire Protection Program requirements will be made in accordance with the provisions of 10 CFR 50.59 and the fire protection license condition.

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: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Project Director: John F. Stolz.

Virginia Electric and Power Company, Docket No. 50–338, North Anna Power Station, Unit No. 1, Louisa County, Virginia

Date of amendment request: September 19, 1995.

Description of amendment request: The proposed change would revise the Technical Specifications (TS) for the North Anna Power Station, Units 1 & 2 (NA–1 & 2). Specifically, the proposed changes would revise TS Limiting Condition for Operation (LCO) 3.7.1.1 Action Statements, TS Table 3.7–1, dually entitled "Maximum Allowable Power Range Neutron Flux High Setpoint With Inoperable Steam Line Safety Valves During 3 Loop Operation" and "Maximum Allowable Power Range Neutron Flux High Setpoint With Inoperable Steam Line Safety Valves During 2 Loop Operation," and the TS Bases 3/4.7.1.1, "Safety Valves" for NA–1 & 2. Table 3.7–1 provides the maximum allowable power range neutron flux high setpoints with one or more main steam safety valves (MSSVs) inoperable during two loop and three loop operation. The proposed changes provide more conservative power range neutron flux high setpoints calculated utilizing the Westinghouse Electric Corporation (Westinghouse) recommended methodology and delete the information for setpoints for two loop operation. The proposed changes also revise the TS Bases to reflect the

methodology used to establish the new setpoints, and delete the LCO Action Statement and the TS Bases for two loop operation.

Additionally, the information in Table 3.7–1 and the LCO Action Statement associated with two loop operation have been deleted since Virginia Electric and Power Company is prohibited by the license from operating in this configuration.

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 the North Anna Power Station in accordance with the proposed Technical Specifications changes will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

This change reduces the power level at which the reactor may be operated with one or more main steam safety valves (MSSVs) inoperable to ensure that the secondary system is not overpressurized during the most severe pressurization transient of the secondary side. There is no change to the function of the MSSVs by the proposed change and will not alter any accident analysis assumptions or results. The proposed changes will provide conservative power range neutron flux high trip setpoints such that the maximum power level allowed for operation with inoperable MSSVs is below the heat removing capability of the operable MSSVs. Therefore, this change will not increase the probability of an accident.

This change is consistent with the current accident analysis assumptions for the MSSVs and does not change the containment response for any design basis event. Therefore, no change in the mitigation of an accident will result from this proposed change and no change will occur in the consequences of any accident currently analyzed.

2. Create the possibility of a new or different kind of accident from any accident previous[ly] evaluated.

Since the implementation of the proposed changes to the setpoints will not require hardware modifications (i.e., alterations to plant configuration), operation of the facilities with these proposed Technical Specifications does not create the possibility for any new or different kind of accident which has not already been evaluated.

The proposed revision to the Technical Specifications will not result in any physical alteration to any plant system, nor would there be a change in the method by which any safety-related system performs its function. The design and operation of the main steam system is not being changed.

These changes do not change the design, operation, or failure modes of the main steam system. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed change reduces the total energy of the reactor coolant system that will ensure the ability of the MSSVs to perform their intended function as assumed in the current accident analyses. Correcting this non conservatism restores the margin of safety to what was originally envisioned. In addition, the results of the accident analyses which are documented in the UFSAR bound operation under the proposed changes, so that there is no safety margin reduction. Therefore, the proposed 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 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., Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: David B. Matthews.

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: September 19, 1995.

Description of amendment request: The proposed change would revise the Technical Specifications (TS) for the North Anna Power Station, Units No. 1 and No. 2 (NA–1&2). Specifically, the proposed change would increase the surveillance test interval for the turbine reheat stop and intercept valves to once per 18 months and extend the visual and surface inspection interval to 60 months. The proposed change would also remove the requirement to perform additional visual and surface inspections on the remaining turbine overspeed protection system control valves of that type when unacceptable flaws or excessive corrosion are identified which can be directly attributed to a service condition specific to the inspected valve.

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 the North Anna Power Station in accordance with the proposed Technical Specifications changes will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

No new or unique accident precursors are introduced by these changes in surveillance requirements. The probability of turbine missile ejection with an extended 18-month test interval for the reheat stop and intercept valves has been determined to be within the applicable acceptance criteria.

The heavy hub design of the turbine rotors provides further assurance that the probability of the ejection of destructive missiles remains minimal.

Based upon the results of the probabilistic evaluation, the probability of a turbine generated missile is less than 10^{-5} per year which the Commission has endorsed as the acceptable level for turbine operation.

The reheat stop and intercept valve inspection interval extension and the elimination of the additional visual/surface inspections do not change the design, operation, or failure modes of the valves and other components in the turbine overspeed protection system.

Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The demonstrated high reliability of the turbine reheat stop and intercept valves and the verification of the operability of the other turbine control valves provide adequate assurance that the turbine overspeed protection system will operate as designed, if needed. Turbine reheat stop and intercept valve testing performed to date has demonstrated the reliability of these valves. In addition, the operability of the other turbine valves (i.e., turbine throttle valves and governor valves) will continue to be verified every 31 days or as required by the Technical Specifications.

2. Create the possibility of a new or different kind of accident from any accident previous[ly] evaluated.

Since the implementation of the proposed change to the surveillance requirements will not require hardware modifications (i.e., alterations to plant configuration), operation of the facilities with these proposed Technical Specifications does not create the possibility for any new or different kind of accident which has not already been evaluated in the Updated Final Safety Analysis Report (UFSAR). In addition, the results of the probabilistic evaluation indicate that no additional transients have been introduced.

The proposed revision to the Technical Specifications will not result in any physical alteration to any plant system, nor would there be a change in the method by which any safety-related system performs its function. The design and operation of the turbine overspeed protection and turbine control systems are not being changed.

The proposed Technical Specifications changes do not affect the design, operation, or failure modes of the valves and other components of the turbine overspeed protection system.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed changes would not reduce the margin of safety as defined in the basis for any Technical Specifications. The design and operation of the turbine overspeed protection and turbine control systems are not being changed and the operability of the turbine reheat stop and intercept valves will be demonstrated on a refueling outage basis. In addition, 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. Therefore, the proposed 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 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: David B. Matthews.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Commonwealth Edison Company, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of amendment request: August 15, 1995.

Description of amendment request: This application to revise the Braidwood, Unit 1, Technical Specifications (TSs) proposes to continue to use the voltage-based repair criteria which were added to the Braidwood, Unit 1, TSs by a license amendment issued on August 18, 1994. This August 15, 1995, request will be considered by the staff only in the event that the staff can not reach a timely decision on your pending request for license amendments dated September 1, 1995, to raise the present lower voltage repair limit from 1.0 volt to 3.0 volts.

Date of publication of individual notice in **Federal Register**: October 5, 1995 (60 FR 52222).

Expiration date of individual notice: November 6, 1995.

Local Public Document Room location: Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: September 15, 1995.

Description of amendment request: To close out open items identified by the NRC staff's review of the upgrade of sections 1.0, 3/4.4, 3/4.10, and 5.0 of the Dresden and Quad Cities Technical Specifications to the BWR Standard Technical Specifications.

Date of publication of individual notice in **Federal Register**: October 5, 1995 (60 FR 52220).

Expiration date of individual notice: November 6, 1995.

Local Public Document Room location: for Dresden, Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450; for Quad Cities, Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021

Commonwealth Edison Company, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: September 20, 1995.

Description of amendment request: The proposed amendment would upgrade the Quad Cities TS to the Standard Technical Specifications (STS) contained in NUREG–0123. The Technical Specification Upgrade Program (TSUP) is not a complete adaption of the STS. The TS upgrade focuses on (1) integrating additional information such as equipment operability requirements during shutdown conditions, (2) clarifying requirements such as limiting conditions for operation and action statements utilizing STS terminology, (3) deleting superseded requirements and modifications to the TS based on the licensee's responses to Generic Letters (GL), and (4) relocating specific items to more appropriate TS locations. The September 20, 1995, application proposed to upgrade only Section 6.0 (Administrative Controls) of the Quad Cities TS.

Date of publication of individual notice in **Federal Register**: October 5, 1995 (60 FR 52226).

Expiration date of individual notice: November 6, 1995.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

North Atlantic Energy Service Corporation, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: September 5, 1995.

Description of amendment request: The proposed amendment would modify the Appendix A Technical Specifications (TSs) for the Turbine Cycle Safety Valves. Specifically, the proposed amendment would change Seabrook Station Appendix A Technical Specification Table 3.7–1 to reduce the maximum allowable Power Range Neutron Flux—High setpoints with inoperable Main Steam Safety Valves (MSSVs) and Table 3.7–2 to reduce the opening setpoints of the MSSVs.

Date of publication of individual notice in **Federal Register**: October 2, 1995 (60 FR 51505).

Expiration date of individual notice: November 1, 1995.

Local Public Document Room location: Exeter Public Library, Founders Park, Exeter, NH 03833.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in

10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

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 amendments: August 3, 1995.

Brief description of amendments: These amendments add the analytical method supplement entitled "Fuel Rod Maximum Allowable Gas Pressure," CEN–372–P–A, dated May 1990, and its associated NRC Safety Evaluation, dated April 10, 1990, to the list of analytical methods in Technical Specification 6.9.1.10 used to determine the Palo Verde Nuclear Generating Station core operating limits.

Date of issuance: October 4, 1995.

Effective date: October 4, 1995, to be implemented prior to startup from RF06 for Units 1 and 2, and RF5 for Unit 3.

Amendment Nos.: Unit 1—Amendment No. 101; Unit 2—Amendment No. 89; Unit 3—Amendment No. 72.

Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 30, 1995 (60 FR 45173) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 4, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: June 2, 1995.

Brief description of amendments: The amendments revise the tolerances for the pressurizer safety valve as-found acceptance criterion.

Date of issuance: September 26, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 206 and 184.

Facility Operating License Nos. DPR–53 and DPR–69: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 5, 1995 (60 FR 35060) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated September 26, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit No. 1, Calvert County, Maryland

Date of application for amendments: January 31, 1995.

Brief description of amendments: The amendments revise the Technical Specifications (TSs) to increase the amount of Trisodium Phosphate Dodecahydrate located in the containment sump baskets which is required to be verified by TS surveillance. The test requirements for verifying that the appropriate pH (acidity/alkalinity) would be maintained in the containment sump water following a design-basis accident are moved from the TSs to the TS Bases section; however, the requirement to perform the test remains in the TSs. The associated TS Bases sections are updated to reflect the changes.

Date of issuance: October 5, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 207 and 185.

Facility Operating License No. DPR–53 and DPR–69: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 15, 1995 (60 FR 14016) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated October 5, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678

Commonwealth Edison Company, Docket Nos. 50–295 and 50–304, Zion Nuclear Power Station Units 1 and 2, Lake County, Illinois

Date of application for amendments: March 8, 1995, as supplemented on June 1, 1995.

Brief description of amendments: The amendments revise the secondary undervoltage setpoint.

Date of issuance: October 2, 1995.

Effective date: October 2, 1995

Amendment Nos.: 169 and 156.

Facility Operating License Nos. DPR–39 and DPR–48: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 30, 1995 (60 FR 45178) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 2, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: February 18, 1994, as supplemented June 3, November 1, December 2, December 14, and December 16, 1994, and August 25, 1995.

Brief description of amendment: The amendment revises the surveillance intervals for the Boric Acid Tank Level, the Service Water Inlet Temperature Monitor Instrument, the Boric Acid Makeup Flow System, the Plant Noble Gas Activity Monitor, the Condenser Evacuation System Activity Monitor, the Low Turbine Auto Stop Oil Pressure Trip, the 6.9 kv Undervoltage Monitor, the Sampler Flow Rate Monitor, and the Refueling Water Storage Tank.

Date of issuance: October 12, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 184.

Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 28, 1994 (59 FR 22003) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 12, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: March 17, 1995.

Brief description of amendment: The amendment revises requirements associated with channel functional tests of the core protection calculator following a high temperature alarm.

Date of issuance: October 11, 1995.

Effective date: October 11, 1995, to be implemented within 30 days.

Amendment No.: 168.

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 2, 1995 (60 FR 39437) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 11, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Entergy Operations, Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 18, 1991, as supplemented by letters dated March 16, and December 2, 1994, and March 9, and August 30, 1995.

Brief description of amendment: The amendment changes the Appendix A TSs by subdividing TS 3/4.7.6, "Control Room Air Conditioning System," into five separate TSs covering the following three distinct functions: control room emergency air filtration, control room air temperature, and control room isolation and pressurization. The amendment also changes the Bases sections of the TS to reflect the above changes.

Date of issuance: October 4, 1995.

Effective date: October 4, 1995.

Amendment No.: 115.

Facility Operating License No. NPF-38: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: September 4, 1991 (56 FR 43808) and July 6, 1995 (60 FR 29875).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 4, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: June 1, 1995, as supplemented August 23, 1995.

Brief description of amendment: The amendment changes the Technical Specifications to relocate the procedural details of the Radiological Effluent Technical Specifications to the Offsite Dose Calculation Manual. With these changes, the specifications related to RETS reporting requirements were simplified and changes to the definition of the ODCM were made to make the definition consistent with the amendment.

Date of Issuance: October 2, 1995.

Effective date: As of the date of issuance to be implemented within 120 days.

Amendment No.: 197.

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 5, 1995 (60 FR 35078) The August 23, 1995, letter 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 October 2, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Law/Government Publications Section, State Library of Pennsylvania, (Regional Depository) Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of application for amendment: January 16, 1995, as supplemented June 22 and September 20, 1995.

Brief description of amendment: The amendment revises the Technical Specifications for TMI-1 to incorporate seven improvements from the Revised Standard Technical Specifications for Babcock & Wilcox Nuclear Power Plants (NUREG-1430). The amendment also changes the Bases incorporating the results of analyses to support allowance for drift of the Pressurizer Code Safety Valve setpoint. The remaining portion of the request relating to revisions to Control Room Emergency Ventilation system are being reviewed separately.

Date of Issuance: October 10, 1995.

Effective date: October 10, 1995.

Amendment No.: 198.

Facility Operating License No. DPR-50. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: March 15, 1995 (60 FR 14021). The June 22 and September 20, 1995, letter provided clarifying 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 October 10, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Law/Government Publications Section, State Library of Pennsylvania, (Regional Depository) Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: November 12, 1993, as supplemented November 18, 1994, May 30, 1995, and August 8, 1995.

Brief description of amendments: The amendments delete from the Technical Specifications the sections and tables entitled "Component Cyclic or Transient Limits" and relocate the information to the Updated Final Safety Analysis Report.

Date of issuance: September 28, 1995.

Effective date: September 28, 1995, with full implementation within 45 days.

Amendment Nos.: 201 and 186.

Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 22, 1993 (58 FR 67849). The November 18, 1994, May 30, 1995, and August 8, 1995, supplements provided clarifying information and corrections to additional pages which referenced the table to be deleted. This information was within the scope of the original

application and did not change the staff's initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 28, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: May 26, 1995.

Brief description of amendments: The amendments modify Technical Specification Sections 3/4.3.1 and 3/4.3.2 and their accompanying Bases, to relocate the tables of response time limits for the reactor trip system and engineered safety feature acutation system instrumentation to the Updated Final Safety Analysis Report.

Date of issuance: October 10, 1995.

Effective date: October 10, 1995.

Amendment Nos.: 202 and 187.

Facility Operating License Nos. DPR–58 and DPR–74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 5, 1995 (60 FR 35082) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 10, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Maine Yankee Atomic Power Company, Docket No. 50–309, Maine Yankee Atomic Power Station, Lincoln County, Maine

Date of application for amendment: May 5, 1995.

Brief description of amendment: The amendment revises the surveillance frequency of radiation area, and effluent and process monitors from monthly to quarterly; and the required frequency for minimum exercise of control element assemblies also from monthly to quarterly.

Date of issuance: October 2, 1995.

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment No.: 153.

Facility Operating License No. DPR–36: Amendment revised the Technical Specifications and/or License.

Date of initial notice in **Federal Register**: August 30, 1995 (60 FR 45179). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, ME 04578.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: June 8, 1994, as superseded by letter dated April 20, 1995, and supplemented by letter dated August 18, 1995.

Brief description of amendment: The amendment revises Sections 3.7/4.7, which pertain to the standby gas treatment system (SGTS) and secondary containment. The amendment revises the surveillance requirements for both SGTS and the secondary containment and revises the performance requirements for the SGTS filters and process stream electric heaters.

Date of issuance: October 2, 1995.

Effective date: October 2, 1995.

Amendment No.: 94.

Facility Operating License No. DPR–22. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 20, 1994 (59 FR 37075). The April 20 and August 18, 1995, submittals provided clarifying information within the scope of the original submittal and did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 1995.

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

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: July 11, 1994, as supplemented April 18, 1995 (supersedes the February 10, 1993, application).

Brief description of amendments: The amendments change license condition 2.C.(4) of each license to conform to the standard fire protection license condition as stated in Generic Letter 86–10. In addition, the amendments delete fire protection program elements from the Technical Specifications and incorporate, by reference, the NRC-approved Fire Protection Program and major commitments, including the fire hazards analysis, into the Updated Safety Analysis Report.

Date of issuance: October 6, 1995.

Effective date: October 6, 1995, with full implementation within 30 days.

Amendment Nos.: 120 and 113.

Facility Operating License Nos. DPR–42 and DPR–60. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 21, 1994 (59 FR 65818). The April 18, 1995, letter provided clarifying information within the scope of the original submittal and did not change the staff's initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 6, 1995.

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.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: June 20, 1995.

Brief description of amendment: This amendment modifies the technical specifications on spent fuel storage building load handling limits to allow the placement of the top shield plug on a dry shielded canister containing spent fuel which is being prepared for transfer to the Rancho Seco Independent Spent Fuel Storage Installation.

Date of issuance: October 5, 1995.

Effective date: October 5, 1995.

Amendment No.: 123.

Facility Operating License No. NPF–1: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 30, 1995 (60 FR 45184). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 5, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Central Library, Government Documents, 828 I Street, Sacramento, California 95814.

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: June 30, 1995, as supplemented on August 11, 1995.

Brief description of amendment: The amendment revises the Technical Specifications (TS) for the pressurizer power operated relief valves to follow the NRC's guidance of Generic Letter 90–06 (Generic Issue 70), and the improved Westinghouse Standard TS (NUREG–1431, Rev. 1).

Date of issuance: September 18, 1995.

Effective date: September 18, 1995.

Amendment No.: 129.

Facility Operating License No. NPF–12. Amendment revises the TS.

Date of initial notice in **Federal Register**: Auust 16, 1995 (60 FR 42608).

The August 11, 1995, supplemental letter corrected an error in the original submittal and did not change the initial proposed no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 18, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Fairfield County Library, 300 Washington Street, Winnsboro, SC 29180.

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: August 17, 1994, as supplemented by letters dated June 15 and August 11, 1995.

Brief Description of amendments: The amendments eliminate periodic pressure sensor response time testing surveillance requirements for specific Reactor Trip System and Engineered Safety Feature Actuation System instrumentation specified in Technical Specification Sections 4.3.1.3 and 4.3.2.3.

Date of issuance: September 28, 1995.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment Nos.: 116 and 108.

Facility Operating License Nos. NPF–2 and NPF–8. Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register**: September 28, 1994 (59 FR 49434) The June 15 and August 11, 1995, letters provided clarifying information that did not change the scope of the August 17, 1994, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 28, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302.

Southern Nuclear Operating Company, Inc., Docket No. 50–348, Joseph M. Farley Nuclear Plant, Unit 1, Houston County, Alabama

Date of amendment request: December 7, 1994, as supplemented by letter dated May 31, 1995.

Brief Description of amendment: The amendment revised Farley Unit 1 Technical Specifications 4.4.6.2, 4.4.6.4, 4.4.6.5, 3.4.7.2, and 3.4.9 for Cycle 14 operation to permit the use of steam generator tube repair criteria for defects confined within the thickness of the tube support plate.

Date of issuance: September 28, 1995.

Effective date: As of the date of issuance to be implemented prior to the start of Unit 1, Cycle 14 operation.

Amendment No.: 117.

Facility Operating License No. NPF–2: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 15, 1995 (60 FR 8754) The May 31, 1995, letter provided clarifying information that did not change the scope of the December 7, 1994, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 28, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: August 7, 1995 (TS 95–18).

Brief description of amendments: The amendments revise the titles of various administrative positions found in Section 6.0 of the Technical Specifications.

Date of issuance: October 2, 1995.

Effective date: October 2, 1995.

Amendment Nos.: 212 and 202.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the technical specifications.

Date of initial notice in **Federal Register**: August 30, 1995 (60 FR 45186) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 2, 1995.

No significant hazards consideration comments received: None.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: August 7, 1995 (TS 95–12).

Brief description of amendments: The amendments correct various editorial errors in the text of the technical specifications and remove provisions that have expired or are no longer applicable.

Date of issuance: October 4, 1995.

Effective date: October 4, 1995.

Amendment Nos.: 213 and 203.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the technical specifications.

Date of initial notice in **Federal Register**: August 30, 1995 (60 FR 45185) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 4, 1995.

No significant hazards consideration comments received: None.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket No. 50–327, Sequoyah Nuclear Plant, Unit 1, Hamilton County, Tennessee

Date of application for amendment: July 19, 1995, superseded September 7, 1995 and supplemented September 15 and 26, 1995 (TS 95–15).

Brief description of amendment: The amendment revises the TS surveillance requirements and bases to incorporate alternate S/G tube plugging criteria at tube support plate (TSP) intersections. The approach taken is similar to guidance given in Generic Letter (GL) 95–05, "Voltage-Based Repair Criteria for Westinghouse Steam Generator Tubes Affected by Outside Diameter Stress Corrosion Cracking."

Date of issuance: October 11, 1995.

Effective date: October 11, 1995.

Amendment No.: 214.

Facility Operating License Nos. DPR–77: Amendment revises the technical specifications.

Date of initial notice in **Federal Register**: August 1, 1995 (60 FR 39189) The letters dated September 7, 15 and 26, 1995 provided information that did not change the initial proposed no significant hazards consideration. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 11, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Virginia Electric and Power Company, et al., Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: March 30, 1995, as supplemented August 24, 1995

Brief description of amendments: The amendments revise the North Anna 1 and 2 Technical Specifications to allow one of the two service water loops to be isolated from the component cooling water head exchangers during power operations in order to refurbish the isolated service water headers.

Date of issuance: October 11, 1995.

Effective date: October 11, 1995.

Amendment Nos.: 194 and 175.

Facility Operating License Nos. NPF–4 and NPF–7. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 10, 1995 (60 FR 24923). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 11, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Washington Public Power Supply System, Docket No. 50–397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: December 6, 1993.

Brief description of amendment: The amendment changes the surveillance requirements in Technical Specification 4.6.6.1.b.3 to provide more appropriate acceptance criteria for demonstrating operability of the primary containment hydrogen recombiner systems.

Date of issuance: October 5, 1995.

Effective date: October 5, 1995, to be implemented within 30 days of issuance.

Amendment No.: 142.

Facility Operating License No. NPF–21: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 6, 1994 (59 FR 34670). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 5, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: May 24, 1994, as supplemented by letter dated April 6, 1995.

Brief description of amendment: This amendment revises the technical specifications (TS) to implement the NRC's revised 10 CFR 50.36 on technical specification improvements for nuclear power reactors. Specifications that do not meet any of the four criteria or regulatory requirements related to inclusion in the TS are relocated to Chapter 16 of the Updated Safety Analysis Report.

Date of issuance: October 2, 1995.

Effective date: October 2, 1995, to be implemented within 120 days from the date of issuance.

Amendment No.: 89.

Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 6, 1994 (59 FR 34671). The April 6, 1995, supplemental letter 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 October 2, 1995.

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.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 25, 1995.

Brief description of amendment: The amendment deletes a clause from Section 4.0.5a, "Surveillance Requirements for Inservice Inspection and Testing Program." This clause required prior NRC approval before implementation of a relief request upon finding an ASME Code requirement impractical because of prohibitive dose rates or limitations in the design, construction, or system configuration.

Date of issuance: October 4, 1995.

Effective date: October 4, 1995, to be implemented within 30 days of issuance.

Amendment No.: 90.

Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 30, 1995 (60 FR 45191). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 4, 1995.

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

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local

media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) The application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By November 24, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. 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, 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).

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: October 2, 1995.

Brief description of amendment: The amendment revises the Technical Specifications to allow deferral until the next plant outage of certain portions of logic system functional surveillance testing for the diesel generator 480-volt load sequencer and output breaker reclosure logic circuitry.

Date of issuance: October 13, 1995.

Effective date: October 13, 1995, with full implementation within 45 days.

Amendment No.: 105.

Facility Operating License No. NPF-43: Amendment revises 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 October 13, 1995.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: Brian E. Holian, Acting.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: September 30, 1995.

Brief description of amendments: The amendments increase the setpoint tolerance of the main steam safety valves (MSSVs) from plus or minus 1 percent to plus or minus 3 percent, with the exception that the lowest set MSSVs would have a tolerance of −2 percent/+3 percent.

Date of issuance: October 1, 1995.

Effective date: October 1, 1995.

Amendment Nos.: Unit 1—Amendment No. 108; Unit 2—Amendment No. 107.

Facility Operating License Nos. DPR-80 and DPR-82: The amendments 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 October 1, 1995.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Project Director: William H. Bateman.

Dated at Rockville, Maryland, this 18th day of October 1995.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Deputy Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95-26275 Filed 10-24-95; 8:45 am]

BILLING CODE 7590-01-P

[Docket No. 27-48]

Consideration of an Application for Renewal of a License to Dispose of Low-Level Radioactive Waste Containing Special Nuclear Material by American Ecology Corporation and Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Consideration of an application for renewal of a license to dispose of low-level radioactive waste (LLW) containing special nuclear material (SNM) by American Ecology Corporation and opportunity for a hearing.

SUMMARY: The Nuclear Regulatory Commission is considering the renewal of License No. 16-19204-01. This license is issued to American Ecology Corporation for the disposal of wastes containing SNM in the low-level radioactive waste disposal facility, located on the Hanford Reservation near Richland, WA. The license is currently under timely renewal. NRC licenses this facility under 10 CFR Part 70. The license renewal application was tendered on October 28, 1993. NRC has delayed review of the application pending allocation of sufficient resources to conduct the review.

FOR FURTHER INFORMATION CONTACT: Robert A. Nelson, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 415-7298, Fax.: (301) 415-5397.

Background

The LLW disposal facility located on the Hanford Reservation in Benton County, Washington, is licensed by the State of Washington for disposal of source and byproduct material. The NRC license allows the disposal of SNM, and acknowledges the State regulated activities constitute the major site activities. As a result, NRC relies extensively on the State's regulatory program to evaluate the facility and licensee's capability to demonstrate reasonable assurance that the disposal of LLW can be accomplished safely. To this end, NRC coordinates review and assessment of the licensee with the State of Washington, Department of Health. To avoid duplicative effort, NRC has identified areas in which it relies primarily on the State regulatory program. Areas distinct to SNM regulation are directly evaluated by NRC. Under the NRC license several State identified license conditions are referenced, this ensures that NRC is aware of significant licensee activities requiring State regulatory action. Additionally, NRC incorporates conditions in the SNM license which provide NRC the lattitude to enforce the Agreement State license conditions, if NRC determines that the Agreement State is not enforcing the license conditions. Finally, the NRC license does not abrogate or diminish the authority of the State of Washington, under its Agreement under section 274b

of the Atomic Energy Act of 1954, as amended, with NRC, to regulate, inspect or otherwise exercise control of operations, with respect to source and byproduct material, for disposal of that material at the LLW disposal facility at Richland, Washington.

Prior to the issuance of the proposed renewal, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment.

The NRC hereby provides notice that this is a proceeding on an application for a license renewal falling within the scope of Subpart L, Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings, of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(c). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738; or

2. By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requestor in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

In accordance with 10 CFR § 2.1205(e), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, American Ecology Corporation, 120 Franklin Road, Oak Ridge, TN, 37830, ATTN: Mr. Arthur J. Palmer, III, and

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For further details with respect to this action, the application for license renewal is available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555.

Dated at Rockville, Maryland this 19th day of October 1995.

For the U.S. Nuclear Regulatory Commission.

Michael F. Weber,

Chief, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 95–26418 Filed 10–24–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–346]

Toledo Edison Company, et al.; Davis-Besse Nuclear Power Station, Unit No. 1; Amendment to Facility Operating License Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of the Toledo Edison Company, Centerior Service Company, and the Cleveland Electric Illuminating Company (the licensees) to withdraw its August 18, 1995, application for proposed amendment to Facility Operating License No. NPF–3 for the Davis-Besse Nuclear Power Station, Unit No. 1, located in Ottawa County, Ohio.

The proposed amendment would have revised Technical Specification Section 3/4.7.5.1, "Ultimate Heat Sink" to increase the maximum temperature from less than or equal to 85 °F to less than or equal to 90 °F.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on August 24, 1995 (60 FR 44091). However, by letter dated September 12, 1995, the licensee withdrew the proposed change.

For further details with respect to this action, see the request for enforcement discretion dated August 17, 1995, the application for amendment dated August 18, 1995, and the licensee's letter dated September 12, 1995, which withdrew the application for license amendment. The above 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 University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, Ohio 43606.

Dated at Rockville, Maryland, this 27th day of September 1995.

For the Nuclear Regulatory Commission.

Linda L. Gundrum,

Project Manager, Project Directorate III–3, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–26419 Filed 10–24–95; 8:45 am]

BILLING CODE 7590–01–P

Evaluation of Agreement State Radiation Control Programs

AGENCY: Nuclear Regulatory Commission.

ACTION: Interim implementation of the Integrated Materials Performance Evaluation Program pending final Commission approval of the Statement of Principles and Policy for the Agreement State Program and the Policy Statement on Adequacy and Compatibility of Agreement State Programs.

SUMMARY: The Nuclear Regulatory Commission (NRC) is implementing, on an interim basis, the Integrated Materials Performance Evaluation Program (IMPEP) to be used in the evaluation of Agreement State Programs. To effect this implementation, the NRC will suspend relevant portions of the May 28, 1992 General Statement of Policy "Guidelines for NRC Review of Agreement State Radiation Control Programs, 1992." Management Directive 5.6, Integrated Materials Performance Evaluation Program, will be used as the implementing procedure.

The NRC will implement IMPEP in the evaluation of Agreement State Programs until such time as final implementing procedures for the policy statements: "Statement of Principles and Policy for the Agreement State Program" and "Policy Statement on the Adequacy and Compatibility of Agreement State Programs," and any revisions to these policy statements are approved by the Commission (See 60 FR 39464; August 2, 1995). Conforming revisions to IMPEP in connection with the completion of work on these two policy statements will be done as appropriate. IMPEP will then be implemented on a permanent basis and the 1992 policy statement on "Guidelines for NRC review of

Agreement State Radiation Control Programs" will be rescinded.

EFFECTIVE DATE: October 1, 1995.

ADDRESSES: Interested persons may obtain a single copy of Management Directive 5.6 by writing Mr. George Deegan, U.S. Nuclear Regulatory Commission, Mail Stop T8–F5, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen N. Schneider, Office of State Programs, U.S. Nuclear Regulatory Commission, Document Control Desk, P1–37, Washington, DC 20555, telephone (301)–415–2320.

SUPPLEMENTARY INFORMATION: In 1994, NRC proposed a process to evaluate NRC Regional programs and Agreement State Radiation Control Programs, that regulate the use of radioactive materials, in an integrated manner using common performance indicators. The staff conducted a pilot program in 1994 with three Agreement States and two NRC Regional materials programs using the draft Management Directive 5.6, "Integrated Materials Performance Evaluation Program" (IMPEP). On June 27, 1995, the Commission approved implementation of IMPEP on an interim basis. The draft Management Directive is currently being prepared in final form.

Five common performance indicators, as described in Management Directive 5.6 will be used to determine adequacy of materials programs. Additionally, Compatibility of Regulations and Legal Authority (including enforcement) will be addressed as non-common indicators. Existing procedures for compatibility determinations (Office of State Programs B.7 Procedure) will continue to be utilized in connection with NRC findings on Compatibility of Regulations under IMPEP until the final implementing procedures for the policy statements: "Statement of Principles and Policy for the Agreement State Program" and "Policy Statement on the Adequacy and Compatibility of Agreement State Programs," and any revisions to these policy statements are approved by the Commission. The interim implementation of IMPEP will require the partial suspension of the May 28, 1992 General Statement of Policy "Guidelines for NRC Review of Agreement State Radiation Control Programs, 1992" (57 FR 22495). The NRC will only continue to apply the single program element of the 1992 General Statement of Policy entitled "Legislation and Regulations." NRC will rescind the entire 1992 General Statement of Policy upon final approval and implementation of the "Statement of Principles and Policy for the Agreement State Program" and "Policy Statement on the Adequacy and Compatibility of Agreement State Programs."

Low-level waste, uranium mill or sealed source and device programs in Agreement States will not be reviewed as common performance indicators since NRC Headquarters conducts these NRC licensing activities. A performance-based evaluation approach, similar to that developed for the common performance indicators, will be utilized in reviews of NRC and Agreement State programs in these areas.

The NRC will review the performance of each Agreement State on a periodic basis. Each Agreement State evaluation will be coordinated with the States. For those Agreement States with program findings that are both adequate and compatible, the staff will consider extending the current review cycle of 2 years to 3–4 years.

Dated at Rockville Maryland this 19th day of October, 1995.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 95–26415 Filed 10–24–95; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Request for a Collection of Information Under the Paperwork Reduction Act; Customer Satisfaction Focus Groups and Surveys

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation has requested that the Office of Management and Budget ("OMB") approve a new collection of information under the Paperwork Reduction Act. The purpose of this information collection, which will be conducted through three focus group meetings and a small of number of surveys, is to help the PBGC evaluate its toll-free telephone service providing basic information about the PBGC insurance program.

DATES: The PBGC is requesting that OMB approve this request by November 1, 1995.

ADDRESSES: All written comments (at least three copies) should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, 725 17th Street, NW., Room 3208, Washington, DC 20503. The request for approval will be available for public inspection at the PBGC Communications and Public Affairs Department, suite 240, 1200 K Street, NW., Washington, DC 20005, between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Marc L. Jordan, Attorney, Office of the General Counsel, Suite 340, 1200 K Street, NW., Washington, DC 20005, 202–326–4024 (202–326–4179 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) establishes policies and procedures for controlling the paperwork burdens imposed by Federal agencies on the public. The Act vests the Office of Management and Budget (OMB) with regulatory responsibility over these burdens, and OMB has promulgated rules on the clearance of collections of information by Federal agencies.

The PBGC has established a toll-free telephone service that gives the public general information concerning the PBGC's insurance program. Use of the toll-free service by the general public has been significantly below expectations.

The PBGC plans to conduct a series of three focus groups of 15 participants each, and to distribute survey questionnaires to the focus group participants and to 150 other individuals. (The 45 focus group participants and 150 survey respondents will be selected largely from the 41,000,000 participants and beneficiaries in covered pension plans.) The purpose of the focus groups and survey questionnaires is to evaluate the PBGC's toll-free service and to assist the PBGC in making necessary improvements to that service.

The PBGC estimates that the total annual burden of this collection of information will be 147.5 hours. The PBGC is requesting that OMB approve this collection on an emergency basis so that needed improvements in the toll-free service can be made as soon as possible.

Issued at Washington, D.C., this 23rd day of October, 1995.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 95–26624 Filed 10–24–95; 8:45 am]

BILLING CODE 7708–01–P

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Final Amendments to the Columbia River Basin Fish and Wildlife Program (Measures for Resident Fish and Wildlife)

October 13, 1995.

SUMMARY: Pursuant to the Pacific Electric Power Planning and Conservation Act (the Northwest Power Act, 16 U.S.C. 839, *et seq.*) the Pacific Northwest Electric Power and Conservation Planning Council (Council) has adopted final amendments to the Columbia River Basin Fish and Wildlife Program (Program). These amendments include major changes to the resident fish and wildlife provisions of the Program. Copies of the amendments, the Council's responses to comments received in the amendment process, and findings on amendment recommendations are available on request. See **FOR FURTHER INFORMATION**, below.

BACKGROUND: The Council last amended the resident fish and wildlife measures of the Program on November 10, 1993. The current amendment process began in August of 1994. The Council adopted final amendments, findings and a response to comments on September 13, 1995.

FOR FURTHER INFORMATION CONTACT:
For copies of the final amendments to the Columbia Basin Fish and Wildlife Program, request document no. 95–20. You may request only the amendments, the amendments along with response to comments and findings on amendment recommendations, or any part thereof. For other information, contact the Council's Public Affairs Division, 851 SW Sixth Avenue, Suite 1110, Portland, Oregon 97204 or (503) 222–5161, toll free 1–800–222–3355.

Edward W. Sheets,
Executive Director.

[FR Doc. 95–26437 Filed 10–24–95; 8:45 am]

BILLING CODE 0000–00–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36386; File No. SR–Amex–95–36]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the American Stock Exchange Inc., Relating to Disclaimer Provisions of Amex Rule 902C

October 18, 1995.

I. Introduction

On August 25, 1995, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed a proposed rule change with Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] to include Inter@ctive Enterprises L.L.C., published and owner of Inter@ctive Week, in the disclaimer provision of Amex Rule 920C.

Notice of the proposal was published for comment and appeared in the **Federal Register** on September 18, 1995.[3] No comment letters were received on the proposed rule change. This order approves the Exchange's proposal.

II. Description of the Proposal.

In conjunction with the Exchange's proposal to trade options on the Inter@ctive Week Internet Index ("Index"), the Exchange proposes to amend Rule 902C to provide a disclaimer for Inter@ctive Enterprises L.L.C. ("Inter@active Enterprises"), publisher and owner of Inter@ctive Week, a bi-weekly magazine. The Exchange's proposal to list and trade options on the Index was filed pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 on August 23, 1995. The Exchange intends to list the Index options for trading on October 18, 1995.[4] Inter@ctive Enterprises and the Amex developed the Index, based on shares of widely held companies involved in providing digital interactive services, developing and marketing digital interactive software and manufacturing digital interactive hardware. Inter@ctive Enterprises will have two representatives on a committee with representatives from the Amex and the digital interactive industry to advise the Exchange when the Exchange substitutes stocks, or adjusts the number of stocks included in the Index. The committee will meet on a quarterly basis to review possible candidates for removal or inclusion in the Index. The Exchange, however, will have the ultimate authority over the maintenance of the Index.

The disclaimer, identical in content to disclaimers currently in place for Standard & Poor's Corporation[5] and Morgan Stanley & Co. Incorporated,[6] states that Inter@ctive Enterprises L.L.C. does not guarantee the accuracy or completeness of the Index, makes no express or implied warranties with respect to the Index and shall have no liability for any damages, claims, losses or expenses caused by errors in the Index calculation. The Exchange represents that it will have sole discretion over the calculation and maintenance of the Index.[7]

III. Commission Finding and Conclusions

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) of the Act.[8] Specifically, the Commission finds that the Exchange's proposal strikes a reasonable balance between the Commission's mandates under Section 6(b)(5) to remove impediments to and perfect the mechanism of a free and open market and a national market system, while protecting investors and the public interest.

The Commission believes that it is reasonable for Inter@ctive Enterprises L.L.C. to be released from liability for any damages, claims, losses or expenses related to the Index or caused by errors in the Index calculation. The Commission notes that Inter@ctive Enterprises L.L.C. will not be involved, except in its limited advisory capacity and described above, in the calculation or maintenance of the Index. Additionally, as noted above, the Commission has previously approved similar proposals by the Amex to release various entities from certain liability for damages resulting from use of their products.[9]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 36212 (September 11, 1995), 60 FR 48180.

[4] Telephone conversation between Claire McGrath, Special Counsel, Amex, and John Ayanian, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, on September 19, 1995. *See also* Securities Exchange Act Release No. 36163 (August 29, 1995), 60 FR 45750 (September 1, 1995)

[5] *See* Amex Rule 902C(c).

[6] *See* Amex Rule 902C(d).

[7] *See* Release No. 36163, *supra* note 4.

[8] 15 U.S.C. 78f(b)(5).

[9] *See e.g.*, Securities Exchange Act Release Nos. 36103 (August 14, 1995), 60 FR 43481 (August 21,

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (File No. SR–Amex–95–36), is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26431 Filed 10–24–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36391; File No. SR–CBOE–95–52]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to the Suspension of the Ten Contract Firm Quote Requirement During Fast Markets

October 18, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 5, 1995, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CBOE Rules 8.51, 6.6 and 6.20 Interpretation .09 to: (i) remove the pilot status of Rule 8.51; (ii) conform Rule 8.51 to the existing practice of permitting, but not requiring, Floor Officials to suspend the ten contract firm quote requirement of Rule 8.51(a) during a fast market; (iii) expand the group of persons with authority to grant suspensions, exemptions or exceptions to Rule 8.51 (currently only the Market Performance Committee) to any two Floor Officials; (iv) specify that when a fast market is declared any two Floor Officials have the power to suspend the firm quote requirement of Rule 8.51 and turn off the Retail Automatic Execution System ("RAES"); (v) allow the senior person then in charge of the Exchange's Control Room to suspend the ten contract firm quote requirement under certain circumstances; and (vi) amend Rule 6.20 Interpretation .09 to clarify the instances where a member of the Market Performance Committee may perform the functions of a Floor Official. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, 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 Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section (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 purposes of the proposed rules changes are: (1) to approve Rule 8.51 on a permanent basis, removing the current pilot program designation, (2) to conform Rule 8.51 to the existing practice of permitting, but not requiring, Floor Officials to suspend the ten contract firm quote requirement of Rule 8.51(a) during a fast market, (3) to expand the group of persons with authority to grant suspensions, exemptions, or exceptions to the firm quote requirement from the Market Performance Commission members to any two Floor Officials, (4) to specify that when a fast market is declared pursuant to Rule 6.6, two Floor Officials have the power to suspend the firm quote requirement of Rule 8.51 and turn off RAES, (5) grant the senior person then in charge of the Exchange's Control Room the authority to suspend the ten contract firm quote requirement, if there is a system malfunction that affects the Exchange's ability to disseminate or update market quotes, and (6) to amend Rule 6.20 Interpretation .09 to clarify that the instances where a member of the Market Performance Committee may perform the functions of a Floor Official include enforcing policies and acting pursuant to rules related to RAES, fast markets, and the ten contract firm quote requirement.

Rule 8.51(a) requires a trading crowd to sell (buy) at least ten contracts at the offer (bid) which is displayed when a buy (sell) customer order reaches the trading crowd. Initially, this rule was adopted as an Exchange pilot program to be monitored and enforced by the Exchange's Market Performance Committee.[3] The rule has been in effect since 1989, and the Exchange believes it is now time to remove the designation as a pilot program. The Exchange believes that the rule has been beneficial to investors and has provided greater liquidity to the markets by requiring that the orders of non-broker dealer customers be filled for at least ten contracts at the displayed quote price.

Rule 8.51(a)(2) currently provides that the ten contract firm quote requirement will be in effect unless a fast market has been declared. Although not presently explicit in the rules, it is current practice not to automatically suspend this requirement when a fast market has been declared. Instead, pursuant to Rule 8.51(a)(3), when a fast market has been declared, Market Performance Committee members determine whether the ten contract firm quote requirement in paragraph (a) of Rule 8.51 should be suspended. The proposed amendment would amend Rule 8.51(a)(2) and add Interpretation .07 to clarify that the ten contract firm quote requirement in paragraph (a) of Rule 8.51 is not automatically suspended when a fast market is declared. Instead, Interpretation .07 would provide that any two Floor Officials have the power, but are not required, to suspend this requirement when a fast market has been declared.

CBOE believes the interests of a fair and orderly market are better served when the rules allow Exchange officials the discretion to evaluate market conditions and circumstances and to exercise their judgment as to whether the ten contract firm quote requirement should be suspended in a fast market. This permits the firm quote requirement to remain in place for the benefit of non-broker dealer customers even when a fast market has been declared, except in those specific instances where two Floor Officials have determined that the ten contract firm quote requirement should be suspended.

As set forth in Interpretation .09 to Rule 6.20, members of the Market Performance Committee may perform the functions of Floor Officials for the purpose of enforcing trading conduct policies. As Rule 8.51 is presently written, only the Market Performance Committee or Market Performance Committee members acting as Floor Officials may grant exemptions or make exceptions to Rule 8.51. CBOE believes

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1995); and 36283 (September 26, 1995), 60 FR 51825 (October 3, 1995).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 26924 (June 13, 1989), 54 FR 26284 (June 22, 1989).

Floor Officials from the Floor Officials Committee are also qualified to make decisions regarding exemptions and exceptions to Rule 8.51. CBOE sees no reason to limit this power to members of the Market Performance Committee. CBOE also believes that the power to suspend Rule 8.51 once a fast market is declared should be granted to *any* two Floor Officials, whether they are members of the Market Performance Committee or members of the Floor Officials Committee.

CBOE's proposal would grant equal power to members of the Floor Officials Committee and members of the Market Performance Committee to act under Rule 8.51 regarding suspensions, exceptions or exemptions to the firm quote requirement. It is important for a timely decision to be made once a fast market has been declared or other situations have arisen which warrant the suspension of the firm quote requirement, or an exemption or exception to this requirement. CBOE believes that it could be detrimental to a fair and orderly market to delay action until a member of the Market Performance Committee could be found to make such a decision when members of the Floor Officials Committee might already be present at the trading post. To implement CBOE's intention that *any* two Floor Officials may make decisions under Rule 8.51, including members of the Market Performance Committee acting as Floor Officials and members of the Floor Officials Committee, the proposal would amend Rule 6.20, Interpretation .09, amend Rule 8.51(a)(3), and add Interpretation .06 to Rule 8.51. In addition, the proposal would amend Rule 8.51 to clarify that in deciding whether to grant a suspension, exception or exemption to the firm quote requirement, Floor Officials consider whether to do so would be in the interest of a fair and orderly market.

Because Rule 8.51 requires that Exchange market makers honor non-broker dealer customer orders at the displayed quote for up to ten contracts, it is important that the displayed market quote be accurate. Otherwise, market makers would be forced to trade ten contracts at an inaccurate or "stale" quote price. Therefore, if there is a system malfunction or other circumstance which interferes with the Exchange's ability to disseminate the then current and accurate quote, it is important for the Exchange to be able to act quickly to suspend the market maker's obligations under Rule 8.51 until the difficulty is resolved. To implement such a quick response, the proposal would further amend Rule 8.51 to grant to the senior person then in charge of the Exchange's Control Room the authority to suspend the ten contract firm quote requirement contained in Rule 8.51(a) if there is a system malfunction or other circumstance that affects the Exchange's ability to disseminate or update market quotes. After exercising such authority, the senior person would need immediately to seek approval of two Floor Officials, who would be empowered to confirm or overrule the suspension.

It is important for the Control Room to have this power to suspend the firm quote requirement, since the Control Room would most likely learn of the system malfunction or other circumstance before Floor Officials or other Exchange staff. Consequently, the Control Room could act in a timely manner to prevent market makers from having to trade at "stale" market quotes. If the Control Room does invoke its power to suspend the firm quote requirement, then the Control Room would disseminate a message notifying the public that the displayed quotes are not firm because of a data dissemination problem. This would inform non-broker dealer customers that their orders would not necessarily be filled at that displayed bid or offer. Once the system malfunction has been corrected and the market quotes have been updated, either the senior person then in charge of the Exchange's Control Room or two Floor Officials would be required to end the suspension of the firm quote requirement.

As it is presently written, Rule 6.6(b) provides that the two Floor Officials declaring a fast market have the power to take a number of specified actions and more generally to take such other actions as are deemed necessary in the interest of maintaining a fair and orderly market. When a fast market has been declared, pursuant to these general powers, Floor Officials will often, in the interest of maintaining a fair and orderly market, suspend the ten contract firm quote requirement of Rule 8.51. This decision to suspend the firm quote requirement is made often during a fast market because the displayed quote is not current or accurate due to the influx of orders or other unusual circumstances. Therefore, market makers should not be forced to trade ten contracts at an inaccurate quote. In order to notify members and the public that, during a fast market, Floor Officials may suspend the firm quote requirement, CBOE proposes to specify in Rule 6.6(b) that when a fast market is declared, Floor Officials have the power to suspend the ten contract firm quote requirement of Rule 8.51.

For the same reasons, after a fast market declaration, another action Floor Officials may take in the interest of maintaining a fair and orderly market is to turn off RAES. When RAES receives an order, the system automatically will attach to the order its execution price, determined by the prevailing market quote at the time of the order's entry into the system. A buy order will pay the prevailing market quote for an offer and a sell order will sell at the prevailing market quote for the bid. A market maker who has signed on as a participant in RAES will be designated as a contra-broker on the trade. Trades are assigned to these participating market makers on a rotating basis. Therefore, by agreeing to participate in RAES, a market maker is automatically assigned trades based on the prevailing market quote that is then being disseminated. Consequently, it is important for the prevailing market quote to be accurate, because otherwise market makers participating in RAES may be assigned trades at prices other than the actual prevailing market quote. During a fast market, often the influx of orders is greatly increased or other unusual circumstances exist that affect the accuracy of the prevailing market quote. For this reason, Floor Officials, acting under the general powers of Rule 6.6(b), may turn off RAES to prevent market makers from being assigned trades based on inaccurate market quotes. In order to notify members and the public that such action may be taken in a fast market, CBOE proposes to amend Rule 6.6 to specify that Floor Officials have the power to turn off RAES after a fast market has been declared.

Furthermore, as Rule 6.6(b) is presently written, it could be interpreted that only the same two Floor Officials who declared the fast market have the power to take the other actions specified in Rule 6.6(b). CBOE's practice has been that *any* two Floor Officials have the powers specified in Rule 6.6(b), not just the specific two individuals who declared the fast market. Therefore, CBOE proposes an amendment to Rule 6.6(b) to clarify that any two Floor Officials have the powers specified in 6.6(b).

CBOE believes that members of the Market Performance Committee, who perform Floor Officials functions, as well as Floor Officials who are members of the Floor Officials Committee, are equally qualified to make decisions regarding Rule 6.6. To clarify that members of the Market Performance Committee may also act pursuant to Rule 6.6, the proposal would amend Rule 6.20 Interpretation .09 to specify

that the Floor Official functions that Market Performance Committee members may perform include acting pursuant to rules related to fast markets and RAES. Again, when circumstances arise which might require the declaration of a fast market, it is important for timely decisions to be made regarding the declaration of a fast market and other related decisions specified in Rule 6.6. CBOE believes that it could be detrimental to a fair and orderly market to delay action until a Floor Official from the Floor Officials Committee is found to make such decisions when members of the Market Performance Committee might already be present at the trading post.

The Exchange believes that the proposed rule changes are consistent with and further the objectives of Section 6(b)(5) of the Act, in that the rule changes are designed to perfect the mechanisms of a free and open market and to protect investors and the public interest by enabling any two Floor Officials to evaluate and consider market conditions and circumstances in determining whether to suspend the firm quote requirement of Rule 8.51 during a fast market. The proposed rule changes clarifying the powers of Market Performance Committee members and specifying the powers Floor Officials may invoke during a fast market are also consistent with and further the objectives of Section 6(b)(5) of the Act, in that they too are designed to perfect the mechanism of a free and open market and to protect investors and the public interest. The proposed rule change regarding the authority of the Control Room to suspend the firm quote requirement when there has been a system malfunction affecting the dissemination or updating of quotes is also consistent with and furthers the objectives of Section 6(b)(5) of the Act, in that the change is designed to perfect the mechanism of a free and open market.

The Exchange also believes that the proposed rule changes, collectively, are consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that they are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of change, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to SR–CBOE–95–52 and should be submitted by November 15, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

[4] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26428 Filed 10–24–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36384; File No. SR–DTC–95–19]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Compliance With Confirmation Disclosure Requirements Through the Use of the Institutional Delivery System

October 17, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on October 4, 1995, The Depository Trust Company ("DTC") 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 primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DTC proposes to make additions to its Participant Operating Procedures[2] to enable broker-dealers that use DTC's Institutional Delivery ("ID") system for generating confirmations for their customer transactions to comply with certain disclosure requirements of Rule 10b–10 under the Act.[3]

II. Self-Regulatory Organizations's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in section (A), (B),

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] The additions to DTC's Participant Operating Procedures, Section M—ID System, are attached as exhibit 2 to DTC's filing (File No. SR–DTC–95–19) and are available for review in the Commission's Public Reference Section.

[3] 17 CFR 240.10b–10 (1994).

and (C) below, of the most significant aspects of such statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1994, the Commission adopted amendments to rule 10b–10.[5] Subsequently, the Division of Market Regulation issued a no-action letter to the Public Securities Association ("PSA") on behalf of its members and all other brokers and dealers temporarily exempting them from certain disclosure requirements of paragraphs (a)(7), (a)(8), and (a)(9) of Rule 10b–10 until November 1, 1995.[6]

The purpose of this proposed rule change is to enable broker-dealers that use DTC's ID system for generating confirmations for their customer transactions to comply with the following three disclosure requirements upon the expiration of the temporary exemption.

(1) Amended Rule 10b–10 requires broker-dealers that are not members of the Securities Investor Protection Corporation ("SIPC") to disclose that fact in trade confirmations. A broker-dealer using the ID system to send confirmations can disclose that fact by including a statement such as "[Name of broker-dealer] is not a member of SIPC" in the Special Instructions field of trade data submitted to the ID System. A broker-dealer can enter up to 256 characters of free-form text in the Special Instructions field to be included in the confirmation.

(2) Amended Rule 10b–10 requires broker-dealers to disclose in the case of a debt security other than a government security that the security is not rated by a nationally recognized statistical rating organization if that is the case. A broker-dealer using the ID system can disclose that fact by entering "Not Rated" or "N/R" in the Special Instructions field. The proposed rule change adds a statement that defines the codes "Not Rated" or "N/R" in DTC's Procedures for the ID system in the material describing the Special Instructions field.

(3) Amended Rule 10b–10 requires broker-dealers to disclose in confirmations for asset-backed securities that are continuously subject to prepayment that the yield of the security depends on the rate of prepayments and that certain information concerning the factors that affect yield will be furnished upon written request. By using one of several acronyms, a broker-dealer using the ID system can enter data in the Security Type field to identify the security as one of several types of securities that meet the Rule 10b–10 definition of asset-backed securities. The proposed rule change adds a provision to DTC's Procedures for the ID System in the material setting forth the provisions deemed to be part of a confirmation stating that when one of several designated acronyms appears in the Security Type field of the ID confirmation, the required disclosure is deemed to be a part of the ID confirmation for that transaction.

DTC believes the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F)[7] of the Act and the rules and regulations thereunder applicable to DTC because the proposed rule change will facilitate the confirmation of transactions through the use of DTC's ID system. DTC states that the proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible because the proposed rule change relates to DTC's existing ID system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The proposed rule change was developed through discussions with the PSA, acting on behalf of its members, and several participants. Written comments from DTC participants or others have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes the proposed rule change is consistent with these requirements because it should facilitate the prompt and accurate clearance and settlement of securities transactions by enabling DTC participants to continue to confirm and affirm institutional transactions through the ID system in compliance with the additional disclosure requirements of amended Rule 10b–10.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing. The Commission finds good cause for so approving because accelerated approval will allow DTC participants to begin utilizing the ID system to comply with the disclosure requirements of Rule 10b–10 before the expiration of the temporary exemption on November 1, 1995.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission 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 Commission's Public Reference Section, 450 5th Street NW., Washington, DC 20549. Copies of such filings will also be available at the principal office DTC. All submissions should refer to File No. SR–DTC–95–19 and should be submitted by November 15, 1995.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–95–19) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26430 Filed 10–24–95; 8:45 am]

BILLING CODE 8010–01–M

[4] The Commission has modified the text of the summaries prepared by DTC.

[5] For a complete discussion of the amendments, refer to Securities Exchange Act Release No. 34962 (November 10, 1994), 59 FR 59612.

[6] Letter from Catherine McGuire, Chief Counsel, Division of Market Regulation, Commission, to George P. Miller, Esq., Vice President and Associate General Counsel, PSA (September 29, 1995).

[7] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[8] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36377; File No. SR–PTC–95–06]

Self-Regulatory Organizations; Participants Trust Company; Notice of Filing of Proposed Rule Change Modifying Processing System

October 16, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on September 15, 1995, the Participants Trust Company ("PTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–PTC–95–06) as described in Items I, II, and III below, which Items have been prepared primarily by PTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will amend PTC's rules to reflect changes to its processing system that will cause both the deliver and receive sides in a securities transaction to simultaneously receive debits and credits to their respective securities and cash positions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PTC 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. PTC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend PTC's rules to reflect changes to its processing system which are intended to satisfy a commitment ("Commitment No. 3") made by PTC to the Commission and to the Board of Governors of the Federal Reserve System ("Board of Governors") when PTC was established. Commitment No. 3 stated that PTC would "make the necessary technical changes (including Rules changes) for Delivering Participants to: (i) Be immediately notified, or able to ascertain, that securities debited from a Delivering Participant's Account or associated Transfer Account have not been credited to the Receiving Participant's Account or associated Transfer Account; and (ii) be able to retrieve such undelivered securities and to redeliver, pledge or hold such securities."[3] The proposed rule change eliminates the optional matching process currently available under PTC's rules between delivery and receipt of securities transfers which creates an intermediate status characterized as the "abeyance account." The proposed rule change deletes the abeyance account, amends the receipt mode provisions, and provides for simultaneous credits and debits of an account transfer to both the receiving and delivering participants or limited purpose participants.[4] PTC believes that Commitment No. 3 is satisfied through the elimination of the situation where a delivering participant's securities account has been debited and cash account credited when the receiving participant's securities account has not been credited and cash account debited.

These amendments are proposed to take effect on or about November 6, 1995, concurrent with the implementation of a new software release, SPEED Release 5.6, which will make the corresponding changes to PTC's SPEED transaction processing system.

1. Delivery of Securities Subject to an Account Transfer Under Current Processing System

A delivering participant or limited purpose participant initiates a transfer of securities to another participant or limited purpose participant by instructing an account transfer of securities from its account or associated transfer account. If the account from which the transfer is requested satisfies the conditions set forth in PTC's rules,[5] then PTC debits the securities from the account or associated transfer account of the delivering participant or limited purpose participant and, if the transfer is versus payment, credits the related cash balance.

2. Receipt of Securities Subject of an Account Transfer Under Current Processing System

Under PTC's rules,[6] prior to crediting securities to the account of the receiving participant or limited purpose participant or in an account transfer versus payment its associated transfer account, the receipt of the securities must comply with the receipt mode selected by the receiving participant or limited purpose participant. Furthermore, if the transfer is versus payment, the receiving participant must have sufficient NFE, and the resulting debit to the account cash balance must not cause the receiving participant's net debit balance to exceed its Net Debit Monitoring Level ("NDML").[7]

3. Receipt Modes

Generally, a participant or limited purpose participant currently may choose one of the following receipt modes for receiving securities to its account or its associated transfer account in an account transfer versus payment: Auto Buy-In Mode, authorizing the receipt of all transactions; Auto-Match Mode, authorizing the receipt of all previously designated transactions either listed with specificity or by designating specified dollar tolerances; or Manual Match Mode, in which no transactions are preauthorized.[8]

Securities deliveries for which the receipt is not preauthorized are posted to the await match list associated with the receiving account and recorded in an abeyance account and are credited to the receiving account or associated transfer account only after the receiving participant or limited purpose participant approves the transfer. Any securities remaining on the await match list that are not approved or rejected prior to the close of daily processing are deemed approved by the receiving

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The Commission has modified the text of the summaries prepared by PTC.

[3] Securities Exchange Act Release No. 26671 (March 28, 1989), 54 FR 13266 (approving PTC's application for registration as a clearing agency under Section 17A of the Act) and letter from the Board of Governors approving PTC's application for stock in the Federal Reserve Bank of New York (March 27, 1989).

[4] The abeyance account and the receipt mode provisions are discussed in detail later in this notice.

[5] PTC Rules, Article II, Rule 13, Section 1(b) generally requires sufficient securities and Net Free Equity ("NFE") with respect to the account of the delivering participant or limited purpose participant. NFE measures the value of the collateral which is available to secure liquidity for payment of the account debit balance associated with the transaction. PTC Rules, Article II, Rule 9. PTC will not process an account transfer if, as a result of such transfer, the required NFE is not available in the account at the time delivery is attempted.

[6] PTC Rules, Article II, Rule 13, Section 1(c).

[7] PTC will not process transactions that increase a participant's net debit balance to a level greater than its NDML. When the NDML is reached or exceeded, PTC is entitled to require either confirmation of the participant's ability to pay its debit balance or prefunding of such debit balance. PTC Rules, Article II, Rule 2, Section 4.

[8] PTC Rules, Article II, Rule 11. These provisions are eliminated by the present rule change.

participant or limited purpose participant.[9]

4. Abeyance Account

Securities that are debited from the delivering participant's or limited purpose participant's account but not simultaneously credited to the account of the receiving participant or limited purpose participant because the receipt is not authorized by the receipt mode utilized by the receiving participant or limited purpose participant are recorded in the abeyance account until the transfer can be completed. In the current processing system, the delivering participant or limited purpose participant has no means of ascertaining whether the transfer has been completed to the account or associated transfer account of the receiving participant or limited purpose participant or whether the securities remain recorded in the abeyance account and placed on the await match list associated with the account of the receiving participant or limited purpose participant. Recording the securities delivery in the abeyance account is not deemed to effect any transfer of the securities or create or extinguish any interest in the securities held by PTC prior to such recording.[10]

5. Policy Considerations Behind Commitment No. 3

A main policy consideration leading to Commitment No. 3 was the concern that in the case of an uncompleted account transfer versus payment the unexpected return to the delivering participant of the unmatched securities in the abeyance account and the corresponding elimination of the credit to the account cash balance of the delivering participant could place liquidity pressures on the delivering participant. Such liquidity pressure could occur at the end of the processing day just prior to settlement when there is little time for a participant to fund an unanticipated debit.

6. Summary of Proposed Systems and Rules Modifications

Since 1989, PTC has considered various proposals to address the concerns behind Commitment No. 3 including an inquiry facility for delivering participants or limited purpose participants to ascertain if their deliveries had been received into the receiving participant's or limited purpose participant's account or associated transfer account in the case of an account transfer versus payment to the account of a receiving participant. The present rule change proposes to satisfy Commitment No. 3 by modifying the processing system to debit and credit simultaneously the accounts of delivering and receiving participants with securities and cash irrespective of the receipt mode chosen by the receiver. PTC believes this modification resolves Commitment No. 3 because there will no longer be a situation where the delivering participant has received a cash balance credit before the receiving participant has received a cash balance debit.

The functionality of the PTC match receipt modes will be maintained only as a transaction monitoring tool to designate the status of securities in the account or associated transfer account of the receiving participant or limited purpose participant after the transfer has been credited to the account. because debits to the cash balance of the account of the receiving participant will be immediate, it is anticipated that receiving participants will monitor their account son a timely basis.

7. Proposed Securities Transfer Processing Sequence

Processing changes also will be made in SPEED Release 5.6,[11] altering the sequence of transaction processing. The credit of securities will be posted to the account or associated transfer account of the receiving participant or limited purpose participant regardless of the receipt mode applied to the account. Similarly, in the case of an account transfer versus payment, the associated debit of cash will be posted to the account of the receiving participant or limited purpose participant regardless of the receipt mode applied to the account.

The delivering participant's or limited purpose participant's accounts or associated transfer accounts also will be posted simultaneously with the appropriate entries for securities debits and cash credits when the delivery has satisfied all conditions necessary to complete the transfer (*i.e.*, the delivering account has sufficient available securities and sufficient NFE; in the case of an account transfer versus payment, the receiving account has sufficient NFE and the receiving participant's NDML will not be exceeded; or in the case of account transfers of securities to a pledgee account by use of the Collateral Loan Facility, the receipt is approved by the receiving participant or limited purpose participant).[12]

SPEED Release 5.6 is currently being tested and is anticipated to be operational in early November 1995. The earliest scheduled implementation date is November 6, 1995, based upon full participant tests on October 14 and 28, 1995, and assuming no coding or other changes are required as a result of these and other quality assurance testing procedures. PTC intends to implement the proposed rule changes upon implementation of SPEED Release 5.6.

8. Effect on NFE and NDML of Receiving Participant or Limited Purpose Participant

The change in the sequence of transaction processing to produce simultaneous debiting and crediting of cash requires that the cash balance of the receiving participant's account in an account transfer versus payment be debited even though the delivery has not been approved by the receiving participant. Match functionality no longer will operate to defer the debit to the cash balance of the receiving participant or limited purpose participant until the delivery is approved. Because unmatched deliveries of account transfers versus payment no longer will generate a credit to the cash balance of the delivering participant or limited purpose participant without the corresponding debit to the receiving participant, it is anticipated that the implementation of SPEED Release 5.6 may result in increased incidences of failed deliveries due to NDML and NFE violations.

PTC has monitored potential credit fails in anticipation of SPEED Release 5.6 by calculating and monitcring participants' NFE and NDML usage periodically throughout the processing day based on the hypothetical immediate posting of both matched and unmatched transactions to the receiving participant's account. Under the monitoring program, potential NDML violations have been minimal, but potential NFE violations have been noted. Participants have been advised of the hypothetical NFE and NDML violations and of the amount of the credit deficiency that would have occurred if SPEED Release 5.6 was operational. PTC has worked with participants extensively to prepare them

[9] PTC Rules, Article II, Rule 11.

[10] PTC Rules, Article II, Rule 3, Section 1 and Rule 13, Sections 1(c)(i)(B) and 1(c)(ii)(B).

[11] SPEED Release 5.6 is the latest upgrade in PTC's transaction processing system.

[12] Currently, the requirement that a receiving participant or limited purpose participant must approve a transfer of securities to a pledgee account is specified in PTC's Participant Operating Guide description of the Collateral Loan Facility but not in PTC's rules. As a result of the proposed rule change, this requirement now will be specified in PTC's rules.

for the changes in their procedures that will be required to ensure a smooth transition to the new transaction processing sequence. Furthermore, SPEED Release 5.6 also includes an auto-retry facility that automatically will recycle transactions that fail to complete due to credit deficiencies. Under the auto-retry facility, transactions will be resubmitted for the delivery process at set intervals throughout the day. If it is determined that both the deliverer and receiver pass the credit checks, the item then will be processed and debits and credits will be posted to the appropriate accounts.

9. Proposed Changes to PTC's Rules Implementing the Systems Modifications

The proposed amendments to PTC's rules delete references throughout the rules to the abeyance account and to the use of a receipt mode as a condition to completion of an account transfer. PTC also will make corresponding changes to its Participant Operating Guide that are consistent with the systems changes of SPEED Release 5.6 and the proposed rule amendments.

PTC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act [13] and the rules and regulations thereunder because it facilitates the prompt and accurate clearance and settlement of securities transactions and provides for the safeguarding of securities and funds in PTC's custody or control or for which PTC is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

PTC 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

PTC developed the SPEED Release 5.6 systems modifications in consultation with its participants and solicited their comments by Administrative Bulletins dated July 28, 1994; October 28, 1994; and March 20, 1995. PTC also solicited participant responses to the proposal informally and at meetings of PTC's Operations Committee of which participant representatives are members.

Participant comments on the proposed rule change expressed two main concerns with the original proposal. One concern was from participants that use the match functionality. These participants were concerned that the immediate debit to the cash balance of a receiving participant's account for deliveries not yet approved by the receiving participant would adversely affect the participant's NFE or NDML. The second concern was a need to include an auto-retry facility for any such transactions that fail to complete because of credit deficiencies. The first concern did not result in any change to the original proposal because the requirement for the simultaneous debiting and crediting of cash requires that the receiver's cash balance be debited even though the delivery has not been approved by the receiver. In response to the second concern of participants that there be an auto-retry mechanism, PTC has incorporated a facility into Release 5.6 that will automatically recycle transactions which fail to complete because of credit deficiencies.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to file number SR–PTC–95–06 and should be submitted by November 15, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26429 Filed 10–24–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21428; File No. 812–9626]

Annuity Investors Life Insurance Company, et al.

October 19, 1995.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Annuity Investors Life Insurance Company (the "Company"), Annuity Investors Variable Account A ("Separate Account"), and AAG Securities, Inc. ("AAG Securities").

RELVEANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act for exemptions from Sections 22(d), 26(a)(2)(C) and 27(c)(2) thereof.

SUMMARY OF APPLICATION: Applicants seek an order to permit the Company: (1) To deduct a mortality and expense risk charge under certain variable annuity contracts ("Contracts"), and other variable annuity contracts issued by the Company in the future that are materially similar to the Contracts ("Future Contracts"), from the assets of the Separate Account or any separate account established in the future by the Company to support Future Contracts, and (2) to waive the contingent deferred sales charge when certain specified contingencies trigger the right to a complete or partial surrender.

FILING DATE: The application was filed on June 9, 1995, and amended and restated on October 10, 1995. Applicants represent that an amendment to the application will be filed during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the SEC by 5:30 p.m. on November 13, 1995, and should be accompanied

[13] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[14] 17 CFR 200.30–3(a)(12) (1994).

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 reasons for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, P.O. Box 5423, Cincinnati, Ohio 45201–5423, Attn: Mark F. Muething, Esq.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, or Patrice M. Pitts, Special Counsel, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. The Company is an Ohio stock life insurance company, and is a wholly-owned subsidiary of American Annuity Group, Inc. ("AAG").

2. On May 26, 1995, the Company established the Separate Account under Ohio law as an insurance company separate account. The Separate Account, registered under the 1940 Act as a unit investment trust, is divided into sub-accounts, each of which invests in shares of a different registered investment company or portfolio thereof.

3. The Company may established one or more separate accounts in the future ("Other Accounts") to support Future Contracts.

4. AAG Securities, a wholly-owned subsidiary of AAG, is registered as a broker-dealer under the Securities Exchange Act of 1934. AAG Securities will be the principal underwriter of the Contracts, which will be sold by licensed insurance agents who are registered representatives of AAG Securities or of a registered broker-dealer that has entered into a selling agreement with AAG Securities.

5. The Contracts are group flexible combination variable and fixed annuity contracts. The amount and timing of contributions (after the deduction of premium tax, if any) made to the Company in consideration for a person's ("Participant") participation under a Contract ("Purchase Payments") under a certificate of participation ("Certificate") are determined by the applicable Participant.

6. The Contracts provide for five options which may be elected by the Participant for the payment of annuity payments by the Company: (1) A life annuity with payments for at least a fixed period; (2) a life annuity; (3) a joint and one-half survivor annuity; (4) an income for a fixed period; and (5) such other form of annuity that is acceptable to the Company.

7. The Company deducts annually from the value of a Participant's interest in all sub-accounts a charge of $25 as partial compensation for expenses relating to the issue and maintenance of the Certificate and the Separate Account ("Certificate Maintenance Fee"). The Company reserves the right to increase the Certificate Maintenance Fee and guarantees that the Certificate Maintenance Fee will not exceed $40. Any increase in the Certificate Maintenance Fee will apply only to deductions after the effective date of the change.

8. The Company currently imposes no charge to reimburse itself for expenses incurred in the administration of the Contract, the Certificates and the Separate Account ("Administration Charge"), but reserves the right to impose an Administration Charge at the end of each valuation period. This charge would be deducted from the net asset value of each sub-account of the Separate Account at an effective annual rate guaranteed not to exceed .20%. Applicants represent that the Certificate Maintenance Fee and any future Administration Charge will be deducted in reliance on, and in compliance with, Rule 26a–1 under the 1940 Act.

9. No front-end sales charge is deducted from Purchase Payments. The Company may deduct a contingent deferred sales charge ("CDSC") of up to 7% of Purchase Payments on certain surrenders or partial surrenders to help defray the costs incurred by the Company in connection with the sale of the Contracts. The CDSC will be imposed on surrenders of Purchase Payments only in cases where the purchase payment was made within seven years of the date of a written request for surrender. Surrenders and partial surrenders will be applied first to accumulated earnings (which may be surrendered without charge), and then to Purchase Payments on a first-in, first-out basis. The following table shows the schedule of the CDSC that will be applied to withdrawal of a purchase payment:

Number of full contract years since purchase payment	Applicable charge (percent)
0	7
1	6
2	5
3	4
4	3
5	2
6	1
7	0

10. The Company may reduce or eliminate the CDSC on the Contracts and Certificates when certain sales result in savings or reduced sales expenses. The entitlement to such a reduction in the CDSC generally will be based on: (i) The size and type of the group to which sales are to be made; (ii) the anticipated total amount of Purchase payments to be received; and/or (iii) any prior or existing relationship with the Company. Applicants represent that the reduction or elimination of the CDSC will not be unfairly discriminatory to any purchaser.

11. The Contracts provide that the following types of surrenders or partial surrenders may be made without incurring a CDSC:

a. *Seven Year Old Purchase Payments.* Surrenders of all or part of any Purchase Payments that have been held by the Company for at least seven years.

b. *10% Free Withdrawals.* During any period of twelve months commencing on the effective date of the Certificate and on each Certificate Anniversary (the annual anniversary of the effective date of the Certificate) thereafter ("Certificate Year"), after the first Certificate Year, for Certificates qualified under Section 403(b) of the Internal Revenue Code of 1986, as amended ("Code"), the CDSC will not be imposed on the surrender of up to 10% of the Account Value (*i.e.*, the aggregate value of a Participant's interest in the Variable Account plus the Fixed Account) as of the last day of the previous Certificate Year.

c. *Purchase of an Income Annuity.* If all or part of the Account Value is applied to the purchase of an annuity from the Company for life or for a non-commutable period of five years or more.

d. *Disability.* The surrender of a Certificate if the Participant is "disabled" as that term is defined in the Social Security Act of 1935, as amended.

e. *Plans Qualified Under Section 403(b) of the Code.* For Participants in plans qualified under Section 403(b) of the Code if: (i) The plan is subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA") and the Participant incurs a separation from service; or (ii) the plan is not subject to ERISA and either (A) the Participant

incurs a separation from service, has attained age 55 and has held the Certificate for at least seven years, provided that the Account Value is not transferred on a tax-free basis to another insurance carrier, or (B) the Participant has held the Certificate for fifteen years or more.

f. *Plans Qualified Under Section 401 of the Code.* For Participants in plans qualified under Section 401 of the Code if the Participant incurs a separation from service.

g. *Long-term Care Rider.* If the Participant is confined in a "licensed hospital" or "long-term care facility" (as those terms are defined in the Long-Term Rider to the Contract) for at least 90 days beginning on or after the first Certificate Anniversary.

12. The Company will deduct a mortality and expense risk charge under certain Contracts that is equal, on an annual basis, to 1.25% of the daily net asset value of each sub-account in the Separate Account. Approximately 0.75% of this charge is attributable to mortality risks and 0.50% is attributable to expense risks. The Company guarantees that this charge of 1.25% will never increase for such Contracts.

13. The Company proposes to offer an Enhanced Contract with a reduced mortality and expense risk charge to employers and/or their employee benefit trusts where the Company is the preferred variable annuity provider to that organization. In this situation, the Company expects significant administrative expense savings for Enhanced Contracts from the consolidation of enrollment, premium transmission and Participant servicing functions. The Company also anticipates that the additional administrative support typically provided by employers/trustees in this situation will reduce renewal expenses and improve Contract and Certificate persistency, thereby resulting in administrative expense savings to the Company.

14. The Company proposes to deduct from the Enhanced Contract a mortality and expense risk charge that is equal, on an annual basis, to 0.95%. Approximately 0.20% of this charge is attributable to expense risk and 0.75% is attributable to mortality risk. The Company guarantees that this charge of 0.95% will never be increased for Enhanced Contracts.

15. The mortality risks assumed by the Company arise in part from the Company's guarantee that it is obligated to make annuity payments at least equal to payments calculated based on annuity tables provided in the Contracts and Certificates, regardless of how long a Participant or annuitant lives, and regardless of any general improvement in life expectancy.

16. The Company also assumes a mortality risk in connection with the provision of a death benefit. If the Participant dies before attaining age 75, and before the annuity commencement date, the death benefit will be an amount equal to the greatest of: (i) The Account Value on the Death Benefit Valuation Date (*i.e.*, the valuation period during which the Company receives both proof of death of the Participant and a written request regarding payment of the death benefit), less any applicable premium tax not previously deducted, and less any outstanding loans; (ii) the total Purchase Payments, less any applicable premium tax not previously deducted, less any partial surrenders, and less any outstanding loans; or (iii) the largest death benefit amount on any Certificate Anniversary prior to death that is an exact multiple of five and occurs prior to the Death Benefit Valuation Date, less any applicable premium tax not previously deducted, less any partial surrenders after the death benefit was determined and less any outstanding loans.

If the Participant dies after attaining age 75 and before the annuity commencement date, the death benefit is an amount equal to the greatest of: (i) The Account Value on the Death Benefit Valuation Date, less any applicable premium tax not previously deducted, and less any outstanding loans; (ii) the total Purchase Payments, less any applicable premium tax not previously deducted, less any partial surrenders, and less any outstanding loans; or (iii) the largest death benefit amount on any Certificate Anniversary prior to death that is both an exact multiple of five and occurs prior to the date on which the participant attained age 75, less any applicable premium tax not previously deducted, less any partial surrenders after the death benefit was determined and less any outstanding loans.

17. The expense risk assumed by the Company is the risk that the Company's administrative charges will be insufficient to cover actual administrative expenses over the life of the Contracts.

Applicants' Legal Analysis and Conditions

Pursuant to Section 6(c) of the 1940 Act, the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of the 1940 Act or from any rule or regulation 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 policy and provisions of the 1940 Act.

A. Exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act

1. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act prohibit a registered unit investment trust and any depositor or underwriter thereof from selling periodic payment plan certificates unless the proceeds of all payments are deposited with a qualified trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services.

2. Applicants request an order under Section 6(c) exempting them from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of the mortality and expense risk charge from the assets of the Separate Account or any Other Account under the Contracts and the Future Contracts.

3. Applicants submit that their request for an order that applies to the Separate Account and to Other Accounts issuing Future Contracts is appropriate in the public interest. Such an order would reduce administrative costs and increase the Company's ability to respond promptly to new opportunities that may be presented. Applicants assert that without the requested relief, the Company would have to request and obtain exemptive relief for each new Other Account it establishes to fund Future Contracts. Investors would not receive any additional benefit or additional protection by the Company being required repeatedly to seek exemptive relief with respect to the issues addressed in this application. Applicants represent that the requested relief is consistent with the purposes of the 1940 Act and the protection of investors for the same reasons. Applicants assert that the grant of this exemptive relief would not diminish the protections provided to investors by the 1940 Act.

4. Applicants represent that the mortality and expense risk charges under the Contracts (1.25% or .95%, as applicable) are reasonable in relation to the risks undertaken by the Company and are within the range of industry

practice for comparable annuity products. Applicants base this representation on an analysis made by the Company of publicly available information about selected similar industry products, taking into consideration such factors as any contractual right to increase charges above current levels, the existence and amount of other charges, the nature of the death benefit provided, the guaranteed annuity purchase amounts, the number of transfers permitted without charge and surrenders not subject to a CDSC. The Company represents that it will maintain at its administrative office a memorandum available to the Commission, setting forth in detail the products analyzed in the course of, and the methodology and results of, the comparative survey made by Contracts and Enhanced Contracts.

5. Similarly, Applicants represent that the mortality and expense risk charges under any Future Contracts issued by the Separate Account or Other Separate Accounts, will be reasonable in relation to the risks assumed by the Company and within the range of industry practice for comparable annuity products. The Company undertakes to maintain at its administrative office a separate memorandum, available to the Commission upon request, setting forth in detail the products analyzed, and the methodology and the results of the analysis relied upon in making these determinations.

6. Applicants acknowledge that the Company's revenues from the CDSC could be less than the Company's costs of distributing the Contracts. In that case, the excess distribution costs would have to be paid out of the Company's general account, including the profits, if any, from the mortality and expense risk charges. In those circumstances, a portion of the mortality and expense risk charge might be viewed as providing for a portion of the costs relating to the distribution of the Contracts. The Company represents that there is a reasonable likelihood that the proposed distribution financing arrangements mad with respect to the Contracts and Future Contracts will benefit the Separate Account and Other Accounts and the Participants. The basis for that conclusion is, and with respect to Future Contracts will be, set forth in a memorandum which will be maintained by the Company at its administrative office and will be available to the Commission.

7. The Company represents that the Separate Account and Other Accounts will invest only in an underlying mutual fund which undertakes, if it adopts a plan to finance distribution expenses under Rule 12b–1 under the 1940 Act, to have a board of directors, a majority of whom are not "interested persons" of that fund within the meaning of Section 2(a)(19) of the 1940 Act, formulate and approve any such plan.

B. Exemption From Section 22(d) of the 1940 Act

1. Pursuant to Section 6(c) of the 1940 Act, Applicants also request that the Commission issue an order to provide exemptive relief from Section 22(d) to the extent necessary to permit the Applicants to waive the CDSC under the Contracts and Future Contracts in the event of the enumerated contingencies triggering the right the make the free withdrawals as described above.

2. Section 22(d) of the 1940 Act prohibits a registered investment company, its principal underwriter, or a dealer in its securities, from selling any redeemable security issued by such registered investment company to any person except at a public offering price described in the prospectus. Rule 6c–8 under the 1940 Act permits registered separate accounts to impose a deferred sales charge. Although Rule 6c–8, unlike Rule 6c–10 under the 1940 Act, does not impose any conditions on the ability of the investment company involved to provide for variations in the deferred sales charges, Rule 6c–8 (again unlike Rule 6c–10) does not provide an exemption from Section 22(d). Applicants recognize that the proposed waiver of the CDSC described in this application could be viewed as causing the Contracts to be sold at other than a uniform offering price.

3. Rule 22d–1 permits the sale of redeemable securities at prices that reflect scheduled variations in, or elimination of, sales loads. That Rule has been interpreted as granting relief only for scheduled variations in front-end sales loads, not deferred sales loads and, therefore, is not directly applicable to Applicants' proposed waiver of the CDSC.

4. Rule 22d–2 exempts registered separate accounts through which variable annuity contracts are offered, their principal underwriters, dealers and sponsoring insurance companies from Section 22(d) to the extent necessary to permit variations in the sales load, administrative charges, or other deductions from the Purchase Payments assessed under such contract, provided that those variations reflect differences in costs or services, are not unfairly discriminatory, and are described adequately in the prospectus. Applicants represent that the elimination or reduction of the CDSC when sales of the Contracts and Certificates result in savings or reduction of sales expenses would be made in reliance on Rule 22d–2. Applicants also represent, however, that the seven proposed contingencies for waiver of the CDSC do not reflect differences in sales costs or services. For that reason, Applicants do not rely on Rule 22d–2 for the requested relief.

5. Applicants submit that the proposed waiver of the CDSC is consistent with the policies of Section 22(d) and the rules thereunder. One such purpose is to prevent an investment company from discriminating among investors by charging different prices to different investors. Applicants represent that, to the extent permitted by state law, the seven proposed contingencies relating to the waiver of the CDSC will be included in all Contracts and Certificates; eligibility for the waiver will be predicated upon the qualification of a Participant under one of the seven contingencies. Therefore, the benefit will not unfairly discriminate among Participants. Applicants submit that the waiver is advantageous to Participants because it provides circumstances in which they may make partial surrenders or a full surrender under their Contracts without imposition of the CDSC. Applicants represent that waiving the CDSC under such circumstances will not result in the occurrence of any of the abuses that Section 22(d) is designed to prevent.

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemptions from Sections 22(d), 26(a)(2)(C) and 27(c)(2) of the 1940 Act are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26432 Filed 10–24–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–21424/812–9806]

Equitable Capital Partners, L.P., et al.; Notice of Application

October 17, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Equitable Capital Partners, L.P., and Equitable Capital Partners (Retirement Fund), L.P. (the "Funds"); and Donaldson, Lufkin & Jenrette Securities Corporation ("DLJ").

RELEVANT ACT SECTIONS: Order requested under section 57(c) of the Act from section 57(a)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit the Funds to sell shares of the common stock of Lexmark Holding, Inc. ("Lexmark") (to be renamed Lexmark International Group, Inc.) in an initial public offering in which DLJ is a member of the underwriting syndicate.

FILING DATE: The application was filed on October 10, 1995. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

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 November 8, 1995, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's request, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington DC 20549. The Funds, 1345 Avenue of the Americas, New York, New York 10105. DLJ, 140 Broadway, New York, New York 10005.

FOR FURTHER INFORMATION CONTACT: Sarah A. Wagman, Staff Attorney, at (202) 942–0654, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (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 Funds are limited partnerships organized under Delaware law, and are business development companies under the Act. The investment objective of each Fund is to provide current income and capital appreciation by investing in privately structured, friendly leveraged buyouts, leveraged acquisitions, and leveraged recapitalizations.

2. The Funds each have five general partners, consisting of four natural persons and one managing general partner, Alliance Corporate Finance Group Incorporated ("Alliance Incorporated"), an indirect, wholly-owned subsidiary of Alliance Capital Management, L.P. ("Alliance Capital"). In 1993, Alliance Incorporated succeeded the original managing general partner, Equitable Capital Management Corporation. At that time, it also became the Funds' investment adviser. The general partner and the limited partners of Alliance Capital are indirect, wholly-owned subsidiaries of The Equitable Companies Incorporated ("EQ").

3. All of the Funds' individual general partners are not "interested persons" of the Funds within the meaning of section 2(a)(19) of the Act (the "Independent General Partners"). The Independent General Partners perform the same functions as directors of a corporation and, as Independent General Partners, assume the responsibilities that the Act and the rules thereunder impose on the non-interested directors of a business development company.

4. DLJ, a Delaware corporation, is a wholly-owned subsidiary of Donaldson, Lufkin & Jenrette, Inc., a holding company that, through its subsidiaries, engages in investment banking, merchant banking, trading, distribution, and research. Donaldson, Lufkin & Jenrette, Inc. is a subsidiary of EQ. EQ currently owns 61.5% of the common stock of Donaldson, Lufkin & Jenrette, Inc., but intends to sell a portion of such stock, after which sale EQ would still own more than a majority of Donaldson, Lufkin & Jenrette, Inc.'s common stock.

5. The Funds are shareholders of Lexmark (to be renamed Lexmark International Group, Inc.), a privately-held developer, manufacturer, and supplier of laser and inkjet printers and associated consumable supplies for the office and home markets. The Funds acquired their Lexmark shares on March 27, 1991 jointly with each other and three affiliated persons of their investment adviser: The Equitable Life Assurance Society of the United States (a wholly-owned subsidiary of EQ) and two private investment partnerships, Equitable Deal Flow Fund, L.P. and Equitable Capital Private Income and Equity Partnership II, L.P. (together with the Funds, the "Equitable Investors"). Alliance Incorporated is the investment sub-adviser to the two private investment partnerships. The 1991 investment was made pursuant to the terms of an SEC order permitting certain co-investments among the Funds and their affiliated persons.[1]

6. The Equitable Investors and other shareholders of Lexmark (together, the "Selling Shareholders") intend to sell part of their Lexmark holdings in an initial public offering. The Selling Shareholders collectively own 68,798,805 shares of Lexmark's Class A common stock.

7. The Funds together own 3,262,814 shares, or approximately 4.7% of the shares held by the Selling Shareholders. The Equitable Investors collectively own 8,250,000 shares, or 11.99% of shares held by the Selling Shareholders. The Selling Shareholders also include The Clayton & Dubilier Private Equity Fund IV Limited Partnership ("C&D Fund IV"),[2] which holds approximately 44.7% of the total number of shares held by Selling Shareholders; Leeway & Co., as nominee for the AT&T Master Pension Trust, which holds approximately 16.4% of the total; and Mellon Bank, N.A., as trustee for First Plaza Group Trust, a trust for the benefit of certain employee benefit plans for General Motors Corporation, which holds approximately 16.4% of the total. Other than the Equitable Investors, none of the Selling Shareholders is related to either of the Funds in the manner described in section 57(b) of the Act.

8. As the largest Selling Shareholder, C&D Fund IV has taken the lead in developing the proposed offering, after consultation with Lexmark, which has formed a pricing committee composed of three of its directors.[3] Lexmark selected the proposed lead and co-managers of the U.S. underwriting syndicate. Goldman, Sachs & Co. ("Goldman") was chosen and approved to act as the lead managing underwriter. Merrill Lynch & Co., Morgan Stanley & Co. Incorporated, DLJ, and Smith

[1] Equitable Capital Partners, L.P., *et al.*, Investment Company Act Release Nos. 16483 (July 15, 1988) (notice) and 16522 (Aug. 11, 1988) (order), *as amended by* Investment Company Act Release Nos. 17894 (Dec. 5, 1990) (notice) and 17925 (Dec. 31, 1990) (order); and Investment Company Act Release Nos. 19426 (Apr. 22, 1993) (notice) and 19482 (May 18, 1993) (order).

[2] The manager of C&D Fund IV is Clayton, Dubilier & Rice, Inc., a private investment firm ("CD&R"), that specializes in leveraged buyouts. In recent years, companies formed by CD&R have acquired divisions from IBM, DuPont, Xerox, and Phillip Morris. C&D Fund IV is a $1.15 billion private equity investment fund established in 1989, which by 1994 had invested in nine companies with total 1994 revenues of several billion dollars.

[3] The three directors are Marvin L. Mann, the Chairman, President, and Chief Executive Officer of Lexmark; Donald J. Gogel, who is also the Co-president of CD&R; and Joseph L. Rice, III, who is also the Chairman and Chief Executive Officer of CD&R. None of the members of the pricing committee is an affiliated person of DLJ.

Barney Inc. were each chosen and approved to act as co-managing underwriters.

9. The Selling Shareholders currently anticipate that in the aggregate they will sell in the offering approximately 15-30% of the shares they now hold. Each of the Selling Shareholders, including the Funds, will have the opportunity to sell shares in the offering on a *pro rata* basis in proportion to its holdings in Lexmark. The Selling Shareholders have agreed not to sell any additional shares of stock they hold for 180 days after the offering.

Applicants' Legal Analysis

1. Applicants request an order under section 57(c) exempting them from section 57(a)(2) to permit the Funds to sell shares of Lexmark common stock in an initial public offering in which DLJ is a member of the underwriting syndicate.[4]

2. Section 57(a)(2) prohibits certain affiliates of a business development company from purchasing any security or other property on a principal basis from the business development company or from any company controlled by the business development company, except securities of which the seller is the issuer. Section 57(b) include any person directly or indirectly controlling, controlled by, or under common control with the business development company.

3. Section 57(c) provides that a person may file an application with the SEC for an order exempting a proposed transaction from one or more provisions of section 57(a) (1) through (3), and that the SEC shall issue an order if the evidence establishes that: (a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching of the business development company or its shareholders or partners on the part of any person concerned; (b) the proposed transaction is consistent with the policies of the business development company; and (c) the proposed transaction is consistent with the general purposes of the Act.

4. The persons listed in section 57(b)(2) include persons under common control with Alliance Incorporated, the investment adviser to, and managing general partner of, the Funds. Alliance Incorporated is indirectly controlled by EQ. DLJ also is controlled by EQ. Accordingly, DLJ and Alliance Incorporated are under the common control of EQ, and DLJ is an affiliated person of the Funds' investment adviser. In addition, because Alliance Incorporated controls the Funds, DLJ may be deemed to be under common control with the Funds. Thus, under section 57(a)(2), DLJ may not purchase from the Funds securities or other property without first receiving an order under section 57(c).

5. Applicants believe that the proposed transaction satisfies the statutory standards for relief under section 57(c). In this connection, applicants believe that the structure of the proposed transaction will be designed to ensure that the terms of the transaction will be fair and reasonable, will not involve overreaching on the part of any person concerned and will eliminate the possibility of abuses.

6. The proposed transaction will be fair and reasonable to the Funds, because the price of the offering will be determined in arms'-length negotiations among Lexmark, the Selling Shareholders, and Goldman, as representative of the co-managers and the underwriters. Lexmark's pricing committee will take the lead in negotiating with the underwriters the price at which the shares will be sold, and the underwriters' compensation. All of the Selling Shareholders, including the Funds, are sophisticated investors with significant investment expertise and experience, which will ensure that the price to be received by them is fair and reasonable, and that the composition of the underwriting syndicate is in the best interests of the Selling Shareholders.

7. In addition, although DLJ is a co-managing underwriter, Goldman is the lead managing underwriter. In that role, Goldman has responsibility for, among other things, managing the books associated with the underwriting, recommending the price of the shares to the public, recommending the underwriting discount, allocating the shares to the syndicate members, and determining the composition of the institutional participation in the purchase of the shares. DLJ, as a co-managing underwriter, standing alone does not have authority to determine the price of the offering.

8. The proposed transaction would be entirely consistent with the policies of the Funds as recited in their filings with the SEC under the Securities Act of 1933, their registration statements and reports filed under the Securities Exchange Act of 1934, their reports to partners, and with the Funds' prior exemptive orders. The Funds' prospectuses expressly disclosed that one method of liquidating their investments would be through public offerings in which other investors also would sell their holdings. The proposed transaction also would be consistent with the general purposes of the Act.

9. Liquidity in portfolio investments is becoming increasingly important to the Funds and their limited partners. The Funds are now in a liquidation mode and are not making new investments. Selling shares in the proposed offering will provide liquidity not otherwise available to the Funds. Since there now is no public market for Lexmark stock and the shares of Lexmark held by the Funds have not been registered with the SEC, an underwritten offering currently is the only opportunity for sales by the Funds in the public market of Lexmark shares.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Alliance Incorporated will review the terms of the proposed offering and provide a written report to the Independent General Partners that will set forth Alliance Incorporated's recommendation as to whether each Fund should sell shares in the offering based on Alliance Incorporated's analysis of all factors it deems relevant, including the terms of the offering.

2. The Funds will sell shares in such underwritten offering on the same terms as each other Selling Shareholder. The price of the shares to the public will be the price determined in arm's-length negotiations among Lexmark, the Selling Shareholders and Goldman, as representative of the co-managers and underwriters. The underwriting discount also will be determined in arm's-length negotiations among Lexmark, the Selling Shareholders and Goldman, as representative of the co-manager and underwriters. The terms of DLJ's compensation will be the same as the other co-managers'.

3. A majority of the Independent General Partners must find the underwriting terms and arrangements with respect to the proposed transaction to be fair and reasonable.

4. If Alliance Incorporated, on the basis of its evaluation described above, recommends that a Fund sell shares in the offering, the Individual General Partners shall then determine whether, in their view, it is in the best interests of that Fund to sell shares in that offering. Each Fund shall sell shares in such underwritten offering only if a majority of the Independent General Partners determine that: (a) The terms of

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[4] Applicants do not believe that the proposed transactions require relief from sections 57(a)(3) and 57(i), and rule 17d–1, and therefore have not requested that the order include relief under those sections and that rule. Applicants recognize that the SEC expresses no opinion on this issue.

the proposed transaction, including the consideration to be paid to the Fund, are reasonable and fair and do not involve overreaching of the Fund or its partners on the part of any person concerned; (b) the proposed transaction is consistent with the policies of the fund as indicated in its filings under the Securities Act of 1933 and the Securities Exchange Act of 1934, and its reports to its partners; and (c) participation by the Fund in the proposed transaction is in the best interests of the Fund's limited partners.

5. Each Fund will maintain the records required by section 57(f)(3) of the Act as if the transactions were approved by the Independent General Partners under section 57(f) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26380 Filed 10–24–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21423; International Series Release No. 871; 812–9804]

Sun Life Assurance Company of Canada and Sun Canada Financial Co.

October 17, 1995.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Sun Life Assurance Company of Canada ("Sun Life") and Sun Canada Financial Co. ("SCF")

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act that would exempt finance subsidiaries of Sun Life from subparagraph (b)(3)(i) of rule 3a–5 under the Act so as to permit such finance subsidiaries to rely on the exemptive provisions of rule 3a–5 under the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit SCF and future wholly-owned finance subsidiaries of Sun Life ("Future Subsidiaries") to sell preferred stock and debt instruments to finance the business operations of their parent company, Sun Life, and certain subsidiaries of Sun Life.

FILING DATES: The application was filed on October 6, 1995 and amended on October 17, 1995.

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 November 7, 1995, 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: One Sun Life Executive Park, Wellesley Hills, Massachusetts 02181.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Staff Attorney, at (202) 942–0573, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. SCF is a Delaware corporation and a finance subsidiary of Sun Life. All of SCF's outstanding shares are owned by Sun Life. Sun Life is a Canadian mutual life insurance company and together with its subsidiaries (the "Company") is the largest Canadian life insurance company, based on total consolidated assets under management. The Company's insurance products include individual and group life, health, and disability insurance, annuities, and pensions. The Company also operates in the investment management, banking, trust, and reinsurance businesses. Sun Life owns all of the outstanding stock of Sun Life Assurance Company of Canada (U.S.) ("Sun Life (U.S.)"), a stock life insurance company incorporated in Delaware that issues life insurance policies and individual and group annuities. Sun Life (U.S.) formed a wholly-owned subsidiary, Sun Life Insurance and Annuity Company of New York, that issues annuities and group life and long-term disability insurance in the state of New York. Sun Life (U.S.) has other wholly-owned subsidiaries, including an insurance company and a federally chartered savings bank.

2. SCF was organized to finance Sun Life's business operations, that may include the business operations of Sun Life's subsidiaries. SCF's primary function would be to raise funds through the issuance and offer of its non-voting preferred stock or debt instruments, and to lend all or substantially all (at least 85%) of the proceeds of such offerings to Sun Life or its subsidiaries. The remainder of the proceeds would be invested or held in government securities and other securities permitted by rule 3a–5(a)(6).

3. SCF presently intends to raise funds through a private placement of debt securities ("Notes") that would be eligible for resale under rule 144A under the Securities Act of 1933 ("Rule 144A Offering"). It is anticipated that the Notes would be sold in a private placement to three investment banks and reoffered by them to qualified institutional buyers in reliance on rule 144A and to institutional accredited investors within the meaning of rule 501 under the Securities Act. Proceeds of the Rule 144A Offering would be used to purchase surplus notes issued by Sun Life (U.S.).[1] Proceeds to Sun Life (U.S.) from that purchase would simultaneously be used to pay off existing Sun Life (U.S.) surplus notes that are currently held by Sun Life. When the contemplated transaction is completed, substantially all of the proceeds from SCF's sale of its Notes would be transferred to Sun Life for use in the Company's business operations, and SCF would hold, in addition to government securities and other securities permitted by rule 3a–5(a)(6), surplus notes of Sun Life (U.S.).

4. The Notes would be direct unsecured obligations of SCF that would be subordinated in right of payment to all present and future indebtedness and liabilities of SCF. The Notes would be guaranteed, on a subordinated basis, by Sun Life. SCF may issue a different type of debt security, or may issue non-voting preferred stock in the future. SCF also may lend funds to or hold the securities of a U.S. bank subsidiary of Sun Life or other subsidiaries excepted from the definition of investment company by section 3(c)(3) of the Act. SCF would limit its financing activities to those that, but for the status of certain of Sun Life's subsidiaries, conform to the requirements of rule 3a–5.

Applicants' Legal Analysis

1. Applicants request an exemption pursuant to section 6(c) from rule 3a–5(b)(3)(i) so as to allow SCF and Future Subsidiaries to rely on the exemptive provisions of rule 3a–5 under the Act.

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[1] Surplus notes are a form of debt security permitted by state insurance laws.

Rule 3a–5 under the Act provides an exemption from the definition of investment company for a company organized primarily to finance the business operations of its parent company or other subsidiaries of its parent company and where any purchaser of such finance subsidiary's debt instruments ultimately looks to such parent for repayment and not to the finance subsidiary.

2. Applicants may not rely on the safe harbor provided by rule 3a–5 because Sun Life (U.S.) and other insurance subsidiaries of Sun Life may not be considered a "company controlled by the parent company" as defined in rule 3a–5. Under rule 3a–5(b)(3)(i), a "company controlled by a parent company" is defined as any corporation, partnership, or joint venture that 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). SCF's lending to Sun Life complies with rule 3a–5 because under rule 3a–6, a foreign insurance company is exempted from the definition of "investment company" under the Act. SCF's lending to Sun Life (U.S.) however, does not comply with rule 3a–5 because Sun Life (U.S.) is excepted from the definition of investment company under section 3(c)(3) of the Act.

3. The adopting release of rule 3a–5 stated that relief similar to that granted under rule 3a–5 may be appropriate for a finance subsidiary of a parent company that derives its non-investment company status from section 3(c) of the Act.[2] The release stated, however, that such requests should be examined on a case-by-case basis. According to the adopting release, the concern was that a company may be considered a non-investment company for the purposes of the Act under section 3(c) of the Act and still be engaged primarily in investment company activities.

4. Applicants represent that SCF would not engage in a general program of investment, nor would SCF be used to finance such a program. SCF's primary purpose is to provide an alternate vehicle to finance the non-investment company business operations of Sun Life, including those of Sun Life's non-investment company subsidiaries.

[2] *See*, Exemption From the Definition of Investment Company for Certain Finance Subsidiaries of United States and Foreign Private Issuers, Investment Company Act Release No. 14275 (Dec. 14, 1984).

5. Section 6(c) provides that the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder 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 policy and provisions of the Act. Applicants submit that the exemptive relief requested meets the requirements of section 6(c).

Applicants' Condition

Applicants agree that any order granting the requested relief shall be subject to the condition that SCF, or any other wholly-owned finance subsidiary of Sun Life rely on the order, will comply with all provisions of rule 3a–5 under the Act, except that the term "company controlled by the parent company" will include subsidiaries of Sun Life that do not meet the requirements of rule 3a–5(b)(3)(i) solely because they are excluded from the definition of investment company by section 3(c)(3) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–26382 Filed 10–24–95; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration (U.S. Diagnostic Labs, Inc., Common Stock, $.001 Par Value); File No. 1–13392

October 19, 1995.

U.S. Diagnostic Labs, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, it is delisting the Security from the BSE as soon as practicable after October 6, 1995 because, commencing October 1995, the Security will be listed for quotation on the Nasdaq National Market System ("Nasdaq/NMS") and the rules of the Nasdaq/NMS and the BSE do not permit a security to be listed on both the BSE and the Nasdaq/NMS. The Security is also currently traded on the Nasdaq SmallCap Market.

Any interested person may, on or before November 9, 1995, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the BSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–26381 Filed 10–24–95; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with P.L. 96–511 as amended (P.L. 104–13 effective 10/1/95), The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on October 6, 1995.

(Call Reports Clearance Officer on (410) 965–4142 for copies of package.)

OMB Desk Officer: Laura Oliven

SSA Reports Clearance Officer: Charlotte S. Whitenight

1. *Statement by School Official About Student's Attendance and Statement to U.S. Social Security Administration by School Outside the U.S. About Student's Attendance—0960–0090.* The information on forms SSA–1371 and SSA–1371FC is used by the Social Security Administration to determine a student's alleged full time attendance at an educational institution in cases where such attendance is needed for continued entitlement to benefits. The respondents are the school officials who provide the information on these forms.

Number of Respondents: 5,000

Frequency of Response: 1

Average Burden Per Response: 10 minutes
Estimated Annual Burden: 833 hours

2. *Report of Continuing Disability Interview—0960–0072.* The information on form SSA–454 is used by the Social Security Administration to determine whether a person who receives Social Security Disability benefits is still unable to work because of his/her disability. It will be used to make a determination as to whether the Disability benefits should continue or terminate. The affected public will consist of approximately 300,000 Social Security Disability benefit recipients.

Number of Respondents: 300,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 150,000 hours

3. *Medical Report (Individual With Childhood Impairment)—0960–0102.* The information on form SSA–3827 is used by the Social Security Administration to determine if an individual with a childhood impairment medically qualifies for benefits or payments under the provisions of the Social Security Act. Without this data, SSA would not by able to properly evaluate the medical aspects of an individual's claim or application. The respondents will be attending physicians/medical sources.

Number of Respondents: 12,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 6,000 hours

4. *Agreement to Sell Property—0960–0127.* The information on form SSA–8060 is used by the Social Security Administration when individuals or couples who are otherwise eligible for Supplemental Security Income (SSI) benefits, but whose resources exceed the allowable limit, may receive conditional payments if they agree to dispose of their excess nonliquid resources and make repayment. The respondents will be applicants for and recipients of SSI benefits.

Number of Respondents: 20,000
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 3,333 hours

5. *Application for Survivors Benefits—0960–0062.* The information on form SSA–24 is used by the Social Security Administration to determine if an individual who is filing for benefits from the Department of Veterans Affairs (DVA) may also be entitled by SSA. The respondents are claimants for VA benefits.

Number of Respondents: 3,200
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 800 hours

6. *Modified Benefit Formula Questionnaire—0960–0395.* The information on form SSA–150 is used by the Social Security Administration to determine the correct formula to be used in computing the Social Security benefit of someone who also receives a benefit from employment not covered by Social Security. The respondents will be people who are entitled to both types of benefits.

Number of Respondents: 90,000
Frequency of Response: 1
Average Burden Per Response: 8 minutes
Estimated Annual Burden: 12,000 hours

7. *Modified Benefit Formula Questionnaire, Employer—0960–0477.* The information on form SSA–50 is used by the Social Security Administration to verify the claimant's allegation that he or she received a pension based on union-covered employment after 1956. It also shows whether or not the individual became eligible for that pension before 1985. The respondents will be persons who are first eligible for both Social Security benefits and a pension from noncovered employment after 1985.

Number of Respondents: 30,000
Frequency of Response: 1
Average Burden Per Response: 20 minutes
Estimated Annual Burden: 10,000 hours

8. *Report of Student Beneficiary About to Attain Age 19—0960–0274.* The information on form SSA–1390 is used by the Social Security Administration to determine whether a student beneficiary is entitled to benefits for the month of attainment of age 19 and subsequent months. The respondents will be student beneficiaries about to attain age 19.

Number of Respondents: 50,000
Frequency of Response: 1
Average Burden Per Response: 5 minutes
Estimated Annual Burden: 4,167 hours

9. *Reconsideration Disability Report—0960–0144.* The information on form SSA–3441 is used by the Social Security Administration to determine if the claimant's medical or vocational situation changed after the initial disability determination. This form also elicits additional sources of medical and vocational evidence which were not considered in the initial determination. The respondents are disability beneficiaries who request a reconsideration.

Number of Respondents: 400,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 200,000 hours

Written comments and recommendations regarding these information collections should be sent within 30 days of the date of this publication. Comments may be directed to OMB and SSA at the following addresses:

(OMB)
Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, Washington, D.C. 20503

(SSA)
Social Security Administration, DCFAM, Attn: Charlotte S. Whitenight, 6401 Security Blvd, 1–A–21 Operations Bldg., Baltimore, MD 21235

Dated: October 18, 1995.

Charlotte Whitenight,
Reports Clearance Officer, Social Security Administration.

[FR Doc. 95–26424 Filed 10–24–95; 8:45 am]

BILLING CODE 4190–29–P

Office of the Commissioner; 1996 Cost-of-Living Increase and Other Determinations

AGENCY: Social Security Administration.

ACTION: Notice.

SUMMARY: The Commissioner has determined—

(1) A 2.6 percent cost-of-living increase in Social Security benefits under title II, effective for December 1995;

(2) An increase in the Federal Supplemental Security Income (SSI) monthly benefit amounts under title XVI for 1996 to $470 for an eligible individual, $705 for an eligible individual with an eligible spouse, and $235 for an essential person;

(3) The national average wage index for 1994 to be $23,753.53;

(4) The Old-Age, Survivors, and Disability Insurance (OASDI) contribution and benefit base to be $62,700 for remuneration paid in 1996 and self-employment income earned in taxable years beginning in 1996;

(5) The monthly exempt amounts under the Social Security retirement earnings test for taxable years ending in calendar year 1996 to be $960 for beneficiaries age 65 through 69 and $690 for beneficiaries under age 65;

(6) The dollar amounts ("bend points") used in the benefit formula for

workers who become eligible for benefits in 1996 and in the formula for computing maximum family benefits;

(7) The amount of earnings a person must have to be credited with a quarter of coverage in 1996 to be $640;

(8) The "old-law" contribution and benefit base to be $46,500 for 1996;

(9) The OASDI fund ratio to be 128.3 percent for 1995; and

(10) The domestic worker coverage threshold to be $1,000 for 1996.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Kunkel, Office of the Actuary, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–3013. A summary of the information in this announcement is available in a recorded message by telephoning (410) 965–3053. This telephone message will be updated to reflect changes to the cost-of-living benefit increase and other determinations. Information relating to this announcement is also available on the Social Security Administration's World Wide Web server—http://www.ssa.gov.

SUPPLEMENTARY INFORMATION: The Commissioner is required by the Social Security Act (the Act) to publish within 45 days after the close of the third calendar quarter of 1995 the benefit increase percentage and the revised table of "special minimum" benefits (section 215(i)(2)(D)). Also, the Commissioner is required to publish on or before November 1 the national average wage index for 1994 (section 215(a)(1)(D)), the OASDI fund ratio for 1995 (section 215(i)(2)(C)(ii)), the OASDI contribution and benefit base for 1996 (section 230(a)), the amount of earnings required to be credited with a quarter of coverage in 1996 (section 213(d)(2)), the monthly exempt amounts under the Social Security retirement earnings test for 1996 (section 203(f)(8)(A)), the formula for computing a primary insurance amount for workers who first become eligible for benefits or die in 1996 (section 215(a)(1)(D)), and the formula for computing the maximum amount of benefits payable to the family of a worker who first becomes eligible for old-age benefits or dies in 1996 (section 203(a)(2)(C)).

Cost-of-Living Increases

General. The cost-of-living increase is 2.6 percent for benefits under titles II and XVI of the Act.

Under title II, OASDI benefits will increase by 2.6 percent beginning with the December 1995 benefits, which are payable on January 3, 1996. This increase is based on the authority contained in section 215(i) of the Act (42 U.S.C. 415(i)).

Under title XVI, Federal SSI payment levels will also increase by 2.6 percent effective for payments made for the month of January 1996 but paid on December 29, 1995. This is based on the authority contained in section 1617 of the Act (42 U.S.C. 1382f). The percentage increase effective January 1996 is the same as the title II percentage increase and the annual payment amount is rounded, when not a multiple of $12, to the next lower multiple of $12.

Automatic Benefit Increase Computation. Under section 215(i) of the Act, the third calendar quarter of 1995 is a cost-of-living computation quarter for all the purposes of the Act. The Commissioner is, therefore, required to increase benefits, effective with December 1995, for individuals entitled under section 227 or 228 of the Act, to increase primary insurance amounts of all other individuals entitled under title II of the Act, and to increase maximum benefits payable to a family. For December 1995, the benefit increase is the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers from the third quarter of 1994 through the third quarter of 1995.

Section 215(i)(1) of the Act provides that the Consumer Price Index for a cost-of-living computation quarter shall be the arithmetic mean of this index for the 3 months in that quarter. The arithmetic mean is rounded, if necessary, to the nearest 0.1. The Department of Labor's Consumer Price Index for Urban Wage Earners and Clerical Workers for each month in the quarter ending September 30, 1994, was: for July 1994, 145.8; for August 1994, 146.5; and for September 1994, 146.9. The arithmetic mean for this calendar quarter is 146.4. The corresponding Consumer Price Index for each month in the quarter ending September 30, 1995, was: for July 1995, 149.9; for August 1995, 150.2; and for September 1995, 150.6. The arithmetic mean for this calendar quarter is 150.2. Thus, because the Consumer Price Index for the calendar quarter ending September 30, 1995, exceeds that for the calendar quarter ending September 30, 1994 by 2.6 percent, a cost-of-living benefit increase of 2.6 percent is effective for benefits under title II of the Act beginning December 1995.

Title II Benefit Amounts. In accordance with section 215(i) of the Act, in the case of insured workers and family members for whom eligibility for benefits (i.e., the worker's attainment of age 62, or disability or death before age 62) occurred before 1996, benefits will increase by 2.6 percent beginning with benefits for December 1995 which are payable on January 3, 1996. In the case of first eligibility after 1995, the 2.6 percent increase will not apply.

For eligibility after 1978, benefits are generally determined by a benefit formula provided by the Social Security Amendments of 1977 (Pub. L. 95–216), as described later in this notice.

For eligibility before 1979, benefits are determined by means of a benefit table. In accordance with section 215(i)(4) of the Act, the primary insurance amounts and the maximum family benefits shown in this table are revised by (1) Increasing by 2.6 percent the corresponding amounts established by the last cost-of-living increase and the last extension of the benefit table made under section 215(i)(4) (to reflect the increase in the OASDI contribution and benefit base for 1995); and (2) by extending the table to reflect the higher monthly wage and related benefit amounts now possible under the increased contribution and benefit base for 1996, as described later in this notice. A copy of this table may be obtained by writing to: Social Security Administration, Office of Public Inquiries, 4100 Annex, Baltimore, MD 21235.

Section 215(i)(2)(D) of the Act also requires that, when the Commissioner determines an automatic increase in Social Security benefits, the Commissioner shall publish in the **Federal Register** a revision of the range of the primary insurance amounts and corresponding maximum family benefits based on the dollar amount and other provisions described in section 215(a)(1)(C)(i). These benefits are referred to as "special minimum" benefits and are payable to certain individuals with long periods of relatively low earnings. To qualify for such benefits, an individual must have at least 11 "years of coverage." To earn a year of coverage for purposes of the special minimum, a person must earn at least a certain proportion (25 percent for years before 1991, and 15 percent for years after 1990) of the "old-law" contribution and benefit base. In accordance with section 215(a)(1)(C)(i), the table below shows the revised range of primary insurance amounts and corresponding maximum family benefit amounts after the 2.6 percent benefit increase.

SPECIAL MINIMUM PRIMARY INSURANCE AMOUNTS AND MAXIMUM FAMILY BENEFITS

Special minimum primary insurance amount payable for Dec. 1994	Number of years of coverage	Special minimum primary insurance amount payable for Dec. 1995	Special minimum family benefit payable for Dec. 1995
$25.80	11	$26.40	$39.80
51.50	12	52.80	79.80
77.70	13	79.70	119.90
103.60	14	106.20	159.70
129.50	15	132.80	199.30
155.50	16	159.50	239.80
181.50	17	186.20	279.80
207.60	18	212.90	319.70
233.50	19	239.50	359.70
259.30	20	266.00	399.60
285.60	21	293.00	439.80
311.40	22	319.40	479.70
337.60	23	346.30	520.30
363.60	24	373.00	560.00
389.50	25	399.60	599.70
415.70	26	426.50	640.40
441.70	27	453.10	680.20
467.50	28	479.60	720.00
493.40	29	506.20	760.10
519.40	30	532.90	799.90

Section 227 of the Act provides flat-rate benefits to a worker who became age 72 before 1969 and was not insured under the usual requirements, and to his or her spouse or surviving spouse. Section 228 of the Act provides similar benefits at age 72 for certain uninsured persons. The current monthly benefit amount of $188.50 for an individual under sections 227 and 228 of the Act is increased by 2.6 percent to obtain the new amount of $193.40. The present monthly benefit amount of $94.30 for a spouse under section 227 is increased by 2.6 percent to $96.70.

Title XVI Benefit Amounts. In accordance with section 1617 of the Act, Federal SSI benefit amounts for the aged, blind, and disabled are increased by 2.6 percent effective January 1996. Therefore, the yearly Federal SSI benefit amounts of $5,496 for an eligible individual, $8,244 for an eligible individual with an eligible spouse, and $2,748 for an essential person, which became effective January 1995, are increased, effective January 1996, to $5,640, $8,460, and $2,820, respectively, after rounding. The corresponding monthly amounts for 1996 are determined by dividing the yearly amounts by 12, giving $470, $705, and $235, respectively. The monthly amount is reduced by subtracting monthly countable income. In the case of an eligible individual with an eligible spouse, the amount payable is further divided equally between the two spouses.

National Average Wage Index for 1994

General. Under various provisions of the Act, several amounts are scheduled to increase automatically for 1996 based on the annual increase in the national average wage index. These include (1) the OASDI contribution and benefit base, (2) the retirement test exempt amounts, (3) the dollar amounts, or "bend points," in the primary insurance amount and maximum family benefit formulas, (4) the amount of earnings required for a worker to be credited with a quarter of coverage, and (5) the "old law" contribution and benefit base (as determined under section 230 of the Act as in effect before the 1977 amendments). In addition, Pub. L. 103–387, enacted October 22, 1994, requires that the "domestic employee coverage threshold" also be based on changes in the national average wage index.

Computation. The determination of the national average wage index for calendar year 1994 is based on the 1993 national average wage index of $23,132.67 announced in the **Federal Register** on October 31, 1994 (59 FR 54464), along with the percentage increase in average wages from 1993 to 1994 measured by annual wage data tabulated by the Social Security Administration (SSA). The wage data tabulated by SSA include contributions to deferred compensation plans, as required by section 209(k) of the Act. The average amounts of wages calculated directly from this data were $22,191.14 and $22,786.73 for 1993 and 1994, respectively. To determine the national average wage index for 1994 at a level that is consistent with the national average wage indexing series for 1951 through 1977 (published December 29, 1978, at 43 FR 61016), the 1993 national average wage index of $23,132.67 is multiplied by the percentage increase in average wages from 1993 to 1994 (based on SSA-tabulated wage data) as follows (with the result rounded to the nearest cent):

Amount. The national average wage index for 1994 is $23,132.67 times $22,786.73 divided by $22,191.14, which equals $23,753.53. Therefore, the national average wage index for calendar year 1994 is determined to be $23,753.53.

OASDI Contribution and Benefit Base

General. The OASDI contribution and benefit base is $62,700 for remuneration paid in 1996 and self-employment income earned in taxable years beginning in 1996.

The OASDI contribution and benefit base serves two purposes:

(a) It is the maximum annual amount of earnings on which OASDI taxes are paid. The OASDI tax rate for remuneration paid in 1996 is set by statute at 6.2 percent for employees and employers, each. The OASDI tax rate for self-employment income earned in taxable years beginning in 1996 is 12.4 percent. (The Hospital Insurance tax is due on remuneration, without limitation, paid in 1996, at the rate of 1.45 percent for employees and employers, each, and on self-employment income earned in taxable

years beginning in 1996, at the rate of 2.9 percent.)

(b) It is the maximum annual amount used in determining a person's OASDI benefits.

Computation. Section 230(b) of the Act, as amended by section 321(g) of the "Social Security Independence and Program Improvements Act of 1994," provides the formula used to determine the OASDI contribution and benefit base. Under the formula, the base for 1996 shall be equal to the larger of the current base ($61,200) or the 1994 base of $60,600 multiplied by the ratio of the national average wage index for 1994 to that for 1992. If the amount so determined is not a multiple of $300, it shall be rounded to the nearest multiple of $300.

Amount. The ratio of the national average wage index for 1994, $23,753.53 as determined above, compared to that for 1992, $22,935.42, is 1.0356702. Multiplying the 1994 OASDI contribution and benefit base amount of $60,600 by the ratio of 1.0356702 produces the amount of $62,761.61 which must then be rounded to $62,700. Because $62,700 exceeds the current base amount of $61,200, the OASDI contribution and benefit base is determined to be $62,700 for 1996.

Retirement Earnings Test Exempt Amounts

General. Social Security benefits are withheld when a beneficiary under age 70 has earnings in excess of the retirement earnings test exempt amount. A formula for determining the monthly exempt amounts is provided in section 203(f)(8)(B) of the Act, as amended by section 321(g) of the "Social Security Independence and Program Improvements Act of 1994." The 1995 monthly exempt amounts were determined by the formula to be $940 for beneficiaries aged 65–69 and $680 for beneficiaries under age 65. Thus, the annual exempt amounts for 1995 were set at $11,280 and $8,160, respectively. For beneficiaries aged 65–69, $1 in benefits is withheld for every $3 of earnings in excess of the annual exempt amount. For beneficiaries under age 65, $1 in benefits is withheld for every $2 of earnings in excess of the annual exempt amount.

Computation. Under the formula in section 203(f)(8)(B), each monthly exempt amount for 1996 shall be the larger of the corresponding 1995 monthly exempt amount or the corresponding 1994 monthly exempt amount multiplied by the ratio of the national average wage index for 1994 to that for 1992. The ratio of the national average wage index for 1994, $23,753.53 as determined above, compared to that for 1992, $22,935.42, is 1.0356702. Section 203(f)(8)(B) further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Exempt Amount for Beneficiaries Aged 65 Through 69. Multiplying the 1994 retirement earnings test monthly exempt amount of $930 by the ratio of 1.0356702 produces the amount of $963.17. This must then be rounded to $960. Because $960 is larger than the corresponding current exempt amount of $940, the retirement earnings test monthly exempt amount for beneficiaries aged 65 through 69 is determined to be $960 for 1996. The corresponding retirement earnings test annual exempt amount for these beneficiaries is $11,520.

Exempt Amount for Beneficiaries Under Age 65. Multiplying the 1994 retirement earnings test monthly exempt amount of $670 by the ratio 1.0356702 produces the amount of $693.90. This must then be rounded to $690. Because $690 is larger than the corresponding current exempt amount of $680, the retirement earnings test monthly exempt amount for beneficiaries under age 65 is thus determined to be $690 for 1996. The corresponding retirement earnings test annual exempt amount for these beneficiaries is $8,280.

Computing Benefits After 1978

General. The Social Security Amendments of 1977 provided a method for computing benefits which generally applies when a worker first becomes eligible for benefits after 1978. This method uses the worker's "average indexed monthly earnings" to compute the primary insurance amount. The computation formula is adjusted automatically each year to reflect changes in general wage levels, as measured by the national average wage index.

A worker's earnings are adjusted, or "indexed," to reflect the change in general wage levels that occurred during the worker's years of employment. Such indexation ensures that a worker's future benefits reflect the general rise in the standard of living that occurs during his or her working lifetime. A certain number of years of earnings are needed to compute the average indexed monthly earnings. After the number of years is determined, those years with the highest indexed earnings are chosen, the indexed earnings are summed, and the total amount is divided by the total number of months in those years. The resulting average amount is then rounded down to the next lower dollar amount. The result is the average indexed monthly earnings.

For example, to compute the average indexed monthly earnings for a worker attaining age 62, becoming disabled before age 62, or dying before attaining age 62, in 1996, the national average wage index for 1994, $23,753.53, is divided by the national average wage index for each year prior to 1994 in which the worker had earnings. The actual wages and self-employment income, as defined in section 211(b) of the Act and credited for each year, is multiplied by the corresponding ratio to obtain the worker's indexed earnings for each year before 1994. Any earnings in 1994 or later are considered at face value, without indexing. The average indexed monthly earnings is then computed and used to determine the worker's primary insurance amount for 1996.

Computing the Primary Insurance Amount. The primary insurance amount is the sum of three separate percentages of portions of the average indexed monthly earnings. In 1979 (the first year the formula was in effect), these portions were the first $180, the amount between $180 and $1,085, and the amount over $1,085. The dollar amounts in the formula which govern the portions of the average indexed monthly earnings are frequently referred to as the "bend points" of the formula. Thus, the bend points for 1979 were $180 and $1,085.

The bend points for 1996 are obtained by multiplying the corresponding 1979 bend-point amounts by the ratio between the national average wage index for 1994, $23,753.53, and for 1977, $9,779.44. These results are then rounded to the nearest dollar. For 1996, the ratio is 2.4289254. Multiplying the 1979 amounts of $180 and $1,085 by 2.4289254 produces the amounts of $437.21 and $2,635.38. These must then be rounded to $437 and $2,635. Accordingly, the portions of the average indexed monthly earnings to be used in 1996 are determined to be the first $437, the amount between $437 and $2,635, and the amount over $2,635.

Consequently, for individuals who first become eligible for old-age insurance benefits or disability insurance benefits in 1996, or who die in 1996 before becoming eligible for benefits, their primary insurance amount will be the sum of:

(a) 90 percent of the first $437 of their average indexed monthly earnings, plus

(b) 32 percent of the average indexed monthly earnings over $437 and through $2,635, plus

(c) 15 percent of the average indexed monthly earnings over $2,635.

This amount is then rounded to the next lower multiple of $.10 if it is not already a multiple of $.10. This formula and the rounding adjustment described above are contained in section 215(a) of the Act (42 U.S.C. 415(a)).

Maximum Benefits Payable to a Family

General. The 1977 amendments continued the long established policy of limiting the total monthly benefits which a worker's family may receive based on his or her primary insurance amount. Those amendments also continued the then existing relationship between maximum family benefits and primary insurance amounts but did change the method of computing the maximum amount of benefits which may be paid to a worker's family. The Social Security Disability Amendments of 1980 (Pub. L. 96–265) established a new formula for computing the maximum benefits payable to the family of a disabled worker. This new formula is applied to the family benefits of workers who first become entitled to disability insurance benefits after June 30, 1980, and who first become eligible for these benefits after 1978. The new formula was explained in a final rule published in the **Federal Register** on May 8, 1981, at 46 FR 25601. For disabled workers initially entitled to disability benefits before July 1980, or whose disability began before 1979, the family maximum payable is computed the same as the old-age and survivor family maximum.

Computing the Old-Age and Survivor Family Maximum. The formula used to compute the family maximum is similar to that used to compute the primary insurance amount. It involves computing the sum of four separate percentages of portions of the worker's primary insurance amount. In 1979, these portions were the first $230, the amount between $230 and $332, the amount between $332 and $433, and the amount over $433. The dollar amounts in the formula which govern the portions of the primary insurance amount are frequently referred to as the "bend points" of the family-maximum formula. Thus, the bend points for 1979 were $230, $332, and $433.

The bend points for 1996 are obtained by multiplying the corresponding 1979 bend-point amounts by the ratio between the national average wage index for 1994, $23,753.53, and the average for 1977, $9,779.44. This amount is then rounded to the nearest dollar. For 1996, the ratio is 2.4289254. Multiplying the amounts of $230, $332, and $433 by 2.4289254 produces the amounts of $558.65, $806.40, and $1,051.72. These amounts are then rounded to $559, $806, and $1,052. Accordingly, the portions of the primary insurance amounts to be used in 1996 are determined to be the first $559, the amount between $559 and $806, the amount between $806 and $1,052, and the amount over $1,052.

Consequently, for the family of a worker who becomes age 62 or dies in 1996 before age 62, the total amount of benefits payable to them will be computed so that it does not exceed:

(a) 150 percent of the first $559 of the worker's primary insurance amount, plus

(b) 272 percent of the worker's primary insurance amount over $559 through $806, plus

(c) 134 percent of the worker's primary insurance amount over $806 through $1,052, plus

(d) 175 percent of the worker's primary insurance amount over $1,052.

This amount is then rounded to the next lower multiple of $.10 if it is not already a multiple of $.10. This formula and the rounding adjustment described above are contained in section 203(a) of the Act (42 U.S.C. 403(a)).

Quarter of Coverage Amount

General. The 1996 amount of earnings required for a quarter of coverage is $640. A quarter of coverage is the basic unit for determining whether a worker is insured under the Social Security program. For years before 1978, an individual generally was credited with a quarter of coverage for each quarter in which wages of $50 or more were paid, or an individual was credited with 4 quarters of coverage for every taxable year in which $400 or more of self-employment income was earned. Beginning in 1978, wages generally are no longer reported on a quarterly basis; instead, annual reports are made. With the change to annual reporting, section 352(b) of the Social Security Amendments of 1977 (Pub. L. 95–216) amended section 213(d) of the Act to provide that a quarter of coverage would be credited for each $250 of an individual's total wages and self-employment income for calendar year 1978 (up to a maximum of 4 quarters of coverage for the year).

Computation. Under the prescribed formula, the quarter of coverage amount for 1996 shall be equal to the larger of the current amount of $630 or the 1978 amount of $250 multiplied by the ratio of the national average wage index for 1994 to that for 1976. The national average wage index for 1976 was previously determined to be $9,226.48. The average wage index for 1994 is $23,753.53 as determined above. Section 213(d) further provides that if the amount so determined is not a multiple of $10, it shall be rounded to the nearest multiple of $10.

Quarter of Coverage Amount. The ratio of the national average wage index for 1994, $23,753.53, compared to that for 1976, $9,226.48, is 2.5744954. Multiplying the 1978 quarter of coverage amount of $250 by the ratio of 2.5744954 produces the amount of $643.62, which must then be rounded to $640. Because $640 exceeds the current amount of $630, the quarter of coverage amount is determined to be $640 for 1996.

"Old-Law" Contribution and Benefit Base

General. The 1996 "old-law" contribution and benefit base is $46,500. This is the base that would have been effective under the Act without the enactment of the 1977 amendments. The base is computed under section 230(b) of the Act as it read prior to the 1977 amendments.

The "old-law" contribution and benefit base is used by:

(a) the Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments which correspond to basic Social Security benefits,

(b) the Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (as stated in section 230(d) of the Act),

(c) Social Security to determine a year of coverage in computing the special minimum benefit, as described earlier, and

(d) Social Security to determine a year of coverage (acquired whenever earnings equal or exceed 25 percent of the "old-law" base for this purpose only) in computing benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Act.

Computation. The base is computed using the automatic adjustment formula in section 230(b) of the Act as it read prior to the enactment of the 1977 amendments, but with the revised indexing formula introduced by section 321(g) of the "Social Security Independence and Program Improvements Act of 1994." Under the formula, the "old-law" contribution and benefit base shall be the larger of the current "old-law" base ($45,300) or the 1994 "old-law" base ($45,000) multiplied by the ratio of the national average wage index for 1994 to that for 1992. If the amount so determined is not

a multiple of $300, it shall be rounded to the nearest multiple of $300.

Amount. The ratio of the national average wage index for 1994, $23,753.53 as determined above, compared to that for 1992, $22,935.42, is 1.0356702. Multiplying the 1994 "old-law" contribution and benefit base amount of $45,000 by the ratio of 1.0356702 produces the amount of $46,605.16 which must then be rounded to $46,500. Because $46,500 exceeds the current amount of $45,300, the "old-law" contribution and benefit base is determined to be $46,500 for 1996.

OASDI Fund Ratio

General. Section 215(i) of the Act provides for automatic cost-of-living increases in OASDI benefit amounts. This section also includes a "stabilizer" provision that can limit the automatic OASDI benefit increase under certain circumstances. If the combined assets of the OASI and DI Trust Funds, as a percentage of annual expenditures, are below a specified threshold, the automatic benefit increase is equal to the lesser of (1) the increase in the national average wage index or (2) the increase in prices. The threshold specified for the OASDI fund ratio is 20.0 percent for benefit increases for December of 1989 and later. The law also provides for subsequent "catch-up" benefit increases for beneficiaries whose previous benefit increases were affected by this provision. "Catch-up" benefit increases can occur only when trust fund assets exceed 32.0 percent of annual expenditures.

Computation. Section 215(i) specifies the computation and application of the OASDI fund ratio. The OASDI fund ratio for 1995 is the ratio of (1) the combined assets of the OASI and DI Trust Funds at the beginning of 1995 to (2) the estimated expenditures of the OASI and DI Trust Funds during 1995, excluding transfer payments between the OASI and DI Trust Funds, and reducing any transfers to the Railroad Retirement Account by any transfers from that account into either trust fund.

Ratio. The combined assets of the OASI and DI Trust Funds at the beginning of 1995 equaled $436,385 million, and the expenditures are estimated to be $340,194 million. Thus, the OASDI fund ratio for 1995 is 128.3 percent, which exceeds the applicable threshold of 20.0 percent. Therefore, the stabilizer provision does not affect the benefit increase for December 1995. Although the OASDI fund ratio exceeds the 32.0-percent threshold for potential "catch-up" benefit increases, no past benefit increase has been reduced under the stabilizer provision. Thus, no "catch-up" benefit increase is required.

Domestic Employee Coverage Threshold

General. Section 2 of the "Social Security Domestic Employment Reform Act of 1994" (Pub. L. 103–387) increased the threshold for coverage of a domestic employee's wages paid per employer from $50 per calendar quarter to $1,000 in calendar year 1994. The new statute holds the coverage threshold at the $1,000 level for 1995 and then increases the threshold in $100 increments for years after 1995. The formula for increasing the threshold is provided in section 3121(x) of the Internal Revenue Code, as added by the new law.

Computation. Under the new formula, the domestic employee coverage threshold amount for 1996 shall be equal to the 1995 amount of $1,000 multiplied by the ratio of the national average wage index for 1994 to that for 1993. The national average wage index for 1993 was previously determined to be $23,132.67. The average wage index for 1994 is $23,753.53 as determined above. If the amount so determined is not a multiple of $100, it shall be rounded to the next lower multiple of $100.

Domestic Employee Coverage Threshold Amount. The ratio of the national average wage index for 1994, $23,753.53, compared to that for 1993, $23,132.67, is 1.0268391. Multiplying the 1995 domestic employee coverage threshold amount of $1,000 by the ratio of 1.0268391 produces the amount of $1,026.84, which must then be rounded to $1,000. Accordingly, the domestic employee coverage threshold amount is determined to be $1,000 for 1996.

(Catalog of Federal Domestic Assistance: Program Nos. 96.001 Social Security-Disability Insurance; 96.002 Social Security-Retirement Insurance; 96.003 Social Security-Special Benefits for Persons Aged 72 and Over; 96.004 Social Security-Survivors Insurance; 96.006 Supplemental Security Income.)

Dated: October 18, 1995.

Shirley S. Chater,

Commissioner, Social Security Administration.

[FR Doc. 95–26426 Filed 10–24–95; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Seaborne Aviation, Inc. for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 95–10–30), Docket 50360.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Seaborne Aviation, Inc., fit, willing, and able and awarding it a certificate of public convenience and necessity to engage in interstate scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than November 9, 1995.

ADDRESSES: Objections and answers to objections should be filed in Docket 50360 and addressed to the Documentary Services Division (C–55, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Lusby Cooperstein, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2337.

Dated: October 19, 1995.

Patrick V. Murphy,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 95–26485 Filed 10–24–95; 8:45 am]

BILLING CODE 4910–62–U

Federal Aviation Administration

[Summary Notice No. PE–95–37]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary

is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 14, 1995.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. ______________, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on October 19, 1995.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 009SW
Petitioner: Kaman Aerospace Corporation
Sections of the FAR Affected: 14 CFR 27.1(a)
Description of Relief Sought/ Disposition: To allow Kaman Aerospace Corporation to increase the maximum gross weight of the K–1200 from 6,000 pounds to 6,500 pounds, while maintaining the original normal category rotorcraft certification.

Docket No.: 28336
Petitioner: Challenge Air Cargo, Inc.
Sections of the FAR Affected: 14 CFR 121.503(b)
Description of Relief Sought: To permit Challenge Air Cargo, Inc., pilots to fly up to 9 hours and 15 minutes in any 24 consecutive hours, before being provided with an intervening rest period. In lieu of an extension of flight time, the petitioner proposes a reduction of its pilots' duty time from 16 hours, as allowed under § 121.505(b), to a maximum of 15 hours.

Dispositions of Petitions

Docket No.: 12656
Petitioner: DOD Policy Board on Federal Aviation
Sections of the FAR Affected: 14 CFR part 139
Description of Relief Sought/ Disposition: To extend Exemption No. 5750, which permits the issuance of FAA Airport Operating Certificates, to the extent necessary, for DOD airports equipped and operated in accordance with applicable DOD standards and procedures and that serve, or expect to serve, air carrier aircraft having a seating capacity of more than 30 passenger seats, without those airports complying with the certification and operating requirements of part 139.
Grant, September 29, 1995, Exemption No. 5750A

Docket No.: 19634
Petitioner: McDonnell Douglas, Douglas Aircraft Company
Sections of the FAR Affected: 14 CFR 121.310(d)(4)
Description of Relief Sought/ Disposition: To extend Exemption No. 3055, as amended, which permits McDonnell Douglas Model DC–8 series aircraft to operate these aircraft in passenger-carrying operations without a cockpit control device for each emergency light, subject to certain conditions. While the extension has been granted, the requested permanent exemption has not been.
Grant, September 1, 1995, Exemption No. 3055H

Docket No.: 24671
Petitioner: Bell Helicopter Textron, Inc.
Sections of the FAR Affected: 14 CFR 21.231(a)(3)
Description of Relief Sought/ Disposition: To extend Exemption No. 5257, as amended, which permits Bell Helicopter Textron, Inc., to apply for a delegation option authorization for the type, production, and airworthiness certification of transport category helicopters.
Grant, September 8, 1995, Exemption No. 5257B

Docket No.: 25559
Petitioner: Aerospace Industries Association of America, Inc.
Sections of the FAR Affected: 14 CFR 21.182(a) and 45.11(a)
Description of Relief Sought/ Disposition: To extend Exemption No. 4913, as amended, which provides relief to manufacturers from the requirement to install the identification plate specified in the rule during the production phase of the exterior of any aircraft manufactured for operations under parts 121, 127, or for commuter air carrier operations (as defined in part 135 or SFAR 38–2). These aircraft will be maintained under an FAA-approved continuous airworthiness maintenance program. The exemption also applies to aircraft manufactured for export and to all manufacturing activities until the aircraft title is transferred. While this exemption has been granted, it has not been done so indefinitely as requested by the petitioner.
Grant, September 8, 1995, Exemption No. 4913D

Docket No.: 25624
Petitioner: Douglas Aircraft Company
Sections of the FAR Affected: 14 CFR 121.411(a) (2), (3), and (b)(2); 121.413(b), (c), and (d); and appendix H, part 121
Description of Relief Sought/ Disposition: To extend an amendment of Exemption No. 5117, as amended, which permits certain part 121 certificate holders to contract for training by the Douglas Aircraft Company. The amendment reflects changing the petitioner's name from the "McDonnell Douglas Airplane Company" to the "Douglas Aircraft Company."
Grant, September 25, 1995, Exemption No. 5117C

Docket No.: 26523
Petitioner: Lone Star Flight Museum
Sections of the FAR Affected: 14 CFR 45.25 and 45.29
Description of Relief Sought/ Disposition: To extend Exemption No. 5344, as amended, which permits the Lone Star Flight Museum and its members to operate their historic military aircraft with 2-inch registration marks located beneath the horizontal stabilizer.
Grant, September 29, 1995, Exemption No. 5344B

Docket No.: 26831
Petitioner: Trans States Airlines, Inc.
Sections of the FAR Affected: 14 CFR 135.219, 135.221, and 135.223
Description of Relief Sought/ Disposition: To permit Trans States Airlines, Inc., to dispatch or release its part 135 aircraft to a destination or list an airport as an alternate airport even though the weather reports or forecasts contain such conditional words as "a chance of" or "occasionally."
Partial Grant, October 3, 1995, Exemption No. 6174

Docket No.: 27536
Petitioner: Western Flyers Air Service
Sections of the FAR Affected: 14 CFR 135.143(c)

Description of Relief Sought/ Disposition: To extend Exemption No. 5828, which permits Western Flyers Air Service (WFAS) to operate the following aircraft under part 135: (1) its Beechcraft Baron, Serial No. TE-63, registration No. N520T, equipped with any TSP–C74b or TSO–C74c transponder; and (2) after notifying WFAS's Principal Operations inspector, an additional aircraft that require the installation of an air traffic control transponder.

Grant, September 28, 1995, Exemption No. 5828A

Docket No.: 27948
Petitioner: E.I. du Pont de Nemours and Company
Sections of the FAR Affected: 14 CFR 61.57(d)
Description of Relief Sought/ Disposition: To permit pilots in command (PIC) employed by DuPont who have more than 4,000 hours of flight experience to maintain night takeoff and landing recency requirements through a combination of flight simulator training and actual aircraft landings over longer than normal intervals, subject to certain restrictions.

Partial Grant, October 3, 1995, Exemption No. 6185

Docket No.: 28053
Petitioner: Federal Express Corporation
Sections of the FAR Affected: 14 CFR 121.401(c), 121.433(c)(1)(iii), 121.440(a), 121.441(a)(1) and (b)(1), and appendix F, part 121
Description of Relief Sought/ Disposition: To permit Federal Express regulatory relief to the extent necessary to conduct a single visit training program (SVTP) for flight crewmembers, and eventually transition into the Advance Qualification Program (AQP) codified in SFAR 58.

Grant, September 1, 1995, Exemption No. 6152

Docket No.: 28257
Petitioner: Flight Structures, Inc.
Sections of the FAR Affected: 14 CFR 25.785(d), 25.813(b), 25.857(e), and 25.1446(c)(1) and (c)(3)(ii)
Description of Relief Sought/ Disposition: To allow the carriage of up to five supernumeraries on the main deck of an Airbus Model A300–B4–203 airplane in addition to a maximum of three flight deck occupants, for a total occupancy.

Grant, October 5, 1995, Exemption No. 6178

Docket No.: 28258
Petitioner: Atlantic Coast Airlines
Sections of the FAR Affected: 14 CFR 61.57(e), 121.433(c)(1)(iii), 121.441(a)(1) and (b)(1), and appendix F, part 121
Description of Relief Sought/ Disposition: To extend Exemption No. 5783, which permits Atlantic Coast Airlines (ACA) to conduct an FAA-monitored training program under which ACA pilots-in-command (PIC) and seconds-in-command (SIC) meet ground and flight recurrent training and proficiency check requirements through a single visit training program (SVTP), subject to certain conditions and limitations.

Grant, September 28, 1995, Exemption No. 5783A

Docket No.: 28271
Petitioner: Keys Air, Inc.
Sections of the FAR Affected: 14 CFR 135.181(a)(1)
Description of Relief Sought/ Disposition: To permit Keys Air, Inc., to operate its Cessna models C–208 and C–208B single-engine aircraft in over-the-top or instrument flight rules (IFR) conditions while conducting passenger flights under part 135.

Denial, September 11, 1995, Exemption No. 6159

Docket No.: 28291
Petitioner: Airline Crew Training, Inc.
Sections of the FAR Affected: 14 CFR 121.411 (a)(2) and (3) and (b)(2); 121.413(b), (c), and (d); and appendix H, part 121
Description of Relief Sought/ Disposition: To allow Airline Crew Training, Inc., (ACT) without holding an air carrier operating certificate, to train a certificate holder's pilots and flight engineers (FE) in initial, transition, upgrade, differences, and recurrent training in approved simulators and in airplanes, without requiring ACT's instructor pilots to meet all the applicable training requirements of subpart N of part 121 and the employment requirements of appendix H to part 121.

Grant, September 20, 1995, Exemption No. 6165

[FR Doc. 95–26492 Filed 10–24–95; 8:45 am]
BILLING CODE 4910–13–M

[Summary Notice No. PE–95–38]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 14, 1995.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. ____________, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on October 19, 1995.

Donald P. Byrne,
Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28335
Petitioner: Captain John B. Hainor
Section of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To permit Captain Hainor to act as a pilot in operations conducted under part 121 after reaching his 60th birthday.

Dispositions of Petitions

Docket No.: 19651
Petitioner: Learjet, Inc.
Sections of the FAR Affected: 14 CFR 21.197

Description of Relief Sought/ Disposition: To extend Exemption No. 4593, as amended, which permits Learjet, Inc., to be eligible for the issuance of special flight permits for ferrying aircraft between Wichita, Kansas, and Tucson, Arizona, for the purpose of completion of the aircraft.
Grant, September 1, 1995, Exemption No. 4593F

Docket No.: 26378
Petitioner: MTU Maintenance GmbH
Sections of the FAR Affected: 14 CFR 145.47(c)(1)
Description of Relief Sought/ Disposition: To extend Exemption No. 5337, as amended, which allows MTU Maintenance GmbH, an FAA-approved foreign repair station, to contract out the maintenance and repair of engine components of International Aero Engines AG Model V2500 turbine engines to facilities that are not FAA-certificated repair stations, U.S.-original equipment manufacturers, or approved manufacturing licensees for such engines.
Grant, September 1, 1995, Exemption No. 5337B

Docket No.: 27621
Petitioner: Aerial Productions, Inc., d.b.a. Greater Kansas City Skydiving Club
Sections of the FAR Affected: 14 CFR 21.191(d)
Description of Relief Sought/ Disposition: To allow Aerial Productions, Inc., d.b.a. Greater Kansas City Skydiving Club, to use an Antonov AN-2 aircraft, certificated in the exhibition category, for its commercial skydiving operation and parachute training.
Denial, September 12, 1995, Exemption No. 6162

Docket No.: 27251
Petitioner: American Bonanza Society/ Air Safety Foundation and Bonanza/ Baron Pilot Proficiency Programs, Inc.
Sections of the FAR Affected: 14 CFR 91.109(a) and (b)(3)
Description of Relief Sought/ Disposition: To extend and amend Exemption No. 5733, as amended, which permits American Bonanza Society/Air Safety Foundation and Bonanza/Baron Pilot Proficiency Programs, Inc., flight instructors to provide recurrent flight training and simulated instrument flight training in Beech Baron, Bonanza, and Travel Air type aircraft equipped with a functioning throwover control wheel for the purpose of meeting recency of experience requirements contained in §§ 61.56(a), (b), and (f) and 61.57(e)(1) and (e)(2), subject to certain conditions and limitations. The amendment clarifies and revises the conditions and limitations to correct references to recurrent training and flight training, and corrects FAR citations. The latter correction pertains to the changing of references to § 61.56(a), (b), and (f) to § 61.56(a), (c), and (e).
Grant, August 31, 1995, Exemption No. 5733B

Docket No.: 27720
Petitioner: Aircraft Associates Incorporated
Sections of the FAR Affected: 14 CFR 45.25
Description of Relief Sought/ Disposition: To permit a 1981 Piper PA-31-350 Chieftain airplane (Registration No. N100EM, Serial No. 31–8152196) to be operated with registration marks in locations other than those prescribed by the FAR. Specifically, this exemption allows the placement of the marks, in 20-inch number over the wings on each side of the fuselage, on the top of the right wing, and the bottom of the left wing until the aircraft is repainted, not to exceed a period of 36 months from the date the exemption is granted.
Grant, September 6, 1995, Exemption No. 6154

Docket No.: 27721
Petitioner: University of North Dakota
Sections of the FAR Affected: 14 CFR 61.187(b)
Description of Relief Sought/ Disposition: To permit the University of North Dakota to utilize flight instructors in their flight instructor course who have held a flight instructor certificate for less than 24 months preceding the date of instruction given.
Denial, September 15, 1995, Exemption No. 6163

Docket No.: 27824
Petitioner: Aaron C. Bornstein, M.D.
Sections of the FAR Affected: 14 CFR 61.113(a)(2)
Description of Relief Sought/ Disposition: To allow Dr. Bornstein to take the written and practical tests to add either a private pilot rotorcraft category rating to his commercial pilot certificate without having logged the required solo flight time, or to add a commercial pilot rotorcraft category rating to his certificate without first having logged the required pilot-in-command flight time.
Denial, September 12, 1995, Exemption No. 6161

Docket No.: 27992
Petitioner: Learjet, Inc.
Sections of the FAR Affected: 14 CFR 25.832
Description of Relief Sought/ Disposition: To permit Learjet, Inc., exemption from the ozone concentration requirements of § 25.832 of the FAR for Model 45 airplanes.
Denial, September 13, 1995, Exemption No. 6164

Docket No.: 28051
Petitioner: Grasshopper Adventures
Sections of the FAR Affected: 14 CFR 43.3(g)
Description of Relief Sought/ Disposition: To allow appropriately trained pilots employed by Grasshopper Adventures to remove and reinstall passenger seats in its aircraft that are type certificated for nine or fewer passenger seats and used in operations conducted under part 135.
Grant, August 30, 1995, Exemption No. 6153

Docket No.: 28228
Petitioner: Flight Dynamics
Sections of the FAR Affected: 14 CFR 25.562
Description of Relief Sought/ Disposition: To allow exemption from the Head Injury Criterion (HIC) of § 25.562(c)(5), for pilot seats on the Dornier Model 328 airplane, to allow installation of Flight Dynamics' Model 2700 Heads Up Display (HUD) Guidance System (HGS), until June 30, 1996.
Denial, September 20, 1995, Exemption No. 6166

[FR Doc. 95–26493 Filed 10–24–95; 8:45 am]
BILLING CODE 4910–13–M

Executive Committee of the Aviation Rulemaking Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting cancellation.

SUMMARY: The FAA is issuing this notice to advise the public that the October 24 meeting of the Executive Committee of the Federal Aviation Administration Aviation Rulemaking Advisory Committee (60 FR 52725, October 10, 1995) has been cancelled. The subject of the meeting, proposed recommendations from the Flight Data Recorder Working Group, will be on the agenda for the next regular Executive Committee meeting.

FOR FURTHER INFORMATION CONTACT:
Miss Jean Casciano, Federal Aviation Administration (ARM–25), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9683; fax (202) 267–5075.

Issued in Washington, DC, on October 19, 1995.

Chris A. Christie,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–26491 Filed 10–24–95; 8:45 am]

BILLING CODE 4910–3–M

DEPARTMENT OF THE TREASURY

[Treasury Directive Number 13–01]

Delegation of Authority to the Deputy Assistant Secretary (Federal Finance) for the Government Securities Act of 1986 and the Government Securities Act Amendments of 1993 ("GSAA of 1993")

October 18, 1995.

1. *Purpose*. This Directive delegates to the Deputy Assistant Secretary (Federal Finance) the authority under the Government Securities Act of 1986 and the GSAA of 1993 ("Acts").

2. *Background*. These Acts require the Secretary of the Treasury to promulgate certain regulations concerning government securities brokers and dealers. The Secretary's authority has been delegated to the Under Secretary (Domestic Finance) by Treasury Order (TO) 100–06, "Delegation of Authority to the Under Secretary (Domestic Finance) for the Government Securities Act of 1986 and Government Securities Act Amendments of 1993."

3. *Delegation*. The authority of the Secretary of the Treasury under the Government Securities Act of 1986, and the GSAA of 1993, to exercise and to perform all duties, powers, rights, and obligations under those Acts, which authority is vested in the Under Secretary (Domestic Finance) pursuant to TO 100–06, is hereby redelegated to the Deputy Assistant Secretary (Federal Finance).

4. *Redelegation*.

a. The Deputy Assistant Secretary (Federal Finance) has the authority to redelegate the authority delegated herein to any official under the supervision of the Deputy Assistant Secretary or to the Fiscal Assistant Secretary.

b. Matters delegated to the Fiscal Assistant Secretary may, with the consent of the Deputy Assistant Secretary (Federal Finance), be redelegated by the Fiscal Assistant Secretary to any official under the supervision of the Fiscal Assistant Secretary.

5. *Authorities*.

a. The Government Securities Act of 1986 (Pub. L. 99–571).

b. The GSAA of 1993 (Pub. L. 103–202).

c. TO 100–06, "Delegation of Authority to the Under Secretary (Domestic Finance) for the Government Securities Act of 1986 and Government Securities Act Amendments of 1993."

6. *Cancellation*. Treasury Directive 13–01, "Delegation of Authority to Assistant Secretary (Domestic Finance) to Implement the Government Securities Act of 1986," dated February 19, 1987, is superseded.

7. *Expiration Date*. This Directive shall expire three years from the date of issuance unless cancelled or superseded by that date.

8. *Office of Primary Interest*. Office of the Under Secretary (Domestic Finance).

John D. Hawke, Jr.,

Under Secretary (Domestic Finance).

[FR Doc. 95–26438 Filed 10–24–95; 8:45 am]

BILLING CODE 4810–25–P

Internal Revenue Service

Information Reporting Program Advisory Committee; Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Open Meeting of the Information Reporting Program Advisory Committee

SUMMARY: In 1991 the IRS established the Information Reporting Program Advisory Committee (IRPAC). The primary purpose of IRPAC is to provide an organized public forum for discussion of relevant information reporting issues between the officials of the IRS and representatives of the payer community. IRPAC offers constructive observations about current or proposed policies, programs, and procedures and, when necessary, suggests ways to improve the operation of the Information Reporting Program. There will be a meeting of IRPAC on Tuesday and Wednesday, November 14 & 15, 1995. The meeting will be held in room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Avenue, Northwest, Washington, DC. The meeting will begin at 9:30 a.m., on both days, concluding about mid-day on the 15th. Topics to be discussed are listed below along with a summarized version of the agenda.

Summarized Agenda for Meeting on November 14 & 15, 1995

Tuesday, November 14, 1995

9:30 Public Meeting Opens
11:30 Break for Lunch
1:00 IRPAC Presentations Continue
4:00 Adjourn for the Day

Wednesday, November 15, 1995

9:30 Public Meeting Reconvenes
12:00 Adjourn

The topics that will be covered are as follows:

(1) Revision of Form 4070
(2) Reporting Nonqualified Deferred Compensation 3)
(3) Collection of IRS Forms
(4) Notional Principal Contracts
(5) TAXLINK
(6) Fringe Benefit Reporting on Form W–2
(7) Reporting Requirements for Forms 5498 and 1099R
(8) Form 4224 Recertifications
(9) Broader Usage of Form 4669
(10) Improvement in Communications with Small Business
(11) Reporting Repayments by Employees
(12) Digital Cash
(13) Medical Service Provider and Sole Proprietor Education and Compliance
(14) Commission Payments to Unincorporated Agents
(15) Procurement Card Reporting
(16) Investment Advisor Responsibilities
(17) Merchandise and Nonreportable Services

Note: Last minute changes to the topics under discussion are possible and could prevent advance notice.

SUPPLEMENTARY INFORMATION: IRPAC reports to the National Director, Service Center Compliance Operations, who is the executive responsible for information reporting and is charged with its systemwide planning and improvement. IRPAC is instrumental in providing advice to enhance the IRP Program. Increasing participation by external stakeholders in the planning and improvement of the tax system will help achieve the goals of increasing voluntary compliance and reduction of burden. IRPAC is currently comprised of 20 representatives from various segments of the private sector payer community. IRPAC members are not paid for their time or services, but consistent with Federal regulations, they are reimbursed for their travel and lodging expenses to attend two meetings each year.

DATES: The meeting, which will be open to the public, will be in a room that accommodates approximately 75 people, including members of IRPAC and IRS officials. Seats are available to the public on a first-come, first-served basis. In order to get your name on the building access list, *notification of intent to attend this meeting must be made with Ms. Tommie Matthews no later than Thursday, November 9, 1995. Ms. Matthews can be reached at 202–622–4214 (not a toll-free number).* Notification of intent to attend should include your name, organization and phone number.

ADDRESSES: If you would like to have IRPAC consider a written statement, please write to Kate LaBuda at IRS, Office of Service Center Compliance, CP:CO:SC:P, room 2013, 1111 Constitution Avenue, NW., Washington, DC, 20224.

FOR FURTHER INFORMATION CONTACT: To give notification of intent to attend this meeting, call Ms. Tommie Matthews at 202–622–4214 (not a toll-free number). For general information about IRPAC or the agenda for this meeting, call Kate LaBuda at 202–622–3404 (not a toll-free number).

Dated: October 17, 1995.

Larry Faulkner,

Director, Office of Payer Compliance, Service Center Compliance.

[FR Doc. 95–26484 Filed 10–24–95; 8:45 am]

BILLING CODE 4830–01–U

Sunshine Act Meetings

Federal Register
Vol. 60, No. 206
Wednesday, October 25, 1995

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).

UNITED STATES DEPARTMENT OF AGRICULTURE

Rural Telephone Bank, USDA

Staff Briefing for the Board of Directors

TIME AND DATE: 2 p.m., Thursday, November 2, 1995.

PLACE: Room 5066, South Building, Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC.

STATUS: Open.

MATTERS TO BE DISCUSSED: General discussion involving privatization planning; retirement of Class A stock; determination of interest rates for RTB funds advanced during FY 1995; and update on legislative issues affecting the RTB and RUS telecommunications loan programs.

ACTION: Regular Meeting of the Board of Directors.

TIME AND DATE: 10 a.m., Friday, November 3, 1995.

PLACE: Williamsburg Room, Administration Building, Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the Board of Directors meeting:

1. Call to Order.
2. Swearing in new USDA Board member.
3. Approval of Minutes of the August 11, 1995, Board meeting.
4. Report on loans approved in the fourth quarter of FY 1995.
5. Review financial statements for the fourth quarter of FY 1995.
6. Report of ad hoc committee on privatization of the RTB.
7. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Barbara Eddy, Deputy Assistant Governor, Rural Telephone Bank (202) 720-9549.

Dated: October 20, 1995.

Wally Beyer,

Governor, Rural Telephone Bank.

[FR Doc. 95-26611 Filed 10-23-95; 1:44 pm]

BILLING CODE 3410-15-P

federal register

Wednesday
October 25, 1995

Part II

Environmental Protection Agency

40 CFR Parts 403 and 503

Standards for the Use or Disposal of Sewage Sludge; Final Rule and Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 403 and 503

[FRL-5315-3]

RIN 2040-AC29

Standards for the Use or Disposal of Sewage Sludge

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On November 25, 1992, pursuant to Section 405 of the Clean Water Act (CWA), EPA promulgated a regulation (40 CFR part 503) to protect public health and the environment from reasonably anticipated adverse effects of certain pollutants in sewage sludge (58 FR 9248, February 19, 1993). This regulation established requirements for the final use or disposal of sewage sludge when: (1) The sewage sludge is applied to the land either to condition the soil or to fertilize crops grown in the soil; (2) the sewage sludge is placed on the land for final disposal; or (3) the sewage sludge is incinerated. In addition, EPA also amended the General Pretreatment Regulations (40 CFR part 403) to establish a list of pollutants for which a removal credit may be available.

Today's action amends the part 503 sewage sludge regulation as a result of EPA's reconsideration of certain issues remanded by the U.S. Court of Appeals for additional justification or modification. The Agency is deleting the current land application pollutant limits for chromium and changing the land application pollutant concentration limit for selenium.

EPA is also amending the list of pollutants for which a removal credit may be available. This final rule removes chromium in sewage sludge that is land-applied from the list of regulated pollutants for which a removal credit may be available and adds it to the list of unregulated pollutants that are eligible for a removal credit.

EFFECTIVE DATE: The final rule is effective October 25, 1995. For purposes of judicial review, the final rule is issued at 1 p.m. on October 25, 1995.

FOR FURTHER INFORMATION CONTACT: Robert M. Southworth, Biosolids Manager, Health and Ecological Criteria Division (4304), Office of Science and Technology, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone (202) 260-7157.

SUPPLEMENTARY INFORMATION:

A. Authority

Today's rule is being promulgated under the authority of sections 307 and 405 of the Clean Water Act (CWA). In section 307(b) of the CWA, Congress directed EPA to establish categorical pretreatment standards for industrial discharges of toxic pollutants to publicly owned treatment works (POTWs). Congress also authorized POTWs in defined circumstances to provide relief from categorical pretreatment standards in the form of a removal credit to indirect dischargers. Section 307(b) authorizes a removal credit where, among other things, grant of the removal credit does not prevent the POTW from using or disposing its sewage sludge in compliance with section 405.

Section 405(d) of the CWA requires EPA to establish management practices and numerical limits adequate to protect public health and the environment from reasonably anticipated adverse effects of toxic pollutants in sewage sludge. Section 405(e) prohibits any person from disposing of sewage sludge from a publicly-owned treatment works or other treatment works treating domestic sewage through any use or disposal practice for which regulations have been established pursuant to section 405 except in compliance with the section 405 regulations.

B. Amendments to Part 503

On November 25, 1992, EPA promulgated, pursuant to section 405 of the CWA, Standards for the Use or Disposal of Sewage Sludge, (40 CFR part 503), published in the **Federal Register** on February 19, 1993 (58 FR 9248, *et seq.*). Section 405(d) of the CWA requires EPA to publish regulations specifying management practices for sewage sludge containing toxic pollutants and to establish numerical limitations for the toxic pollutants that may be present in sewage sludge in concentrations that may adversely affect public health and the environment. On March 5, 1993, the Leather Industries of America, Inc. filed a petition with the U.S. Circuit Court of Appeals for the District of Columbia Circuit seeking review of the pollutant limits for chromium found in Tables 1-4 of 40 CFR 503.13(b). On June 17, 1993, the City of Pueblo, Colorado, filed a petition for review with the U.S. Court of Appeals for the Tenth Circuit challenging the selenium pollutant limits in Tables 1-3 of 40 CFR 503.13(b). This case was subsequently transferred to the D.C. Circuit.

On November 15, 1994, the D.C. Circuit remanded the cumulative pollutant loading rate for chromium in Table 2 and the pollutant concentration limit for chromium and selenium in Table 3 to the Agency for modification or additional justification. *Leather Industries of America, Inc.* v. *Environmental Protection Agency,* 40 F.3d 392 (D.C. Cir. 1994).

The pollutant limits in Table 2 are determined from a risk-based exposure assessment. The pollutant concentrations in Table 3 are the lower of either (1) a risk-derived concentration or (2) the 99th percentile concentration derived from EPA's National Sewage Sludge Survey (NSSS), which includes data on sewage sludge from approximately 186 statistically representative publicly-owned treatment works. Sewage sludge that meets the pollutant concentration limits in Table 3 may be applied to land under less restrictive conditions than can sewage sludge that has higher concentration of metals. In the case of chromium and selenium, the 99th percentile concentration is lower than the risk-derived concentration so the limit specified in Table 3 for both chromium and selenium is the 99th percentile value. The D.C. Circuit concluded that section 405 of the CWA mandates a risk-based regulation and that EPA lacked the statutory authority to adopt pollutant concentration limits based on the 99 percentile because they are not risk-based. The court also determined that EPA lacked an adequate evidentiary basis for its risk-based chromium cumulative pollutant loading rate in Table 2 of § 503.13(b).

Today's rule amends 40 CFR 503.13(b) to delete the current pollutant limits for chromium in Tables 1-4 applicable to sewage sludge that is land applied. In addition, the Agency is amending 40 CFR 503.13(b) to change the selenium pollutant concentration limit in Table 3. This amendment is being promulgated under the authority of section 405 of the Clean Water Act (CWA), 33 U.S.C. § 1345.

1. Deletion of Pollutant Limits for Chromium in Land Applied Sewage Sludge

EPA based the Table 2 cumulative pollutant loading rate for chromium on an assessment of the potential for plant injury (measured as retardation in the growth of a young plant) from chromium in sewage sludge that is applied to the land. EPA derived the chromium cumulative pollutant loading rate from field study data that the Agency evaluated for the likelihood of plant injury. Because the field study

data did not show retardation in the growth of a young plant even at the highest soil/chromium levels from the field studies—3,000 kg/hectare, EPA established the cumulative pollutant loading rate for chromium at the highest value for which it had data.

The D.C. Circuit agreed that EPA is authorized to protect against plant injury and that EPA properly determined a plant toxicity threshold associated with chromium in sewage sludge. However, the court decided that EPA lacked adequate data to support the 3,000 kg/hectare chromium cumulative loading rate because EPA had no data that showed plant injury at soil levels of 3,000 kg/hectare or any other cumulative load.

In response to the court's remand, EPA has reviewed the record in this proceeding concerning potential risk to public health and the environment associated with land application of sewage sludge that contains chromium. As a result of its reconsideration, the Agency has determined that there is an insufficient basis at this time for the regulation of chromium in sewage sludge that is applied to the land. This determination is confirmed by EPA's review of new information concerning chromium and the land application of sewage sludge. Consequently, the Agency is amending Tables 1–4 [1] to delete chromium from the regulated metals for the following reasons. First, EPA has reaffirmed its determination that chromium in sewage sludge appears predominantly in the trivalent form for which the likelihood of plant injury is substantially lower than the likelihood of plant injury from chromium in the hexavalent form. See 58 FR 9248, 9297.

Second, in addition to reexamining the rulemaking record, EPA obtained more recent data from field studies of crops grown on soil to which sewage sludge had been applied. These data are similar to those used in the final rule for evaluating the potential for plant injury from the chromium in sewage sludge. EPA evaluated these data using the same statistical methods used for the final rule to assess the potential for plant injury. Like the earlier data, these data show no relationship between plant injury associated with chromium in sewage sludge at high loading rates.

Finally, to confirm its determination that data do not support regulation of chromium at this juncture, EPA also took a second look at other pathways of exposure. After the plant toxicity pathway, the next significant pathway of concern is the risk associated with exposure of a tractor operator to chromium from sewage sludge in the dust churned up by the tractor. EPA reevaluated this pathway using current National Institute of Occupational Safety and Health (NIOSH) standards for worker exposure to trivalent chromium. EPA's second look at the tractor operator exposure pathway determined that the appropriate risk-based limit for this pathway is well in excess of its earlier finding of 5,000 mg/kg. The limit for this pathway using the updated NIOSH standard is almost two orders of magnitude in excess of the observed 99th percentile concentration for chromium in the NSSS. Given the fact that chromium limit for the next pathway of exposure—the ground-water pathway—is an order of magnitude greater than the 99th percentile sewage sludge concentration, EPA determined that it did not have data that justify regulation of chromium in land applied sewage sludge at this juncture. Applying the same criteria used for the final rule to determine whether to regulate a particular pollutant, EPA concluded that there is no current basis for establishing land application pollutant limits for chromium based on the tractor operator pathway or the ground-water pathway.[2] *See* 58 FR 9318 ("The Agency's risk assessment results for the pollutant shows no reasonably anticipated adverse effects on public health or the environment at the 99th percentile concentration found the sewage sludge from the NSSS." 58 FR 9318). Consequently, the Agency is today amending its sewage sludge use or disposal regulation to delete chromium from Tables 1–4 in 40 CFR 503.13(b). More details on the justification for deletion of the chromium land application pollutant limits are presented in the administrative record for this rulemaking.

2. Modification of the Pollutant Concentration Limit for Selenium in Table 3 of § 503.13

As explained above, the pollutant concentration limit in Table 3 is the more stringent of the risk-based limit or 99th percentile concentration value for each of nine pollutants. In the case of selenium, the more stringent cap is the 99th percentile number.[3] EPA supported its adoption of this approach for the Table 3 limits on two bases. First, by adopting the lower of risk-based or 99th percentile concentration, EPA would provide an additional margin of safety to ensure adequate protection of public health and the environment. Second, adoption of the 99th percentile limit would prevent deterioration of sewage sludge from current levels of quality. The D.C. Circuit rejected both reasons, concluding that the statute requires a demonstrated link between risk and any pollutant concentration limits the Agency adopted. EPA has reconsidered the Table 3 selenium pollutant concentration limit and concluded that it should not adopt a more stringent concentration limit for selenium than the risk-based limit of 100 mg/kg. This risk-based concentration was derived from an assessment of the hazard to children, aged one to six, who ingest undiluted sewage sludge containing selenium. EPA's exposure assessment showed that so long as the concentration of the sewage sludge did not exceed 100 mg/kg of selenium, children would be adequately protected. EPA's exposure assessment used a number of conservative assumptions in evaluating effects on children from selenium exposure, including a reference dose for selenium based on lifetime exposure—a significantly protective factor. In these circumstances, EPA concluded that there is no risk basis for adopting a more stringent limit.

C. Amendment to Part 403

Many industrial facilities discharge large quantities of pollutants to POTWs where their wastewaters mix with wastewater from other sources, domestic sewage from private residences and run-off from various sources prior to treatment and discharge by the POTW. The introduction of pollutants to a POTW from industrial discharges may pose several problems. These include potential interference

[1] The chromium limits in Tables 1, 3, and 4 are derived from the risk-based chromium limits in Table 2. Because the Agency has determined that it does not at this juncture have information that supports risk-based regulation of chromium in sewage sludge that is land applied, the chromium pollutant limits in Tables 1, 3, and 4 also are being deleted.

[2] EPA also evaluated the risk associated with tractor operator exposure to hexavalent chromium by assuming that a small percentage of the chromium in sewage sludge might be hexavalent chromium. (As noted above, EPA has concluded that most chromium in sewage sludge should be in the trivalent, not hexavalent, form.) Again, the resulting risk-based chromium pollutant concentration limit would be substantially higher than the 99th percentile concentration.

[3] The 99th percentile concentration is more stringent for selenium and chromium; for nickel, the risk-based and 99th percentile limits are the same. As described above, EPA is deleting chromium from the pollutants regulated in Tables 1–4.

with the POTW's operation or pass-through of pollutants if inadequately treated. Congress, in section 307(b) of the Act, directed EPA to establish categorical pretreatment standards to prevent these potential problems. Congress also recognized that, in certain instances, POTWs could provide some or all of the treatment of an industrial user's wastewater that would be required pursuant to the categorical pretreatment standard. Consequently, Congress also established a discretionary program for POTWs to grant "removal credits" to their indirect dischargers. The credit, in the form of a less stringent categorical pretreatment standard, allows an increased concentration of a pollutant in the flow from the indirect discharger's facility to the POTW.

Section 307(b) of the CWA establishes a three-part test a POTW would need to meet to obtain removal credit authority for a given pollutant. A removal credit may be authorized only if (1) the POTW "removes all or any part of such toxic pollutant," (2) the POTW's ultimate discharge would "not violate that effluent limitation, or standard which would be applicable to that toxic pollutant if it were discharged" directly rather than through a POTW and (3) the POTW's discharge would "not prevent sludge use and disposal by such [POTW] in accordance with section [405]. * * *" Section 307(b).

The United States Court of Appeals for the Third Circuit has interpreted the statute to require EPA to promulgate comprehensive sewage sludge regulations before any removal credits could be authorized. *NRDC* v. *EPA*, 790 F.2d 289, 292 (3rd Cir. 1986) *cert. denied*. 479 U.S. 1084 (1987). Congress made this explicit in the Water Quality Act of 1987, which provided that EPA could not authorize any removal credits until it issued the sewage sludge use and disposal regulations required by section 405(d)(2)(a)(ii). EPA has promulgated removal credit regulations that are codified at 40 CFR part 403.7.

At the same time EPA promulgated the part 503 regulation, EPA also amended the part 403 General Pretreatment Regulations to add a new Appendix G that includes two tables of pollutants that would be eligible for a removal credit so long as the other procedural and substantive requirements of 40 CFR part 503 and 40 CFR 403.7 are met. The first table (Appendix G—Section I) lists, by use or disposal practice, the pollutants that are regulated in part 503 and eligible for removal credit authorization. The second table (Appendix G—Section II) lists, by use or disposal practice, additional pollutants that are eligible for a removal credit if the concentration of the pollutant in sewage sludge does not exceed a prescribed concentration. The pollutants in Appendix G—Section II are the pollutants that EPA evaluated and decided not to regulate during development of the part 503 regulation. *See* 58 FR at 9381–5. Currently, chromium is included on both Appendix G—Section I and Appendix G—Section II.

As explained above, EPA is today promulgating a final rule that deletes chromium from the pollutants that are regulated when sewage sludge is applied to the land because EPA has concluded that there is no current basis for establishing chromium limits for land-applied sewage sludge. Consequently, because Appendix G—Section I lists only pollutants regulated in part 503 and because the Agency has deleted chromium from the list of regulated pollutants, EPA is removing chromium from Appendix G—Section I for land application.

In the 1993 amendments to part 403, EPA included pollutants that it evaluated for risk and decided not to regulate in Appendix G—Section II at the highest concentration evaluated as safe. Consequently, because EPA has now concluded that it does not need to regulate chromium to protect the plant toxicity pathway, under the criterion applied in the final rule, EPA should include chromium in Appendix G—Section II in the land application column at the next highest concentration evaluated as safe.

The next highest result for a pathway that EPA assessed and evaluated as safe for the final rule is the tractor operator pathway—Pathway 11. EPA determined that a tractor operator is protected from occupational exposure to chromium from sewage sludge so long as the concentration in the sewage sludge did not exceed 5,000 mg/kg. *See* Technical Support Document for the Land Application of Sewage Sludge Table 5.4–5, p. 5–435. However, as noted above, EPA has now reevaluated that pathway and determined that the actual protective level is substantial in excess of this concentration. The next level of risk after the tractor operator pathway is the ground-water pathway—12,000 mg/kg. Technical Support Document for the Land Application of Sewage Sludge, ibid. Therefore, under the criterion adopted in the final rule, the Appendix G—Section II concentration for chromium should be 12,000 mg/kg.

While the public had an opportunity to comment on the land application risk assessment that underlies the final Part 503 regulation, there has been no opportunity to comment on EPA's reevaluation of the tractor operator pathway assessment. (Elsewhere in today's **Federal Register**, EPA is proposing to amend Appendix G—Section II to establish the new chromium concentration based on its reanalysis of the Pathway 11 for chromium.) Consequently, it would not be appropriate to take final action today to add chromium to Appendix G—Section II at the ground-water pathway concentration level—the next level after the reevaluated tractor operator pathway.

But if EPA deletes chromium from Appendix G—Section I without including a concentration for sewage sludge that is land applied in Appendix G—Section II at this time, POTWs will not be able to seek removal credit authority until such time as EPA has proposed and promulgated a new chromium removal credit number. Therefore, EPA also is promulgating an amendment to Appendix G—Section II that adds a footnote for the interim that states that the removal credit concentration for chromium in land-applied sewage sludge will be established on a case-by-case basis. This change is necessary to ensure there is no uncertainty about the continued eligibility of chromium in sewage sludge for removal credits, pending EPA's promulgation of the final rule that amends Appendix G—Section II.

Until today, POTWs complying with the Part 503 land application chromium pollutant limits were eligible to seek removal credit authority for chromium. It would not make sense to eliminate removal credits for chromium when EPA has now decided not to regulate chromium in sewage sludge. While EPA is considering what concentration level for chromium to establish in Appendix G—Section II, a removal credit will continue to be available for chromium. If a POTW whose sewage sludge is land-applied requests authorization to grant a removal credit for chromium, the Approval Authority (EPA or an NPDES-authorized State with an approved pretreatment program) will make a decision on a case-by-case basis about what the allowable chromium concentration for removal credits purposes should be.

In today's final rulemaking, EPA also is correcting an error in the entry for bis(2-ethylhexyl)phthalate in Appendix G—Table II for a lined surface disposal site. The current entry is 100 milligrams per kilogram. Results of the surface disposal risk assessment indicate that the limit for bis(2-ethylhexyl)phthalate for a lined surface disposal site is unlimited (interpreted to mean greater

than 100,000 milligrams per kilogram)—see "Technical Support Document for Surface Disposal of Sewage Sludge," EPA 822–R–93–019, November 1992. For this reason, the entry in Table II for bis(2-ethylhexyl)phthalate for a lined surface disposal site should be 100,000 milligrams per kilogram (i.e. 100 grams per kilogram) instead of 100 milligrams per kilogram. The superscript 3 was inadvertently left-off of the current Table II entry for bis(2-ethylhexyl)phthalate for a lined surface disposal unit. Today's rulemaking corrects that error by adding the superscript 3 to the entry.

D. Procedural Requirements

Based on its reassessment of the rulemaking record and new information, EPA is today taking final action amending its part 503 regulations. EPA's action deletes the chromium pollutant limits for land application in Tables 1, 2, 3, and 4 of § 503.13(b) and amends the selenium pollutant concentration limit in Table 3 of § 503.13(b). EPA also is amending its list of pollutants in land-applied sewage sludge that are eligible for a removal credit. EPA is removing chromium from the list of regulated pollutants and adding it to the list of unregulated pollutants for which a removal credit may be available.

Section 553 of the Administrative Procedure Act provides that when an agency for good cause finds that notice and public comment procedure are impracticable, unnecessary or contrary to the public interest, it may issue a rule without first providing notice and comment. In addition, the agency may make the rule effective immediately. EPA has concluded here that it should amend both the part 403 and part 503 regulations as described above without providing for notice and comment and make these changes effective immediately.

1. Notice and Comment

EPA has concluded that notice and comment on today's action are unnecessary. As explained above, the D.C. Circuit concluded that the statute requires risk-based regulation and that the Agency lacked the data to support risk-based regulation of chromium to prevent plant injury. EPA has reviewed the record in the sewage sludge rulemaking in light of the D.C. Circuit decision. The Agency's second look at the data does not reveal additional information, not previously considered by EPA, that would support regulation of chromium in sewage sludge to prevent plant injury. As a result, the chromium land application pollutant limits must be withdrawn. Further, the data do not support adoption of a more stringent pollutant concentration limit for selenium than 100 mg/kg.

EPA also has concluded that there is good cause for amending its part 503 regulation without first providing for notice and comment. EPA received ample comment on issues related to the regulation of chromium and selenium in sewage sludge that is applied to the land over the course of a lengthy, multi-year rulemaking effort. During the process, extensive comments on the Agency's pathway exposure assessments and the underlying data were received from nationally known experts on sewage sludge. Scientists possessing a wide understanding of the scientific and technical issues associated with sewage sludge use or disposal provided a broad critique of the exposure assessment models used to develop the proposed regulation. In developing the final regulation, EPA relied on several of these experts to develop the land application exposure assessment that formed the basis for the pollutant limits in Tables 1–4 of § 503.13(b). In light of this, further comment is unwarranted.

Under the final part 403 and part 503 regulations, a removal credit was available for chromium when sewage sludge is land applied, so long as the sewage sludge met the ceiling concentration limit of 3,000 mg/kg in Table 1 of 40 CFR 503.13(b)(1) and the pollutant limits in either Table 2, 3 or 4 at 40 CFR 503.13(b)(1). As explained above, to preserve the eligibility of chromium for a removal credit when EPA deleted chromium from Tables 1, 2, 3 and 4, EPA has added a footnote to the list of pollutants in Appendix G—Section II that indicates the land application chromium sewage sludge concentration for removal credit purposes will be determined on a case-by-case basis. Because EPA action in shifting chromium from Appendix G—Section I to Appendix G—Section II reflects no substantive change in the actual sewage sludge requirements that must be met for removal credit eligibility, comment on this change is not needed.

2. Effective date

Under section 405 of the CWA, EPA's sewage sludge regulation must require compliance with the regulation as expeditiously as practicable but in no case later than 12 months after publication, unless such regulation requires construction of new pollution control facilities, in which case the regulation must require compliance expeditiously, but not later than two years from publication. The part 503 regulation was effective on March 22, 1993. In the case of the chromium pollutant limits, the regulation required compliance by February 19, 1994. Section 553 of the Administrative Procedure Act requires publication of a substantive rule not less than 30 days before its effective date except in certain circumstances. These include "a substantive rule which grants or recognizes an exemption or relieves a restriction" or "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. section 553(d) (1) and (3). Because this rule relieves a restriction, the Agency has determined that these amendments should be effective immediately.

Given its determination that the rule should be effective immediately, the Agency also is providing, pursuant to 40 CFR 23.2, that the rule is issued for the purpose of judicial review on the effective date.

E. Regulatory Requirements

1. Executive Order 12866

Executive Order 12866 requires EPA to prepare an assessment of the costs and benefits of any "significant regulatory action." Because the effect of today's rule is to relieve the regulated community from current part 503 requirements, costs to the regulated community should be reduced. Consequently, no assessment of costs and benefits is required.

2. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a General Notice of Rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the Agency certifies that the rule will not have a significant impact on a substantial number of small entities.

This action to modify the part 503 regulation promulgated today is deregulatory in nature and thus will only provide beneficial opportunities for entities that may be affected by the rule. Accordingly, I certify that this 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.

3. Paperwork Reduction Act

There are no reporting, notification, or recordkeeping (information) provisions

in this rule. Such provisions, were they included, would be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

4. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

EPA has determined that today's amendments to part 403 and part 503 do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local or tribal governments or the private sector in any one year. The changes to the part 503 regulation promulgated today, to the extent they reduce the costs of complying with current requirements, will, in fact, lessen the regulatory burden on State, local, or tribal governments.

The part 503 regulation includes monitoring and recordkeeping requirements for certain POTWs and other treatment works treating domestic sewage when sewage sludge is applied to the land. Because EPA will no longer regulate the amount of chromium applied to the land in sewage sludge, POTWs and other treatment works treating domestic sewage will not need to incur any monitoring and recordkeeping cost for chromium. Consequently, there are either no (or reduced) costs associated with the final rule promulgated today. Thus, today's rule is not subject to the requirements in sections 202 and 205 of the Act.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments that may operate publicly owned treatment works (POTWs) generating sewage sludge. The rule would not significantly affect small governments because, as explained above, the amendments would reduce the monitoring and recordkeeping requirements associated with land application. The amendments also would not uniquely affect small governments because deleting the land application pollutant limits for chromium and changing the pollutant concentration limit for selenium will not affect POTWs operated by small governments differently from other sewage sludge users or disposers.

List of Subjects

40 CFR Part 403

Environmental protection, Incineration, Land application, Pollutants, Removal credits, Sewage sludge, and Surface disposal.

40 CFR Part 503

Environmental Protection, Frequency of monitoring, Incineration, Incorporation by reference, Land application, Management practices, Pathogens, Pollutants, Reporting and recordkeeping requirements, Sewage sludge, Surface disposal and Vector attraction reduction.

Dated: October 10, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations is amended as set forth below:

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

1. The authority citation for 40 CFR part 403 continues to read as follows:

Authority: Sec. 54(c)(2) of the Clean Water Act of 1977, (Pub. L. 95–217) sections 204(b)(1)(C), 208(b)(2)(C)(iii), 301(b)(1)(A)(ii), 301(b)(2)(A)(ii), 301(b)(2)(C), 301(h)(5), 301(i)(2), 304(e), 304(g), 307, 308, 309, 402(b), 405 and 501(a) of the Federal Water Pollution Control Act (Pub. L. 92–500) as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987 (Pub. L. 100–4).

2. Appendix G to part 403 is revised to read as follows:

Appendix G To Part 403—Pollutants Eligible For A Removal Credit

I. Regulated Pollutants in Part 503 Eligible for a Removal Credit

Pollutants	Use or disposal practice		
	LA	SD	I
Arsenic	X	X	X
Beryllium	....	....	X
Cadmium	X	....	X
Chromium	....	X	X
Copper	X		
Lead	X	....	X
Mercury	X	....	X
Molybdenum	X		
Nickel	X	X	X
Selenium	X		
Zinc	X	....	
Total hydrocarbons.	....	....	X[1]

Key:

LA—land application.

SD—surface disposal site without a liner and leachate collection system.

I—firing of sewage sludge in a sewage sludge incinerator.

[1] The following organic pollutants are eligible for a removal credit if the requirements for total hydrocarbons in subpart E in 40 CFR Part 503 are met when sewage sludge is fired in a sewage sludge incinerator: Acrylonitrile, Aldrin/Dieldrin(total), Benzene, Benzidine, Benzo(a)pyrene, Bis(2-chloroethyl)ether, Bis(2-ethylhexyl)phthalate, Bromodichloromethane, Bromoethane, Bromoform, Carbon tetrachloride, Chlordane, Chloroform, Chloromethane, DDD,DDE,DDT, Dibromochloromethane, Dibutyl phthalate, 1,2-dichloroethane, 1,1-dichloroethylene, 2,4-dichlorophenol, 1,3-dichloropropene, Diethyl phthalate, 2,4-dinitrophenol, 1,2-diphenylhydrazine, Di-n-butyl phthalate, Endosulfan, Endrin, Ethylbenzene, Heptachlor, Heptachlor epoxide, Hexachlorobutadiene, Alpha-hexachlorocyclohexane, Beta-hexachlorocyclohexane, Hexachlorocyclopentadiene, Hexachloroethane, Hydrogen cyanide, Isophorone, Lindane, Methylene chloride, Nitrobenzene, N-Nitrosodimethylamine, N-Nitrosodi-n-propylamine, Pentachlorophenol, Phenol, Polychlorinated biphenyls, 2,3,7,8-tetrachlorodibenzo-p-dioxin, 1,1,2,2,-tetrachloroethane, Tetrachloroethylene, Toluene, Toxaphene, Trichloroethylene, 1,2,4–Trichlorobenzene, 1,1,1–Trichloroethane, 1,1,2–Trichloroethane, and 2,4,6–Trichlorophenol.

II. ADDITIONAL POLLUTANTS ELIGIBLE FOR A REMOVAL CREDIT

[milligrams per kilogram—dry weight basis]

Pollutant	Use or disposal practice			
	LA	SD	I	
			Unlined [1]	Lined [2]
Arsenic			[3]100	
Aldrin/Dieldrin (Total)	2.7			
Benzene	[3]16	140	3400	
Benzo(a)pyrene	15	[3]100	[3]100	
Bis(2-ethylhexyl)phthalate		[3]100	[3]100	
Cadmium		[3]100	[3]100	
Chlordane	86	[3]100	[3]100	
Chromium	[4]		[3]100	
Copper		[3]46	[3]100	1400
DDD, DDE, DDT (Total)	1.2	2000	2000	
2,4 Dichlorophenoxy-acetic acid		7	7	
Fluoride	730			
Heptachlor	7.4			
Hexachlorobenzene	29			
Hexachlorobutadiene	600			
Iron	[3]78			
Lead		[3]100	[3]100	
Lindane	84	[3]28	[3]28	
Malathion		0.63	0.63	
Mercury		[3]100	[3]100	
Molybdenum		40	40	
Nickel			[3]100	
N-Nitrosodimethylamine	2.1	0.088	0.088	
Pentachlorophenol	30			
Phenol		82	82	
Polychlorinated biphenyls	4.6	<50	<50	
Selenium		4.8	4.8	4.8
Toxaphene	10	[3]26	[3]26	
Trichloroethylene	[3]10	9500	[3]10	
Zinc		4500	4500	4500

Key: LA—land application.
SD—surface disposal.
I—incineration.
[1] Sewage sludge unit without a liner and leachate collection system.
[2] Sewage sludge unit with a liner and leachate collection system.
[3] Value expressed in grams per kilogram—dry weight basis.
[4] Value to be determined on a case-by-case basis.

PART 503—STANDARDS FOR THE USE OR DISPOSAL OF SEWAGE SLUDGE

1. The authority citation for part 503 continues to read as follows:

Authority: Sections 405(d) and (e) of the Clean Water Act, as amended by Pub. L. 95–217, Sec. 54(d), 91 Stat. 1591 (33 U.S.C. 1345 (d) and (e)); and Pub. L. 100–4, Title IV, Sec. 406 (a), (b), 101 Stat., 71, 72 (33 U.S.C. 1251 et seq.).

2. § 503.13(b) is revised to read as follows:

§ 503.13 Pollutant limits.

* * * * *

(b) Pollutant concentrations and loading rates—sewage sludge.

(1) Ceiling concentrations.

TABLE 1 OF § 503.13.—CEILING CONCENTRATIONS

Pollutant	Ceiling concentration (milligrams per kilogram) [1]
Arsenic	75
Cadmium	85
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
Selenium	100
Zinc	7500

[1] Dry weight basis.

(2) Cumulative pollutant loading rates.

TABLE 2 OF § 503.13.—CUMULATIVE POLLUTANT LOADING RATES

Pollutant	Cumulative pollutant loading rate (kilograms per hectare)
Arsenic	41
Cadmium	39
Copper	1500
Lead	300
Mercury	17
Nickel	420
Selenium	100
Zinc	2800

(3) Pollutant concentrations.

TABLE 3 OF § 503.13.—POLLUTANT CONCENTRATIONS

Pollutant	Monthly average concentration (milligrams per kilogram) [1]
Arsenic	41
Cadmium	39
Copper	1500
Lead	300
Mercury	17
Nickel	420
Selenium	100
Zinc	2800

[1] Dry weight basis.

(4) Annual pollutant loading rates.

TABLE 4 OF § 503.13.—ANNUAL POLLUTANT LOADING RATES

Pollutant	Annual pollutant loading rate (kilograms per hectare per 365 day period)
Arsenic	2.0
Cadmium	1.9
Copper	75
Lead	15
Mercury	0.85
Nickel	21
Selenium	5.0
Zinc	140

* * * * *

[FR Doc. 95–25740 Filed 10–24–95; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 403 and 503

[FRL-5315-6]

RIN 2040-AC29

Standards for the Use or Disposal of Sewage Sludge

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On November 25, 1992, pursuant to Section 405 of the Clean Water Act (CWA), EPA promulgated the Standards for the Use or Disposal of Sewage Sludge (40 CFR parts 257, 403 and 503). In addition, EPA amended the General Pretreatment Regulations (40 CFR part 403) to establish a list of pollutants for which a removal credit may be available. Today's action proposes additional amendments to both regulations to clarify existing regulatory requirements and provide increased flexibility to the permitting authority and the regulated community in complying with some requirements.

The proposed amendments to part 503 would modify various land application, surface disposal, pathogen and vector attraction reduction, and incineration provisions. Most importantly, the proposed rule would delete the requirement for EPA or the State to issue sludge permits and would allow the regulated community flexibility to determine how to meet the sewage sludge incinerator requirements using existing Agency guidance. EPA is also proposing to amend part 403 to add a concentation limit for chromium in the list of unregulated pollutants eligible for a removal credit. Some of the changes EPA is proposing today will lessen the regulatory burden on States, local government, Tribes, and the regulated community.

When EPA promulgated the Sewage Sludge Regulation in 1992, EPA asked for public comment on several issues. Today's notice also responds to those comments.

DATES: Comments must be received by December 26, 1995.

ADDRESSES: Send written comments to Comment Clerk; Proposed Amendments to the Final Sewage Sludge Regulation; Water Docket MC-4101; Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460. Respondents are requested to submit an original and three copies of their written comments. Respondents who want receipt of their comments acknowledged should include a self-addressed, stamped envelope. All submissions must be postmarked or delivered by hand, no facsimiles (faxes) will be accepted.

A copy of the final part 503 rule and comments received on the final rule are available for review at EPA's Water Docket; 401 M Street, SW; Washington, DC 20460. Other references cited in the preamble also are available for review in the Docket. The Docket is located in room L-102. For access to Docket materials, call (202) 260-3027 between 9 a.m. and 3:30 p.m. for an appointment. The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Robert M. Southworth, Biosolids Manager, Health and Ecological Criteria Division (4304), Office of Science and Technology, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone (202) 260-7157.

SUPPLEMENTARY INFORMATION:

I. Background
- A. Sewage Sludge Management Program
- B. Revisions to the Part 503 Sewage Sludge Rule

II. Response to Comments on Final Sewage Sludge Rule
- A. Field Monitoring Study
- B. Pollutant Limits for Cadmium
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I. Background

On November 25, 1992, the U.S. Environmental Protection Agency promulgated, pursuant to section 405 of the Clean Water Act, Standards for the Use or Disposal of Sewage Sludge (58 FR 9248, February 19, 1993). This regulation establishes requirements to protect public health and the environment when: (1) The sewage sludge is applied to the land either to condition the soil or to fertilize crops grown in the soil; (2) the sewage sludge is disposed on land by placing it in a surface disposal site; (3) the sewage sludge is placed in a municipal solid waste landfill unit; or (4) the sewage sludge is incinerated.

Section 405(f) of the Clean Water Act (CWA) provides that any CWA discharge (section 402) permit issued to a publicly owned treatment works (POTW) or other treatment works treating domestic sewage (TWTDS) must include conditions to implement the sewage sludge regulation issued under section 405(d) unless these conditions are included in other permits. The other permits may either be other Federal permits or a State permit issued under an approved State program.

In 1989, EPA published regulations that establish State sewage sludge management program requirements and procedures for approving State National Pollutant Discharge Elimination System (NPDES) (40 CFR part 123) and non-

NPDES sewage sludge programs (40 CFR part 501), and that revised the NPDES permit requirements and procedures (parts 122–124) to incorporate sewage sludge permitting requirements. (See 54 FR 18716 (May 2, 1989); 59 FR 9404 (February 19, 1993).) State assumption of the sewage sludge program is optional. EPA is working with a number of States seeking authorization for the Federal sewage sludge permit and management program, but has not yet authorized any State sewage sludge program. Until State sewage sludge programs are authorized, EPA will administer the program.

EPA is including conditions to implement its sewage sludge regulation in EPA-issued NPDES permits as these permits are reissued. In all other cases, EPA plans to issue permits to TWTDS over time, and has established phased application submittal procedures for the NPDES and non-NPDES programs to support this approach. See 40 CFR 122.21 and 501.15. (For a detailed discussion of EPA's plans for staged permitting of sewage sludge generators, users, and disposers, see 58 FR at 9249–50 and 9357–66, February 19, 1993.)

In addition to today's proposal, EPA plans several related actions in the near term to address sewage sludge issues. These actions include changes in the sewage sludge management program and further revisions to the part 503 rule. These actions are briefly discussed below.

A. Sewage Sludge Management Program

As part of its effort to reinvent its permit program, EPA is in the process of reviewing its sewage sludge management program. The Agency is looking at how to tailor the program more efficiently to reduce the burden to the regulated community of complying with Federal sewage sludge management program requirements. With this objective in mind, EPA is exploring a number of options with stakeholders. Given the wide (and successful) regulation of sewage sludge use or disposal by a number of States, EPA is reviewing its State sewage sludge program authorization regulations to simplify the approval process. In addition, the Agency will try to accelerate approval of State programs through the use of partial program approvals (i.e., approval may be granted by use or disposal practice). EPA will place greater emphasis on building a State/Federal partnership rather than on an EPA-directed permitting effort while maintaining its goal of protecting public health and the environment.

As noted, EPA will be taking a look at its State program approval regulations with an eye to streamlining the approval process. The Agency recognizes that State sewage sludge programs may vary from State to State depending on local conditions. EPA will be exploring how to provide greater flexibility to States to accommodate States' choices about the structuring of their regulatory programs and efficient use of available local resources where appropriate. To accomplish its objective to provide greater flexibility to the States, EPA will consider modifications to its sewage sludge permit program regulations so as to accommodate more variations in State programs. EPA stresses that its willingness to allow greater variation in the State permit programs does not mean that the Agency will retreat from public health and environmental protection. EPA's policy on authorizing State permit programs for sewage sludge will still reflect the need for certain minimum requirements. These include requirements for adequate State authority to enforce against violators of the sewage sludge regulation. In addition, States, as is now the case, must provide for citizen participation in both the sewage sludge permitting and enforcement efforts.

B. Revisions to the Part 503 Sewage Sludge Rule

EPA also is considering whether it needs to provide more flexibility in the technical standards. A number of parties have suggested to the Agency that part 503 should include a provision that would relieve a sewage sludge user or disposer from certain regulatory requirements in defined circumstances. EPA is now considering what specific conditions would warrant relief from regulatory requirements. Further, in addition to its effort to provide more flexibility in the technical regulation, EPA is reviewing the regulation in response to judicial challenges. On November 15, 1994, the United States Court of Appeals for the District of Columbia Circuit issued its decision in *Leather Industries of America, Inc., et al.* v. *EPA*, No. 93–1187. In this decision, the court addressed several of the petitions for review of the sewage sludge regulation. The D.C. Circuit remanded several aspects of the regulation to the Agency for modification or additional justification. Concurrent with today's proposal, the Agency is taking final action on the remanded pollutant limits for chromium and selenium in sewage sludge that is land-applied. Moreover, the Agency will address other litigation issues in a future **Federal Register** notice to be published in early 1996.

The part 503 regulation promulgated in November, 1992, partially fulfilled the Agency's commitment under the terms of a consent decree that settled a citizens suit to compel issuance of sewage sludge regulations. *Gearhart, et al.* v. *Reilly*, Civil No. 89–6266–JO (D.Ore). Under the terms of that decree, EPA must propose and take final action on a second round of sewage sludge regulations by December 15, 2001. EPA has already begun the process of evaluating a number of pollutants for potential adverse effects to public health and the environment when present in sewage sludge. In May, 1993, pursuant to the terms of the consent decree in the *Gearhart* case, the Agency notified the United States District Court for the District of Oregon that, based on the information then available, EPA would evaluate 31 pollutants for possible regulation. The consent decree also stipulates that EPA will file with the court a revised list of pollutants for regulation by November, 1995. In the event that EPA determines not to regulate some or all of these pollutants, EPA will make available the rationale for not regulating those pollutants.

II. Response to Comments on Final Sewage Sludge Rule

In developing the numerical pollutant limits for sewage sludge when used or disposed, EPA evaluated the risk of these pollutants through exposure assessments. In the preamble to the final part 503 regulation, EPA requested public comment on three issues related to these risk assessments.

A. Field Monitoring Study

For its risk assessments, EPA relied on available scientific information to evaluate risk to public health and the environment. In the case of the Agency's evaluation of ecological risks, the data were limited. In the final rule, EPA explained that it would continue to assess the adverse potential of sewage sludge, particularly with respect to ecosystem risks. EPA stated its intention to conduct an environmental evaluation and monitoring study to aid the Agency in its efforts to develop a comprehensive ecological risk assessment methodology (see 58 FR 9275, February 19, 1993).

At the present time, EPA's Office of Research and Development is funding a number of initiatives in these areas. Under a grant from EPA, the Oak Ridge National Laboratory has begun work on an ecological risk study as part of a field project evaluating sewage sludge land application. In addition, the Ecosystems Research Division (Athens, Georgia) in EPA's National Exposure Research Laboratory has started work to test the

hypothesis that sewage sludge binds metals in an organic matrix, which reduces their bioavailability. The Ecosystems Research Division also will validate the ground-water model used to develop the pollutant limits for the ground-water exposure pathway for land application and surface disposal. Further, the Western Ecology Division (Corvallis, Oregon) in EPA's National Health and Environmental Effects Research Laboratory is examining issues concerning evaluation of phytotoxic risk. This will include a review of appropriate measures of phytotoxicity and studies concerning plant uptake of metals.

EPA received a single comment on the proposed field study for evaluation of ecological effects. The commenter stressed that it is critical that realistic exposure scenarios be used. The Agency agrees with that comment. EPA is currently working with the Oak Ridge National Laboratory to define the environmental end points of concerns and reasonable exposure assumptions for the ecological risk study.

B. Pollutant Limits for Cadmium

The Agency received a number of public comments on the final cadmium pollutant limits for land application. Some comments were supportive of the final limits for this pollutant. However, a few commenters expressed some concerns. These concerns fell into two general categories: (1) The United States Department of Agriculture (USDA) expressed concern that the final cadmium limits may jeopardize the export of grains to foreign markets, and (2) other commenters expressed concern that the risk-based cadmium limits may not be protective enough. In arguing for lower cadmium limits, commenters indicated that the limiting exposure pathway, the exposure assumptions, and the analysis methods used in the risk assessment should be reevaluated.

With respect to the first issue, EPA believes that the current cadmium pollutant concentration limit of 39 mg Cd/kg sewage sludge generally should not be a concern for the export of most grains. However, because it is possible that some local conditions may cause cadmium levels to exceed European commodity tolerance levels for grain crops, EPA and USDA have agreed to develop a joint advisory statement for farmers who may export grain to the European markets. The advisory would recommend lower cadmium limits for cropland that may be used to produce crops for exports.

As requested by some commenters, the Agency has reevaluated the cadmium risk assessment and has concluded that its risk assessment approach for cadmium is conservative and defensible. EPA has thoroughly responded to these comments in the record for today's rulemaking. EPA continues to believe that the present cadmium pollutant limits are sufficiently protective of highly exposed individuals. There may be circumstances where site-specific conditions would suggest that a more stringent pollutant limit may be more appropriate. However, EPA's regulatory policy is to use conservative assumptions that will protect highly exposed individuals. This approach ensures protection against reasonably anticipated risks, not the risk associated with highly unlikely or unusual circumstances. The selection of data, assumptions, and analysis methods used in developing the land application cadmium pollutant limits are consistent with this policy. After further review, EPA concluded that the data and methods used in the risk assessment reflect actual growing conditions found throughout the United States.

As the Agency previously determined, the land application cadmium pollutant limit adopted for the final rule adequately protects public health and the environment. EPA has not received any new information since publication of the final rule that would indicate that a change in the current cadmium pollutant limit is warranted. Therefore, the current land application ceiling concentration limit of 85 mg/kg, the current cumulative pollutant loading rate of 39 kg/ha, the current pollutant concentration limit of 39 mg/kg, and the current annual pollutant loading rate of 1.9 kg/ha/365 day period remain in effect.

For additional discussion of the specific risk assessment issues and EPA's rationale for the final land application cadmium pollutant limits, EPA refers readers to the Response to Comments Document available in the docket for this proposed rulemaking.

C. Percent of the MCL for the Ground-Water Pathway

In the final rule, EPA asked for comment on whether, in its exposure assessments, a percentage of the end point to be protected (i.e., a Maximum Contaminant Level (MCL)) should be used to develop the allowable concentration of pollutants in sewage sludge for the ground-water pathway in both the land application and surface disposal risk assessments. EPA did not receive any public comments on this issue and is not, therefore, proposing any corresponding change to the regulation.

III. Proposed Amendments to Land Application, Surface Disposal, and Pathogens and Vector Attraction Reduction Subparts

A. Ceiling Concentration Limits—Land Application

Today's notice would amend the applicability section of the land application requirements to clarify that the ceiling concentration limits apply to all sewage sludge that is land-applied. While § 503.13(a)(1) requires that all land-applied sewage sludge must meet the ceiling concentration limits in Table 1 of § 503.13, the current language in § 503.10 (b)(1), (c)(1), (d), (e), (f), and (g) does not expressly require meeting the ceiling concentration limits. The proposed amendment would remove any ambiguity about the obligation to comply with ceiling concentration limits for land-applied sewage sludge.

B. Frequency of Monitoring

Sections 503.16, 503.26, and 503.46 of the current sewage sludge regulation require that sewage sludge be monitored for certain pollutants. How frequently sewage sludge must be monitored varies with the amount of sewage sludge that is used or disposed. The regulation allows the permitting authority to reduce the monitoring frequency after the sewage sludge has been monitored for two years. In no case, however, under the present requirements, may the permitting authority authorize monitoring less frequently than once per year for each use or disposal practice.

Today's notice would amend § 503.16, § 503.26, and § 503.46 to delete the language requiring monitoring of sewage sludge at least once per year. This amendment would provide additional flexibility to the permitting authority to reduce the frequency of monitoring for sewage sludge to less than once per year.

C. Certification Language

Sections 503.17 and 503.27 of the current sewage sludge regulation require sewage sludge preparers, land appliers, and the owner/operator of a surface disposal site to keep certain records, and in the case of Class I sludge management facilities and certain POTWs, to report this information to the permitting authority. The regulation also requires the recordkeepers to certify to compliance with all applicable requirements. Failure to certify may result in significant penalties.

The effect of this requirement may be to discourage self-reporting of violations. If monitoring measurements indicate that applicable sewage sludge requirements are *not* being met, a

recordkeeper obviously cannot certify to compliance without perjury. This puts the recordkeeper in the position of either committing perjury or failing to make the certifications. In either event, the recordkeeper risks significant penalties.

EPA is proposing to amend the language for the certification statements in § 503.17 and § 503.27. Under today's proposal, the recordkeeper would be required to certify only to the accuracy of the information that will be used to determine compliance with a part 503 requirement and its preparation under the certifier's supervision rather than to compliance with applicable part 503 requirement.

D. Time of Application

Sections 503.17 (a)(5)(ii)(C) and (b)(3) of the current regulation require the applier of sewage sludge subject to cumulative pollutant loading rates and the applier of domestic septage to agricultural land, forest, or a reclamation site, respectively, to record the time of application as well as supply certain other information needed to track the amount of regulated pollutants and the volume of domestic septage applied to a site. (See § 503.17(a)(5)(ii)(D) and (E); § 503.17(b)(5), which require recordkeeping on the cumulative amount of each pollutant applied at the site, the amount of sewage sludge applied, and the rate at which domestic septage is applied.) The information on cumulative amounts of pollutants applied is needed so that subsequent land appliers may determine whether additional amounts of sewage sludge can be applied at a site without exceeding the cumulative pollutant loading rate for any pollutant.

Questions have been raised about the meaning of the time of application requirement as well as the need for this information. After reviewing this issue, EPA has concluded that information on the time of application is not needed to track the amount of the part 503 pollutants applied to a site in bulk sewage sludge or the volume of domestic septage applied to the land. EPA has determined that, with information identifying the site at which the sewage sludge has been applied, the total cumulative load of metals at the site and the quantity of sewage sludge, subsequent sewage sludge appliers will have all the information needed to comply with the land application cumulative pollutant loading rates. The time of application also is not needed when domestic septage is applied to agricultural land, forest, or a reclamation site. For this reason, today's proposal deletes the requirement to record the time of application.

Today's proposal does not delete the requirement to record the date that sewage sludge or domestic septage is applied to site. The date is needed to know when the site restrictions for Class B sewage sludge begin and when they end. The date of application also is needed to determine when site restrictions begin and end when domestic septage is applied to agricultural land, forest, and reclamation sites.

EPA also is proposing today to amend section 503.17(a)(4)(ii) to add the requirement that the date of application be kept. This is needed because in this recordkeeping scenario, the sewage sludge is Class B with respect to pathogens. When a Class B sewage sludge is land applied, the date the site restrictions begin and end has to be known. Adding the requirement to record the date of application will provide the information needed to know when the site restrictions begin.

E. Definition of pH

EPA is proposing to clarify the definition of pH in § 503.31 in response to a recommendation received from the National Lime Association (NLA). The NLA recommended that EPA clarify the definition of pH to indicate that the pH is expressed at 25° C, the reference temperature for reporting pH values in the scientific literature.

The pH is very sensitive to temperature, especially at pHs of 12 and above. Certain of the pathogen alternatives and vector attraction reduction options call for raising the pH of sewage sludge or domestic septage to 12 or higher by alkali addition. Concern has been expressed that the pH readings taken after the addition of alkali will be high for temperatures below 25° C and low for temperatures above 25° C (i.e., there is an inverse relationship between temperature and pH). See discussion in 58 FR 46052, August 31, 1993.

Based on the above, the Agency has concluded that the pH of the sewage sludge or domestic septage must be measured at 25° C or, if measured at a different temperature, must be converted to an equivalent value at 25° C. See Smith and Farrell, which provides the following equation:

$$\text{pH correction} = 0.03 \text{ pH units}/1.0^\circ \text{C} \times (\text{Temp}^\circ \text{C}_{meas} - 25^\circ \text{C}).$$

EPA is proposing to amend the regulation accordingly.

F. Class B, Alternative 1—at the Time of Use or Disposal

EPA has concluded that the requirement in Class B, Alternative 1 does not have to be met at the time sewage sludge is used or disposed. This alternative, which requires that the fecal coliform density in the sewage sludge be less than either 2,000,000 Most Probable Number per gram of total solids or 2,000,000 Colony Forming Units per gram of total solids, can be met any time before the sewage sludge is used or disposed. The site restrictions that have to be met when a Class B sewage sludge is land applied and the surface disposal management practices provide the environment time to reduce remaining pathogens in a Class B sewage sludge to below detectable levels. This proposed change makes Class B, Alternative 1 consistent with Class B, Alternatives 2 and 3.

G. Class B Site Restriction for Grazing of Animals

When sewage sludge is used or disposed at a site, the current rule (§ 503.32(b)(5)(v) and § 503. 24(l)) prohibits grazing of animals at the site in certain circumstances. Controlling access to limit the exposure of all animals is difficult, if not impossible, to implement. EPA is accordingly proposing to amend the text of § 503.32(b)(5)(v)) to remove ambiguity in the language. The Agency's intention is to prohibit intentional, not inadvertent, grazing of animals.

Note, however, that the land application site restriction and surface disposal management practices that restrict public access *may* prevent access to the site for many types of animals depending on how public access is restricted (e.g., by a fence).

H. Vector Attraction Reduction Equivalency

Sewage sludge has a number of characteristics that may attract disease-spreading agents like birds, flies and rats. Consequently, the regulation includes requirements to reduce the potential for attracting these disease-spreading agents—so-called "vector attraction reduction" requirements. The rule provides a number of options for achieving the required vector attraction reduction.

The Agency has received requests for additional flexibility in meeting these requirements similar to that provided in the current regulation for Class A and Class B pathogen reduction requirements. Processes other than those prescribed in the regulation may be used to reduce pathogens if the

permitting authority determines they are equivalent to a Process to Further Reduce Pathogens (PFRP) or a Process to Significantly Reduce Pathogens (PSRP). See 58 FR 9400, February 19, 1993.

Under the current system, the permitting authority must decide whether a pathogen reduction process is equivalent. Often, the permitting authority requests assistance in making this decision from EPA's Pathogen Equivalency Committee (PEC). The PEC, which consists of representatives from EPA's Office of Research and Development and from EPA's Office of Water, provides technical assistance on pathogen issues and makes recommendations on equivalency determinations. The PEC only makes *recommendations* on pathogen equivalency determinations. Thus, the final decision rests with the permitting authority.

EPA is proposing in today's notice to amend § 503.15(c), § 503.25(b) and § 503.33(a) so as to allow the same flexibility with respect to the vector attraction reduction options that require treatment of the sewage sludge. EPA is not proposing to authorize an equivalency determination for the barrier vector attraction reduction options (i.e., Options 9 and 10 for land application and Options 9, 10 and 11 for surface disposal) because EPA is unaware of any barrier options other than those already provided in part 503. Commenters should submit any information they may have about other options. As with equivalency for pathogen reduction, the final decision on vector attraction reduction equivalency will be the responsibility of the permitting authority. EPA's PEC may assist the permitting authority in making vector attraction reduction equivalency determinations.

I. Vector Attraction Reduction at the Time of Use or Disposal

Under the current regulation, the vector attraction reduction options that require treatment of the sewage sludge (i.e., Options 1 through 8) may be met any time before the sewage sludge is used or disposed. Options 9, 10, and 11 must be met at the time the sewage sludge is used or disposed. EPA has reviewed these options and concluded that certain modifications may be needed to protect public health and the environment and to introduce additional flexibility.

When any of the first five options is employed, the sewage sludge does not become more attractive to vectors if it is stored before it is used or disposed. Thus, Options 1 through 5 may appropriately be met any time before the sewage sludge is used or disposed. However, EPA has concluded that this may not be true in the case of Options 6, 7, and 8.

Vector attraction reduction achieved by pH adjustment (i.e., Option 6) is not permanent. Adjusting the pH of the sewage sludge to 12 does not change the characteristics of the sewage sludge significantly, but instead causes stasis in biological activity. If the pH should drop, the surviving bacterial spores could become active and the sewage sludge could putrefy and attract vectors. The target pH conditions in Option 6 allow the sewage sludge to be stored for several days before it is used or disposed without the pH dropping.

If quicklime or slaked lime is used to adjust the pH, the pH is not expected to fall below 12 for up to 25 days after the addition of the lime. If a different alkali (e.g., cement kiln dust or wood ash) is used to adjust the pH, the period before which the pH drops may be different because other alkali materials are more soluble than lime. Thus, less undissolved material is available to maintain the pH as it starts to drop.

Because the pH of the sewage sludge could drop after the target conditions in Option 6 are reached, the Agency is proposing in today's rulemaking to require that vector attraction reduction Option 6 must be met at the time the sewage sludge is used or disposed.

Two approaches could be used to meet this proposed requirement. First, the target pH conditions could be met at any time. Just prior to use or disposal (e.g., within one or two days), the pH of the sewage sludge could be checked. If the pH of a representative sample of the sewage sludge is 11.5 or above, vector attraction reduction is achieved. If the pH is below 11.5, the pH has to be adjusted again to reach the target conditions in Option 6 or another vector attraction reduction option (e.g., incorporation) has to be met. The other approach is to meet the target conditions in Option 6 at the time of use or disposal. For example, the pH could be adjusted two days prior to when the sewage sludge is used or disposed and the target conditions could be met during those two days.

Vector attraction reduction Options 7 and 8 require that the percent solids in the sewage sludge be above a certain value. If the percent solids drops (i.e., moisture content increases), vectors could be attracted to the sewage sludge. Thus, today's proposal also would require that vector attraction reduction Options 7 and 8 be met at the time the sewage sludge is used or disposed.

Vector attraction reduction Option 10 requires incorporation of sewage sludge into the soil within six hours after it is land applied or surfaced disposed. This reduces the attraction of vectors to the sewage sludge by placing a barrier between the sewage sludge and the vectors. In some cases, it may not be feasible to incorporate the sewage sludge into the soil within six hours after it is land applied or surface disposed. Today's proposal would allow the permitting authority the flexibility to address those cases on a site-specific basis.

Today's proposal would amend § 503.33 (b)(6), (b)(7), and (b)(8) by adding language making it clear that these requirements must be met at a defined time rather than any time before the sewage sludge is used or disposed.

The proposal also would amend § 503.33(b)(10)(i) to add language to authorize the permitting authority to specify a different time period during which sewage sludge has to be incorporated into the soil after it is land applied or surface disposed. This would allow the permitting authority to consider site-specific conditions (e.g., the remoteness of a land application site) that may affect the time period during which sewage sludge can be incorporated into the soil.

J. Technical Corrections

Today's proposal also contains several technical corrections. The following proposed amendments are minor in nature and provide clarification on some of the technical requirements of the final part 503 regulation.

1. § 503.16(a)(1) and § 503.26(a)(1)—Frequency of Monitoring

Sections 503.16(a)(1) and 503.26(a)(1) contain the requirement for monitoring for pollutants, pathogen densities, and vector attraction reduction. Those sections incorrectly indicate there are pathogen density requirements in § 503.32 (b)(3) and (b)(4). Today's notice deletes the reference to § 503.32 (b)(3) and (b)(4) from § 503.16(a)(1) and § 503.26(a)(1).

Sections 503.16(a)(1) and 503.26(a)(1) also incorrectly indicate that the frequency of monitoring requirements apply to vector attraction reduction Option 5 in § 503.33(b)(5). Today's notice deletes the reference to vector attraction reduction Option 5 from § 503.16(a)(1) and § 503.26(a)(1).

2. § 503.17(b)(7)—Recordkeeping for Land Application of Domestic Septage

Today's notice amends § 503.17(b)(7) by changing an incorrect reference.

3. § 503.18—Reporting

Today's notice corrects the omission of a reporting date in the current rule by inserting February 19th in § 503.18(a)(2).

4. § 503.22(b)—General Requirements

Today's notice amends § 503.22(b) correcting the statutory reference and by inserting the appropriate date.

5. § 503.32(a)(3)—Pathogens

Today's notice amends § 503.32(a)(3) to clarify that this option excludes composting. Class A, Alternative 1 was designed for thermal processes such as anaerobic digestion and does not apply to composting.

6. Appendix B to Part 503—Pathogen Treatment Processes

The description of Process to Further Reduce Pathogens (PFRP) No. 6 (Gamma ray irradiation) is corrected to insert the phrase "at dosages of at least 1.0 megarad at room temperature (ca. 20° C)" that was inadvertently omitted.

IV. Proposed Amendments to the Incineration Subpart

A. Introduction

A sewage sludge incinerator is a treatment works treating domestic sewage as defined in 40 CFR 122.2 and 501.2. In most cases, the treatment works generating the sewage sludge operates the sewage sludge incinerator so that a permit issued to the generating treatment works will contain the part 503 requirements applicable to its incinerator.

Subpart E of part 503, 40 CFR 503.40–503.48, establishes the technical requirements for the incineration of sewage sludge. Under section 405 of the CWA, EPA must establish adequately protective pollutant limits for the use or disposal of sewage sludge. However, where numerical pollutant limits are not feasible, EPA may adopt design or operational standards. EPA has done both for incinerated sewage sludge. EPA established pollutant limits that restrict the level of certain pollutants in the sewage sludge to ensure that pollutants in emissions from a sewage sludge incinerator will not exceed safe levels. In the case of organic pollutants, EPA established an operational standard for total hydrocarbons (THC) in the emissions rather than limits on organic pollutants in the sewage sludge fed to the incinerator.

Subpart E establishes these requirements for the firing of sewage sludge: (1) A general requirement in § 503.42, (2) compliance with the National Emission Standards for Hazardous Air Pollutants (NESHAPs) for beryllium and mercury (§ 503.43); (3) sewage sludge pollutant limits for lead, arsenic, cadmium, chromium and nickel (§ 503.43); (4) an operational standard for total hydrocarbons (THC) in the stack emissions (§ 503.44); (5) management practices (§ 503.45); and (6) frequency of monitoring, recordkeeping, and reporting requirements (§ 503.46–503.48).

Under the regulation, as discussed in more detail below, site-specific variables are used to determine the specific requirements for an individual sewage sludge incinerator. These variables include the type of incinerator, type of air pollution control device(s) (APCD), incinerator combustion temperature, dispersion factor, incinerator control efficiency, and incinerator stack height. Thus, for example, allowable pollutant concentrations in the sewage sludge will vary depending on dispersion of the emissions from the incinerator stack. This, in turn, is a function of meteorological conditions around the incinerator site as well as the height of the incinerator exit gas stack.

Under current 40 CFR 503.43, the pollutant limits for all sewage sludge incinerators depend on actual site-specific conditions rather than default values or standard factors that necessarily overgeneralize sewage sludge incinerator site conditions. Thus, the regulation provides flexibility to tailor pollutant limits for individual sewage sludge incinerators based on actual conditions at the incinerator. (For example, the allowable lead concentration in incinerated sewage sludge depends on a dispersion factor. However, the dispersion factor must be determined from an air dispersion model which in turn requires site-specific data.) As a result, while the current regulation describes what the standard is and how it is determined, the actual requirements are not detailed in the regulation. Instead, the regulation calls for determination of site-specific factors in accordance with instructions from the permitting authority (e.g., section 503.43(a)(2)(i), "when * * * specified by the permitting authority * * *").

The current regulation also requires continuous emission monitoring of certain incinerator operating conditions to ensure compliance with the part 503 requirements. Again, the sewage sludge incinerator requirements in current 40 CFR 503.45 call for the permitting authority to "specify" the criteria for installation, calibration, operation, and maintenance of the instruments used to measure and record these conditions (e.g., combustion temperature). Other current management practices require the permitting authority to "specify" maximum combustion temperature and values for the operating parameters for the sewage sludge incinerator air pollution control device(s), which also may vary from sewage sludge incinerator to sewage sludge incinerator. Finally, current subpart E requires the permitting authority to specify the frequency of monitoring for beryllium and mercury and for the operating parameters for the air pollution control devices.

In summary, the subpart E part 503 requirements provide for consideration of site-specific factors by directing the permitting authority to specify parameters required to determine applicable requirements. The result of this site-by-site tailoring of incinerator requirements is that the determination of an individual incinerator's applicable requirements are deferred until the permitting authority's decision. Put another way, the regulation already contains a provision requiring that incinerators meet the specific requirements, but until the permitting authority specifies the underlying site-specific factors for the individual sewage sludge incinerator, compliance or non-compliance with the requirements cannot be determined. This approach is different from the other sewage sludge use or disposal requirements in part 503, which are designed to be self-implementing.

B. Description of Current Regulation and Proposed Amendments

1. Site-specific Exemption From Frequency of Monitoring, Recordkeeping, and Reporting Requirements in Incineration Subpart

a. Current Regulation

Section 503.43 establishes pollutant limits for metals in sewage sludge that is incinerated. As discussed further below, these pollutant limits vary for each incinerator based on site-specific factors (e.g., location, control efficiency).

Since publication of the part 503 regulation, EPA has reviewed information on the pollutant limits, determined as prescribed in § 503.43, for a number of different sewage sludge incinerators. In many cases, the pollutant limits are considerably higher—often several orders of magnitude—than the actual concentration of metals in the sewage sludge being incinerated. This indicates that the incinerator operating conditions and site conditions will permit safe incineration of sewage sludge with high

concentration of pollutants. Given the resulting ample margin of safety between the calculated pollutant limit and the actual concentrations of metals in incinerated sewage sludge, EPA is considering introducing additional flexibility into the incinerator requirements.

b. Proposed Amendment

To reduce the burden of compliance with the part 503 requirements, EPA is proposing to amend the applicability section (§ 503.40) of the incineration subpart to not subject an incinerator to a pollutant limit and the associated frequency of monitoring, recordkeeping, and reporting requirements for the pollutant in certain circumstances, if approved by the permitting authority. Under the approach proposed today, the sewage sludge would not have to be monitored for a particular pollutant and records of the concentration of a pollutant in sewage sludge would not have to be kept if the calculated pollutant limit exceeds the highest average daily concentration for that pollutant in the sewage sludge for the months in the previous calendar year.

The proposed approach assumes that the incinerator continues to be operated as it was operated during its performance test. If it is not operated in that manner, the permitting authority may reimpose the frequency of monitoring, recordkeeping, and reporting requirements for the particular pollutant.

EPA requests comments on the proposed site-specific exemption from the frequency of monitoring, recordkeeping and reporting requirements for sewage sludge incinerators. EPA also requests comments on other approaches that should be considered.

For example, should the Agency limit the exemption to circumstances in which the calculated pollutant limit is significantly higher than the average daily concentration of the pollutant in the incinerated sewage sludge? If so, how should the Agency define significantly higher? An order of magnitude higher than the actual concentration in the sewage sludge, 50 percent higher, or some other percentage?

2. Pollutant Limits for Arsenic, Cadmium, Chromium, Lead and Nickel

a. Current Regulation

40 CFR 503.43 establishes limits on the allowable "daily concentration" of arsenic, cadmium, chromium, lead and nickel in sewage sludge that is incinerated. The allowable limits are calculated using equations set forth in the regulation and are dependent on a number of factors that vary with specific conditions at an incinerator site. For all five regulated metals, the regulation requires determination of the following two factors that are dependent on site-specific conditions. These are: (1) A dispersion factor (DF)—how pollutants are dispersed when they exit the incinerator stack, and (2) the incinerator's control efficiency (CE)—how efficiently the incinerator removes pollutants in the sewage sludge that is incinerated. The regulation requires use of an air dispersion model to determine the DF and a performance test to establish the CE, both of which must be "specified by the permitting authority." In addition, if authorized by the permitting authority, the regulation provides for the calculation of an alternative allowable chromium limit based on a site-specific measurement of the fraction of hexavalent chromium to total chromium in an incinerator's stack emissions. The preamble to the final part 503 regulation explains in more detail at 58 FR 9355, February 19, 1993, how allowable concentrations are determined. EPA did not rely on assumed values for dispersion factors and control efficiency because the Agency concluded that use of such values would overgeneralize site conditions and establish more restrictive conditions than dictated by protection of public health and the environment (see 58 FR at 9355).

b. Proposed Amendment

The proposal would revise 40 CFR 503.43(c)(1) and (d)(1) to clarify that the sewage sludge must meet the average daily concentration for a pollutant based on the number of days in a month that the incinerator operates. This clarification is consistent with EPA's risk assessment for incinerators, which was based on average daily values. (See the definition of risk specific concentration (RSC) in § 503.41(i), which is used in the calculation of the allowable average daily sewage sludge concentration.)

The proposal also would revise 40 CFR 503.43(c)(2), (c)(3), (d)(4), and (d)(5) to remove the requirement for the permitting authority to prescribe the air dispersion model used in determining the DF, and the performance test to determine CE. In addition, the proposal would delete the requirement in current § 503(d)(3) that requires the permitting authority to authorize an allowable chromium limit based on site-specific hexavalent chromium stack emissions.

EPA is proposing these changes to modify the regulation to make it self-implementing and thus reduce the burden on the regulated community as well as the Agency's own limited permitting resources. In the current form, the regulation requires that the permitting authority determine appropriate models and performance tests parameters before pollutant limits can be calculated. This approach assumed a process in which the person who fires sewage sludge in a sewage sludge incinerator worked closely with a permitting authority in deciding what models and performance test procedures would be appropriate.

Recognizing that such a process can be very resource-intensive, EPA is today proposing a different approach. Under this approach, allowable pollutant limits must be calculated using the equation provided in the regulation. To establish these limits, the dispersion factor must be determined through an air dispersion model and the incinerator control efficiencies must be determined through a performance test of the incinerator. The choice of appropriate models and the specifications for the performance tests rests with the person who fires sewage sludge in a sewage sludge incinerator. These choices will, of course, be reviewed by the permitting authority. Sewage sludge incinerators should retain all records that show how allowable pollutant limits were calculated.

Proposed new § 503.43(e)(1) describes the factors that should be considered in selecting an air dispersion model. The air dispersion model must be appropriate for the geographical, physical, and population conditions at the sewage sludge incinerator site. Its selection must be consistent with good air pollution control practices for minimizing air emissions. New dispersion modeling to establish the DF is required where, as provided in proposed 40 CFR 503.43(e)(4), geographic or physical conditions at the incinerator site warrant.

Under proposed 40 CFR 503.43(e)(2), a person who fires sewage sludge in a sewage sludge incinerator must submit a proposed air dispersion modeling protocol to the permitting authority no later than 30 days from the date of publication of a final rule promulgating such an amendment. This will provide the permitting authority the opportunity to review the submitted protocol to insure that it accurately models conditions at the incinerator site. The permitting authority must notify the operator within 30 days if the selected model may not be used to determine the DF because it is inappropriate. If the person who fires sewage sludge does not hear from the permitting authority to the

contrary, that person may use the submitted protocol to calculate its DF.

EPA has published several guidance documents that contain recommendations as to how to select appropriate air dispersion models. These models take into account such site-specific factors as stack height, stack diameter, stack gas temperature, exit velocity, and surrounding terrain. See U.S. EPA, "Guideline on Air Quality Models (Revised)" (EPA–450/2–78–027R) (July 1993). This information also is available in Appendix W to 40 CFR Part 51. See also U.S. EPA. "Technical Support Document for Sewage Sludge Incineration" at Section 5.6.1 (EPA 822/R–93–003) (November 1992).

In many cases, the appropriate air dispersion factor can be determined using the ISCLT2 air dispersion model. The ISCLT2 model is a steady-state Gaussian plume model that can be used to assess pollutant emissions from a wide variety of sources including sewage sludge incinerators in the long-term mode. It is appropriate for both rural or urban areas, and either flat or rolling terrain whenever the terrain elevation is lower than the stack height. The model can account for the following factors: settling and dry deposition of particles; downwash; area, line and volume sources; plume rise as a function of downwind distance; separation of point sources (multiple stacks); and limited terrain adjustment. If ground level terrain in the impact area exceeds the stack height, complex and intermediate terrain modeling also must be addressed.

As noted, this proposed rulemaking also would revise § 503.43 (c)(3) and (d)(5) to delete the requirement that the permitting authority specify how to determine the CE. Proposed § 503.43 (c)(3) and (d)(5) provide, instead, that the CE for equation (4) and equation (5), respectively, shall be determined from a performance test of the sewage sludge incinerator. Proposed paragraph (e)(1) of § 503.43 requires that the performance test be appropriate for the type of sewage sludge incinerator and that the test be conducted in a manner consistent with good air pollution control practices for minimizing air emissions. The performance test measures the degree to which the sewage sludge incinerator and associated air pollution control devices remove a given pollutant. As discussed below, performance tests also are required because they generate data on which to base the parameter operating ranges for the incinerator.

Proposed paragraph (e)(3) also specifies procedures to be followed in conducting performance tests of sewage sludge incinerators. These procedures parallel those in 40 CFR 60.8, a regulation that describes the general procedures for conducting performance testing under the Clean Air Act. EPA believes that it is necessary to specify minimal procedures for conducting performance testing now that subpart E of part 503 is self-implementing.

Proposed 40 CFR 503.43(e)(3) would require performance testing under representative incinerator operating conditions for metals emissions, with the highest expected feed rate of sewage sludge within design specifications. Further, the permitting authority must be notified at least 30 days prior to the test so the permitting authority may observe the test. Each performance test must consist of at least three separate runs at the same operating conditions. For the purpose of establishing a control efficiency for a pollutant, the arithmetic mean of the results of the three runs should be used.

EPA has prepared guidance on the performance test used to develop the incinerator control efficiency for a pollutant. Section 5.6.2 and appendix E of the "Technical Support Document for Sewage Sludge Incineration" (EPA 822/R–93–003) (November 1992) discuss performance testing to derive the control efficiency for the five metals limited for sewage sludge incinerators under part 503 (arsenic, cadmium, chromium, lead, and nickel). EPA also published guidance on performance testing in the September, 1994 draft version of the "Guidance for Writing Permits for the Use or Disposal of Sewage Sludge."

As noted, this proposed rulemaking would delete the requirement in current § 503.43(d)(3) for the permitting authority authorization of a site-specific chromium risk specific concentration (RSC) used in the equation (5) calculation. Either the national default RSC or the RSC calculated using equation (6) can be used in equation (5) to develop a pollutant limit for chromium.

EPA has developed a methodology for determining hexavalent chromium emissions from stationary sources. See U.S. EPA, "Laboratory and Field Evaluations of a Methodology for Determining Hexavalent Chromium Emissions from Stationary Sources" (EPA/600/3–91/052) (1992). Persons who choose to calculate RSC values for chromium using equation (6) must use a scientifically defensible methodology for determining hexavalent chromium emissions.

EPA also proposes to make a technical change to § 503.43(c)(3) to correct the number of the referenced equation to (4). In addition, EPA proposes to make three technical changes to § 503.43(d) (1) and (2). These changes will correct two typographical errors in the definition of terms in (d)(1) and in the reference to Equation "6" in (d)(2).

Given the proposed deadlines for complying with this regulation, EPA would encourage incinerators that do not have a permit to begin the effort to determine the pollutant limits for the incinerator. Prior to the effective date of this regulation, if EPA has been notified about the model used to determine the DF and if EPA was notified 30 days in advance of a performance test, following promulgation, the information on the DF model will not have to be resubmitted and a second performance test will not have to be conducted. However, in the event that conditions and circumstances change significantly at the incinerator after the allowable pollutant limits are calculated, the requirements in today's proposed rule will apply when the final regulation becomes effective.

The control efficiency of a sewage sludge incinerator is derived from a comparison of the mass of a pollutant in the sewage sludge fed to the incinerator to the mass of the pollutant in the exit gas from the incinerator stack. Thus, to determine the control efficiency, representative samples of the sewage sludge fed to the incinerator and the exit gas from the incinerator stack have to be collected and analyzed for the pollutants in 40 CFR 503.43. Under § 503.8(b)(4), EPA requires the use of a specific test methodology for analyzing the metals concentrations in the sewage sludge fed to the incinerator: "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW–846, Second Edition (1982) with Updates I (April 1984) and II (April 1985) and Third Edition (November 1986) with Revision I (December 1987).

EPA does not currently require the use of a specific test methodology for calculating the metals emissions in exit gases from sewage sludge incinerator stacks. EPA does require, however, the use of a specific methodology for the determination of metals emissions (chromium, cadmium, arsenic, lead, and zinc) in exhaust gases from hazardous waste incinerators and other similar combustion processes as part of the Methods Manual for Compliance with the BIF Regulations in 40 CFR part 266, appendix IX. (The method also is available in "EPA Methods Manual for Compliance with the BIF Regulations" (EPA 530–SW–91–010).) Under the Clean Air Act, EPA has proposed to add

method 29, "Determination of Metals Emissions from Stationary Sources," to appendix A of part 60, and to propose amendments to method 101A of appendix B of part 61. (59 FR 48259, September 20, 1994). Method 29 is being proposed so that it can be used to determine mercury, cadmium, and lead emissions from municipal waste combusters under subpart Ea of part 60. (Method 29 is already applicable to arsenic, chromium, and nickel.) Public comment is specifically requested on the propriety of requiring use of one of these methods (assuming the air method is finalized as proposed) to analyze emissions from sewage sludge incinerator stacks for the metals regulated under § 503.43(c) and (d).

3. Management Practices

a. Current Regulation

i. Specification for Instruments

40 CFR 503.45 contains seven management practices for incineration of sewage sludge. These include requirements to install four instruments to measure and record data to determine compliance with the THC operational standard. Key operating parameters for sewage sludge incinerators are monitored continuously to indicate that adequate combustion conditions are maintained in the incinerator (consistent with the conducted performance test) and to minimize metal and THC emissions. The regulation requires that the four monitoring instruments be installed, calibrated, operated, and maintained, as specified by the permitting authority.

40 CFR 503.44 contains an operational standard for the total hydrocarbons (THC) concentration in the exit gas from a sewage sludge incinerator. By controlling THC, EPA controls the emission of organic pollutants in the sewage sludge fed to the incinerator and created during the incineration process. Under § 503.44(c), the monthly average concentration for total hydrocarbons in the sewage sludge incinerator exit gas may not exceed 100 parts per million on a volumetric basis, when corrected for zero-percent moisture and to seven-percent oxygen using equations (7) and (8) of § 503.44.

As revised in February 1994, 40 CFR 503.40(c) provides the option of continuous monitoring of the carbon monoxide concentration in the exit gas in lieu of continuous monitoring of the THC concentration in the exit gas if specified conditions are met. See 59 FR 9095, February 25, 1994. As discussed at 59 FR 9098, the alternative of monitoring for carbon monoxide is effective pending changes after an EPA study of the matter. At the completion of the study, which EPA contemplates will address monitoring for carbon monoxide or other parameters (including temperature) to measure compliance with the THC operational standard in lieu of monitoring THC continuously, EPA will decide whether further amendments to part 503 are needed.

Under 40 CFR 503.45, an instrument must be installed, calibrated, operated, and maintained, as specified by the permitting authority, that continuously measures and records the following information: the total hydrocarbon concentration in the exit gas, the oxygen concentration in the exit gas, and information to determine the moisture content in the exit gas; and the combustion temperatures in the sewage sludge incinerator. By continuously measuring the oxygen content and information needed to determine moisture content of the exit gas, the THC emission value can be corrected to seven-percent oxygen and for zero-percent moisture.

Where incinerators have monitors that automatically correct for moisture content (e.g., continuous CO monitors), a correction for moisture content need not be made. In addition, CO and THC monitors and measuring devices may be shared if there is more than one sewage sludge incinerator at the treatment works.

ii. Specification of Maximum Combustion Temperature

40 CFR 503.45(e) requires the permitting authority to specify the maximum combustion temperature for a sewage sludge incinerator based on information obtained from the performance test of the sewage sludge incinerator. This practice ensures that the maximum combustion temperature does not significantly exceed the combustion temperature during the performance test of the incinerator.

iii. Specification of Air Pollution Control Device Operating Parameters

Another management practice for sewage sludge incineration, which is described in § 503.45(f), requires that an air pollution control device be operated within the values for the operating parameters specified by the permitting authority and that those values be based on information obtained during the performance test of the sewage sludge incinerator. The regulation contemplates that sewage sludge incinerators will have limits and monitoring requirements for selected parameters that are consistent with the performance of air pollution control devices. Examples of air pollution control devices include venturi scrubbers, impingement scrubbers, mist eliminators, dry scrubbers, fabric filters, and wet electrostatic precipitators. For example, pressure drop, liquid flow rate, gas temperature, and gas flow rate are recommended parameters for assessing performance for venturi scrubbers.

b. Proposed Regulation

This proposed rulemaking would revise 40 CFR 503.45 (a)(1) and (b)–(d) to delete the requirement for the permitting authority to specify the manner in which the described instruments are to be installed, calibrated, operated, and maintained. Under proposed § 503.45(h)(1), the person who fires sewage sludge in a sewage sludge incinerator must select the instruments described in § 503.45 (a)(1) and (b)–(d) that are appropriate for the type of sewage sludge incinerator and the instruments must be installed, calibrated, operated, and maintained consistent with good air pollution control practice for minimizing emissions.

In the final part 503 rule, EPA required the permitting authority to specify the manner in which these instruments were to be installed, calibrated, operated, and maintained because, at that time, there was only limited EPA guidance in this area. In June 1994, however, EPA published new guidance entitled "THC Continuous Emission Monitoring Guidance for Part 503 Sewage Sludge Incinerators" (EPA 833–B–94–003). The guidance contains recommended installation, calibration, operation, and maintenance procedures for the instruments specified in § 503.45(a)–(c). With regard to the instrument required under § 503.45(d) for continuous measurement of combustion temperatures, see the "Technical Support Document for Sewage Sludge Incineration" at section 7.4 (EPA 822/R–93–003).

EPA is today also proposing to delete the current requirement for the permitting authority to specify the maximum combustion temperature for a sewage sludge incinerator and the values for the operating parameters for the air pollution control devices in current § 503.45 (e) and (f). Both sections already provide that the specified values are to be based on information obtained during the performance test of the sewage sludge incinerator.

Proposed § 503.45(e) states that the operation of the sewage sludge incinerator shall not significantly

exceed the maximum combustion temperature for the sewage sludge incinerator and that the maximum combustion temperature for the sewage sludge incinerator shall be based on information obtained during the performance test of the sewage sludge incinerator. EPA recognizes the variability during operation of a sewage sludge incinerator and intends that the maximum temperature be an average temperature. EPA requests comment on the type of averaging and on a range above the maximum seen in the performance test that should be allowed.

Proposed § 503.45(f) states that the operation of the sewage sludge incinerator shall not cause the values for the operating parameters for the sewage sludge incinerator air pollution control device to be exceeded. Proposed § 503.45(f) also requires that the air pollution control device selected be appropriate for the particular sewage sludge incinerator; that the operating parameters for the air pollution control device indicate adequate performance of the device; and that the values for the operating parameters for the sewage sludge incinerator air pollution control devices be based on results of the performance test of the sewage sludge incinerator. No changes should be made in the values for the air pollution control device operating parameters after the performance test. EPA intends that the values for the operating parameters for the sewage sludge incinerator air pollution control devices be a range. EPA requests comment on appropriate ranges around those seen in the performance test that should be allowed for each parameter.

EPA has developed guidance describing common air pollution control devices, the parameters for various air pollution control device technologies that indicate adequate performance of the device, and the common measuring devices for the respective parameters. See the "Technical Support Document for Sewage Sludge Incineration" sections 2.3, 7.5, and appendix M (EPA 822/R–93–003).

As noted above, EPA has developed guidance describing recommended parameters for various air pollution control device technologies that indicate adequate performance of the device. EPA is considering whether it is appropriate to standardize, by regulation, which parameters can be used to indicate adequate performance for a particular air pollution control device. EPA would appreciate receiving comments concerning whether such a regulation is necessary and whether the parameters that are listed in appendix M to the "Technical Support Document for Sewage Sludge Incineration," as cited above, for each air pollution control device continue to be appropriate. If developed, such a regulation could allow flexibility in the selection of alternative parameters, unless the permitting authority specifies otherwise.

4. Frequency of Monitoring

a. Current Regulation

i. Beryllium, Mercury, and Operating Parameters for Air Pollution Control Devices

40 CFR 503.43 (a) and (b) provide that the firing of sewage sludge in a sewage sludge incinerator may not violate the National Emission Standard for Hazardous Air Pollutant (NESHAP) for beryllium in subpart C and for mercury in subpart E of 40 CFR part 61, if applicable. To support this pollutant limit, 40 CFR 503.46(a) requires monitoring for mercury and beryllium as specified by the permitting authority.

The NESHAP in 40 CFR 61.32(a) establishes an emission standard for beryllium of no more than 10 grams of beryllium emitted over a 24-hour period; or, alternatively, upon the approval of the Administrator, 40 CFR 61.32(b) establishes an ambient concentration limit for beryllium in the vicinity of the stationary source of 0.01 $\mu g/m^3$, averaged over a 30-day period. To comply with § 61.32(a), § 61.33 imposes a one-time start-up stack sampling requirement for beryllium emissions. If the option of compliance with § 61.32(b) is chosen, § 61.34 requires the stationary source to locate air sampling sites in accordance with a plan approved by the Administrator and to operate monitoring sites continuously.

With regard to mercury, the NESHAP in 40 CFR 61.52(b) establishes an emission standard of 3200 grams of mercury per 24-hour period. Sections 61.53(d) and 61.54 establish two alternatives means of establishing compliance with the emission standard: (1) an emissions test or (2) a sewage sludge sampling test. If the incinerator chooses sewage sludge sampling, § 61.54 requires the sewage sludge to be sampled according to method 105 in appendix B to part 61 and includes an equation to determine the mercury emissions from the sewage sludge sampling results:

$$E_{H}g = \frac{MQ\,F_{s}m(avg)}{1000}$$

$E_{H}g$=Mercury emissions, g/day.
M=Mercury concentration of sewage sludge on a dry solids basis, µg/g.
Q=Sewage sludge charging rate, Kg/day.
$F_{s}m$=Weight fraction of solids in the collected sewage sludge after mixing.
1000=Conversion factor, Kg µg/g2.

Sections 61.53(d) and 61.54 impose a one-time start-up sampling requirement. Section 61.55 imposes an annual monitoring requirement for incinerators for which mercury emissions exceed 1,600 grams per 24-hour period, demonstrated either by stack sampling according to § 61.53 or sewage sludge sampling according to § 61.54.

Part 503 also imposes a monitoring obligation for sewage sludge incinerator air pollution control device operating parameters. Current 40 CFR 503.46(c) requires monitoring for these parameters as specified by the permitting authority.

ii. Total Hydrocarbons, Oxygen Concentration, and Information To Determine Moisture Content

Section 503.46(b) requires that the total hydrocarbons (THC) concentration and oxygen concentration in the exit gas from a sewage sludge incinerator stack and information used to determine moisture content in the exit gas be monitored continuously. Oxygen content and information used to determine moisture content have to be measured continuously because that information is needed to correct the measured exit gas THC concentrations to seven percent oxygen and for zero percent moisture.

Sections 503.45 (a) and (b) require that a continuous emissions monitor (CEM) for THC and oxygen, respectively, be installed, calibrated, operated, and maintained. As mentioned previously, today's proposal deletes the requirement for the permitting authority to specify how to install, calibrate, operate, and maintain these CEMs.

b. Proposed Regulation

This proposed rulemaking would incorporate the monitoring frequencies for beryllium and mercury now contained in 40 CFR Part 61 and establish specific monitoring frequencies for the sewage sludge air pollution control device operating parameters. With regard to monitoring for beryllium and mercury, EPA proposes to revise current 40 CFR 503.46(a)(1), which requires the permitting authority to specify monitoring frequencies for beryllium and mercury, to provide that beryllium shall be monitored as required under subpart C of 40 CFR part 61 and mercury as required under subpart E of 40 CFR part 61. For beryllium, this represents a one-time start-up stack

sampling requirement or, alternatively, a continuous air sampling requirement. For mercury, this represents a one-time start-up stack or sewage sludge sampling requirement, with annual monitoring for those sources for which mercury emissions exceed 1600 grams per 24-hour period, as specified in 40 CFR 61.53–.55. Because this monitoring is already required under the air program, the proposed regulation would not impose an additional monitoring burden on the regulated community.

EPA requests comments concerning whether it is appropriate to establish a periodic monitoring frequency for beryllium and mercury for sewage sludge incinerators. In contrast to the Clean Air Act, EPA has historically required periodic monitoring to determine compliance with Clean Water Act requirements.

For mercury, some options that EPA is considering are:

1. A periodic (quarterly or annual) stack or sewage sludge sampling requirement, depending on whether the incinerator has selected the emissions or sewage sludge sampling alternative specified in 40 CFR 61.53(d) or 61.54. The sampling obligation could apply to all sewage sludge incinerators that emit mercury, and could be conducted according to the test methods specified in the NESHAP (method 101A in appendix B to part 61 for stack sampling or method 105 in appendix B to part 61 for sewage sludge sampling). One disadvantage with this approach is the cost of conducting stack sampling for metals emissions, which can be in the range of several thousand dollars per sampling event. In contrast, the cost of sampling sewage sludge for most metals, including mercury, is normally less than $80 per sample. Sewage sludge sampling would not impose any additional burden because part 503 already requires sewage sludge sampling of other metals.

2. A periodic (monthly or quarterly or annual) requirement to sample sewage sludge for mercury. The difference between options 1 and 2 is that all sewage sludge incinerators would monitor the sewage sludge for mercury, even those incinerators that choose to conduct stack sampling to meet the NESHAP requirements. All sewage sludge incinerators may use the equation specified in § 61.54(d) to assess whether the mercury concentration measured in the sewage sludge meets the NESHAP emission standard. EPA also requests comments concerning the use of the § 61.54 equation for purposes of part 503 sewage sludge sampling for beryllium. The advantage of this option is that the cost of NESHAPs sampling sewage sludge is reduced to a minimal analytic cost alone, as discussed above.

3. Periodic sewage sludge monitoring based on the amount of sewage sludge fed to the sewage sludge incinerator. Option 3 represents a variation on Option 2. Option 3 would require sewage sludge sampling for all incinerators, as above. The frequency of monitoring, however, would vary for particular sewage sludge incinerators based on annual amount of sewage sludge fired in an incinerator as it does for other pollutants. This could be accomplished by revising current 40 CFR 503.46(a)(2) to add mercury as a pollutant for which monitoring can be conducted according to the requirements of Table 1 of § 503.46. Table 1 currently establishes a range of monitoring frequencies from once per year to once per month, depending on the amount of sewage sludge fired in a sewage sludge incinerator (metric tons per 365-day period) for the pollutants arsenic, cadmium, chromium, lead and nickel. Current § 503.46(a)(3) also allows the permitting authority to reduce the frequency of monitoring to a minimum of once per year after the sewage sludge has been monitored for two years at the frequency stated in Table 1. [See discussion above in section III.B on a proposed amendment to allow the permitting authority to reduce the frequency of monitoring for each use or disposal practice to less than once a year after the sewage sludge has been monitored for two years.] EPA also could include mercury on the list of pollutants for which the permitting authority may decrease the frequency of monitoring. This approach to monitoring for mercury appears to be simple to implement and relatively inexpensive. As is the case for the pollutants currently monitored according to Table 1, it links frequency of monitoring to amount of sewage sludge fired in an incinerator, which would decrease monitoring obligations and related costs for smaller sewage sludge incinerators.

For beryllium, EPA may consider imposing a periodic stack sampling obligation (such as annual monitoring), for those few incinerators that must comply with the emission standard specified in 40 CFR 61.32(a). (There is no need to impose a periodic monitoring obligation for those incinerators that conduct air sampling under 40 CFR 61.32(b). Section 61.34 requires continuous operation of monitoring sites.) Again, the disadvantage of conducting stack sampling is the cost, which can range to several thousand dollars per sampling event. As discussed above, the sampling of sewage sludge for a metal such as beryllium is much lower in cost. However, such sampling is not an option that is available under the beryllium NESHAP. EPA would appreciate receiving comments concerning whether it is appropriate and feasible to develop a conversion factor so that, for purposes of part 503, results of sampling sewage sludge for beryllium can be compared to the emission standard.

Proposed § 503.46(c) requires that the air pollution control device operating parameters be monitored daily. EPA believes that the burden on the regulated community to meet a daily monitoring obligation is minimal. To insure the proper operation of the sewage sludge incinerator, due to the variable characteristics of the sewage sludge fed to the incinerator, the operating parameters for the applicable air pollution control operating devices are monitored on at least a daily (if not hourly or continuous) basis. EPA envisions that, among other acceptable approaches, this monitoring obligation, where the monitoring is not conducted on a continuous basis, could be met by recording the values for the operating parameters for the air pollution control devices in a daily log book. Retention of this logbook would fulfill the recordkeeping obligations of 40 CFR 503.47(g) and the logbook records could form the basis for the annual report to be submitted under § 503.48.

Other frequencies of monitoring that EPA considered for this management practice are: (1) Monitoring as appropriate for the air pollution control device and (2) monitoring per manufacturer's instructions for the air pollution control device. It appears likely, however, that in many instances these options would result in the same monitoring frequency or the monitoring obligation might be greater than a daily monitoring obligation. EPA sees no need for reason to impose a greater than daily minimum monitoring obligation.

The Agency is proposing to amend section 503.46(b) to allow the permitting authority to specify an alternative to continuous monitoring of the exit gas from a sewage sludge incinerator for THC, oxygen, and information needed to determine moisture content. In some cases, continuous monitoring may not be necessary to show compliance with the THC operational standard of 100 parts per million on a volumetric basis. EPA is considering two options for determining when the monitoring frequency may be reduced. Both of these options assume that the emissions will be monitored for THC periodically, but not continuously.

The first option bases the frequency of monitoring for THC, oxygen, and information used to determine moisture content on the amount of sewage sludge fired in a sewage incinerator annually. For example, if the amount fired is 25 metric tons per year or less, the permitting authority could require periodic monitoring for THC, oxygen, and information to determine moisture content and then require that the incinerator be operated consistent with the way it was operated during the monitoring episode. The monitoring frequency for oxygen and information used to measure moisture content should be consistent with the monitoring frequency for THC because the oxygen concentration and moisture content information are used to adjust the measured THC values. This approach is similar to the current part 503 frequency of monitoring approach for pollutants in the incineration subpart, which is based on the amount of sewage sludge fired in a sewage sludge incinerator annually. The lower the amount of sewage sludge fired, the less frequent samples of sewage sludge have to be collected and analyzed for pollutants.

The second option for determining whether to reduce the frequency of monitoring for THC is the number of days in a year that the incinerator operates. For example, if the incinerator operates less than 100 days per year, the frequency for THC monitoring may be something less than continuously. This is similar to Option 1 in that the more days an incinerator operates, the more sewage sludge is expected to be fired in the incinerator.

EPA specifically solicits public comment on the question of what is the appropriate monitoring frequency for beryllium, mercury, and the operating parameters for air pollution control devices. EPA also is requesting comments on the proposal to monitor THC, oxygen content, and information needed to determine moisture content less than continuously. Should less than continuous monitoring be allowed for those parameters?

EPA also is requesting comments on the above options to determine when less than continuous monitoring for THC (also oxygen and information needed to determine moisture content) should be allowed. Should less than continuous monitoring be allowed when the amount of sewage sludge incinerated annually or the number of days the incinerator operates during the year is below a certain value? Or, should some other parameter be used to decide whether the frequency can be reduced? If it is based on the amount of sewage sludge fired annually or number of days the incinerator operates during the year, what should be the amount or number of days below which less than continuous monitoring will be allowed?

In addition, should less than continuous monitoring be allowed if carbon monoxide (CO) is monitored in the exit gas in lieu of monitoring THC? A part 503 amendment published in the **Federal Register** on February 24, 1994 (59 FR 9095) allows CO to be monitored in lieu of monitoring THC in certain situations.

5. Reporting and Recordkeeping Obligations

This proposed rulemaking does not change the current recordkeeping and reporting requirements in 40 CFR 503.47 and 503.48. The information retained under § 503.47 and reported under § 503.48 would continue to form the basis for permitting authority oversight, including enforcement, of subpart E requirements.

6. Compliance Deadlines

a. Current Regulation

Current 40 CFR 503.2 establishes the deadlines for compliance with the requirements of part 503. Paragraph (a) provides that compliance with all standards must be achieved as expeditiously as practicable, but no later than February 19, 1994. Where compliance with the standards requires construction of new pollution control facilities, compliance with the standards must be achieved as expeditiously as practicable, but no later than February 19, 1995.

Paragraphs (b) and (c) establish the deadlines for compliance with the frequency of monitoring, recordkeeping, and reporting requirements under part 503. Paragraph (b) provides that the THC operational standard is effective on February 19, 1994, or, if compliance with the operational standard for THC requires the construction of new pollution control facilities, by February 19, 1995. Paragraph (c) provides that all other requirements for frequency of monitoring, recordkeeping, and reporting imposed under part 503 were effective on July 20, 1993.

b. Proposed Regulation

EPA proposes to require compliance with the new requirements of subpart E of part 503 as expeditiously as practicable, but no later than 90 days from the publication date of the final rule. When new pollution control facilities must be constructed to comply with the revised requirements for sewage sludge incineration in subpart E, compliance shall be achieved as expeditiously as practicable, but no later than 12 months from the date of publication of the final rule. The compliance deadline in proposed § 503.2(d) only applies where the permitting authority has not already specified requirements for the incinerator. EPA requests comment on the compliance deadlines.

V. Proposed Amendment to Part 403

EPA is today proposing to amend 40 CFR part 403, Appendix G—Section II (Additional Pollutants Eligible for Removal Credits). EPA is proposing to amend the General Pretreatment Regulations so that a removal credit may be authorized for chromium in sewage sludge that is land applied, given compliance with other regulatory requirements, as long as the chromium concentration in the sewage sludge does not exceed 12,000 mg/kg.

Many industrial facilities discharge large amounts of pollutants to POTWs where their wastewaters mix with wastewater from other sources, domestic sewage from private residences and run-off from various sources prior to treatment and discharge by the POTW. The introduction of pollutants to a POTW from industrial discharges may pose several problems. These include potential interference with the POTW's operation or pass-through of pollutants if inadequately treated. Congress, in section 307(b) of the Act, directed EPA to establish pretreatment standards to prevent these potential problems. Congress also recognized that, in certain instances, POTWs could provide some or all of the treatment of an industrial user's wastewater that would be required pursuant to the pretreatment standard. Consequently, Congress established a discretionary program for POTWs to grant " removal credits" to their indirect dischargers. The credit, in the form of a less stringent pretreatment standard, allows an increased concentration of a pollutant in the flow from the indirect discharger to the POTW.

Section 307(b) of the CWA establishes a three-part test a POTW would need to meet to obtain removal credit authority for a given pollutant. A removal credit may be authorized only if (1) the POTW "removes all or any part of such toxic pollutant," (2) the POTW's ultimate discharge would "not violate that effluent limitation, or standard which would be applicable to that toxic pollutant if it were discharged" directly rather than through a POTW and (3) the POTW's discharge would "not prevent sludge use and disposal by such [POTW] in accordance with section [405]. * * *" Section 307(b).

The United States Court of Appeals for the Third Circuit has interpreted the statute to require EPA to promulgate comprehensive sewage sludge regulations before any removal credits could be authorized. *NRDC* v. *EPA,* 790 F.2d 289, 292 (3rd Cir. 1986) *cert. denied.* 479 U.S. 1084 (1987). Congress made this explicit in the Water Quality Act of 1987, which indicated that EPA could not authorize any removal credits until it issued the sewage sludge use or disposal regulation required by section 405(d)(2)(a)(ii). EPA has promulgated removal credit regulations that are codified at 40 CFR part 403.7.

At the same time EPA promulgated the part 503 regulation, EPA amended its General Pretreatment Regulations to add a new Appendix G that includes two tables of pollutants that would be eligible for a removal credit so long as the other procedural and substantive requirements of 40 CFR part 503 and 40 CFR 403.7 are met. The first table (Appendix G—Section I) lists, by use or disposal practice, the pollutants that are regulated in part 503 and eligible for a removal credit. The second table (Appendix G—Section II) lists, by use or disposal practice, additional pollutants that are eligible for a removal credit if the concentration of the pollutant does not exceed a prescribed concentration. The pollutants in Appendix G—Section II are the pollutants that EPA evaluated and decided not to regulate during development of the part 503 regulation. *See* 58 FR at 9381–5. EPA included chromium in Appendix G—Section I because the Agency established pollutant limits in the Part 503 regulation for sewage sludge that is land applied, surface disposed, or incinerated.

In the final part 503 regulation, EPA limited the chromium content of land-applied sewage sludge to prevent possible plant injury. On November 15, 1994, the D.C. Circuit remanded the chromium pollutant limits for modification or additional justification, concluding that EPA lacked an adequate evidentiary basis for its risk-based chromium limit. *Leather Industries of America, Inc.* v. *Environmental Protection Agency,* 40 F.3d 392 (D.C. Cir. 1994). Elsewhere in today's **Federal Register**, in response to the remand, EPA is promulgating a final rule that deletes chromium from the pollutants that are regulated when sewage sludge is applied to the land. EPA has concluded that there is no current basis for establishing chromium limits in land-applied sewage sludge. EPA's decision not to regulate chromium in land-applied sewage sludge is based on its reevaluation of the Agency's land application risk assessment for chromium developed during the part 503 rulemaking. This reassessment showed that chromium is unlikely to be present in sewage sludge in concentrations that present a risk to public health or the environment.[1]

At the same time EPA deleted chromium limits from its part 503 land application requirements, EPA took two other actions. First, the Agency removed chromium from the list of regulated pollutants for land application in Appendix G—Section I for which a removal credit is available. Second, to ensure the continued eligibility of chromium for a removal credit, EPA added a footnote in Appendix G—Section II stating the chromium concentration in Section II for land application would be determined on a case-by-case basis. Case-by-case determinations would continue to be made until EPA determines a safe concentration for chromium in sewage sludge that is land applied—the action being proposed here.

In the 1993 amendments to part 403, EPA included pollutants that it evaluated for risk and decided not to regulate in Appendix G—Section II at the highest concentration evaluated as safe based on the concentrations developed during the risk assessment for the final part 503 regulation. *See* 58 FR 9382. Consequently, EPA reviewed its land application risk assessment to determine the safe level for chromium. Based on the results of the 1993 risk assessment and the results of the revaluation of Pathway 11, EPA is proposing to include a number for land-applied chromium in Appendix G—Section II at a concentration of 12,000 mg/kg. EPA has concluded that this is the highest level EPA identified as safe for the following reasons.

As explained above, EPA reevaluated its 1993 land application risk assessment for Pathway 11 and determined that a cumulative pollutant loading rate for chromium for land-applied sewage sludge well in excess of the 5,000 kg/hectare loading rate calculated in the 1993 assessment presents little threat to a tractor operator because of the low hexavalent chromium concentration in the sewage sludge. Consequently, the next pathway in EPA's land application risk assessment at which chromium may present a threat to public health and the environment is Pathway 14, the ground-water pathway. (Technical Support Document for the Land Application of Sewage Sludge, November 1992, Table 5.4–5, p. 5–435). The 1993 risk assessment concluded that as long as the total amount of chromium applied to the land in sewage sludge did not exceed 12,000 kg/hectare, the potential for adverse affects on the ground water beneath a land application site is low. EPA is asking for public comment on whether a concentration of 12,000 mg/kg[2] is the appropriate level at which chromium should be included on Appendix G—Section II.

VI. Regulatory Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the

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[1] For the Part 503 regulation, in descending order of stringency, the risk assessment cumulative loeding rates for chromium are 3,000 kg/hectare (Pethwey 8—plent toxicity), 5,000 kg/hectare (Pethwey 11—trector operetor) and 12,000 kg/hectare (Pethwey 14—groundwater). *See* Technicel Support Document for the Land Application of Sewege Sludge Teble 5.4–5, p. 5–435. Having determined thet current information would not support reguletion of chromium to prevent plant injury, EPA took e second look at Pethways 11 end 14. EPA revised the Pethwey 11 analysis and determined thet e significantly less stringent cumuletive pollutant loeding rate than 5,000 kg/hectare would protect e tractor operator from potentiel injury from inheled chromium. A complete explanetion of EPA's reanalysis may be found in the docket for this rulemaking.

Given the fect that the Pathway 11 and Pethwey 14 risk limits (expressed as e chromium concentration in sewege sludge) exceeded the 99th percentile sludge concentration by at least en order of magnitude, EPA decided not to establish land epplication pollutant limits for chromium.

[2] In the case of those pollutants EPA evelueted in the 1993 risk assessment and decided not to regulete, EPA established Section II pollutant concentrations that are derived from the 1993 risk essessment cumulative pollutent loading rates. To convert e cumuletive pollutent loading rate to a pollutant concentration, EPA essumed thet 10 metric tons of sewage sludge would be epplied to e hectare of land each year for 100 years.

President's priorities, or the principles set forth in the Executive Order."

Executive Order 12866 requires EPA to prepare an assessment of the costs and benefits of any "significant regulatory action." It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is not subject, therefore, to OMB review. Further, because the effect of today's rule is to modify current requirements and provide additional flexibility to the regulated community, costs to the regulated community should be reduced or at least remain unchanged. OMB has waived review of this proposed rule.

B. Executive Order 12875

Under Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, the Agency is required to develop an effective process to permit elected officials and other representatives of State, local, and tribal governments to provide meaningful and timely input in the development of regulatory proposals.

EPA sought the involvement of those persons who are intended to benefit from or expected to be burdened by this proposal before issuing a notice of proposed rulemaking. Following informal consultation, in January 1995, EPA circulated a draft of the proposed changes for comment to the regulated community, environmentalists, and States. EPA received a small number of comments, which have been addressed in today's rule.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a General Notice of Rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the Agency certifies that the rule will not have a significant impact on a substantial number of small entities.

This action to amend the part 403 and part 503 regulations proposed today provides added flexibility and technical clarification for some of the requirements. It will only provide beneficial opportunities for entities that may be affected by the rule. Accordingly, I certify that this 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.

D. Paperwork Reduction Act

The information collection requirements for part 503 were approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* (See 58 FR 9377, February 19, 1993.) There are no new reporting, notification, or recordkeeping (information) provisions in this proposed rule.

E. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

EPA has determined that today's amendments to part 503 do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local or tribal governments or the private sector in any one year. With one exception, the proposed amendments either clarify existing regulatory requirements or provide additional flexibility to the regulated community in complying with current regulatory requirements.

For example, EPA is proposing a number of changes to reduce the reporting and recordkeeping burden of the current requirements. These would include amendments to authorize the permitting authority to reduce the required frequency of monitoring of sewage sludge or, in the case of incinerated sewage sludge, to exempt certain facilities entirely from monitoring, recordkeeping, and reporting requirements. EPA also is proposing to amend the current regulation to delete the requirement for land appliers of sewage sludge to record the time of day sewage sludge is applied. In addition, the proposal would modify the certification provision of the current substantive requirement to certify certain information to the permitting authority. Under the proposal, the certifier would certify to the accuracy of the submitted information and not, as is the case at present, to the submitter's compliance with regulatory requirements.

EPA is proposing to delete language from the current regulation that required the permitting authority to specify certain factors used to calculate site-by-site pollutant limits for sewage sludge incinerators and to specify how to install, calibrate, operate and maintain incinerator continuous emission monitors. The proposal also includes technical amendments that would correct inaccurate cross-references and add omitted reporting dates and inadvertently omitted phrases. Therefore, to the extent that the proposed regulation would reduce the costs of complying with current part 503 requirements, the proposed changes will lessen the regulatory burden on State, local, or tribal governments.

One proposed change may result in a small annual increase in costs to State, local, or tribal governments in certain circumstances. The current regulation provides that sewage sludge that is applied to land for a beneficial purpose or disposed at surface disposal sites must, among other conditions, meet requirements for reducing the pathogen content of the sewage sludge. Sewage sludge must meet either Class A or Class B pathogen requirements. The regulation provides a number of alternatives for achieving the Class A and Class B requirements. These alternatives include treatment processes that reduce the density of enteric viruses, viable helminth ova and Salmonella, *sp.* bacteria in the sewage sludge. In addition, in the case of the Class A alternatives, the density of either fecal coliform or Salmonella *sp.* bacteria in the sewage sludge may not exceed prescribed levels at the time the sewage sludge is used or disposed. Today's proposal would change the description of one of the Processes to Further Reduce Pathogens to require that a certain dose of gamma rays be used. The dosage was inadvertently deleted from the process description in the final rule.

As noted above, there are either no (or reduced) costs associated with the other changes proposed today. Thus, today's proposed rule is not subject to the requirements in sections 202 and 205 of the Act.

EPA has determined that this proposal contains no regulatory requirements that might significantly or uniquely affect small governments that may operate publicly owned treatment works (POTWs) generating sewage sludge. The proposed amendments would not significantly affect small governments because as explained above, the proposed amendments would either provide additional flexibility in complying with pre-existing regulatory requirements or clarify these requirements. The proposed amendments also would not uniquely affect small governments because the increased flexibility provided by the proposed changes would be available to POTWs operated by small governments to the same extent as to other sewage sludge users or disposers.

List of Subjects

40 CFR Part 403

Environmental protection, Incineration, Land application, Pollutants, Removal Credits, Sewage sludge, and Surface disposal.

40 CFR Part 503

Environmental Protection, Frequency of monitoring, Incineration, Incorporation by reference, Land application, Management practices, Pathogens, Pollutants, Reporting and recordkeeping requirements, Sewage sludge, Surface disposal and Vector attraction reduction.

Dated: October 10, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

1. The authority citation for 40 CFR part 403 continues to read as follows:

Authority: Sec. 54(c)(2) of the Clean Water of 1977, (Pub. L. 95–217) sections 204(b)(1)(C), 208(b)(2)(C)(iii), 301(b)(1)(A)(ii), 301(b)(2)(A)(ii), 301(b)(2)(C), 301(h)(5), 301(i)(2), 304(e), 304(g), 307, 308, 309, 402(b), 405, and 501(a) of the Federal Water Pollution Control Act (Pub. L. 92–500) as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987 (Pub. L. 100–4).

2. Appendix G to part 403 is proposed to be amended by revising section "II." to read as follows:

Appendix G—Pollutants Eligible for A Removal Credit

I. * * *

II. ADDITIONAL POLLUTANTS ELIGIBLE FOR A REMOVAL CREDIT

[Milligrams per kilogram—dry weight basis]

Pollutant	Use or disposal practice (SD)			
	LA	Unlined[1]	Lined[2]	I
Arsenic			[3]100	
Aldrin/Dieldrin (Total)	2.7			
Benzene	[3]16.0	140	3,400	
Benzo(a)pyrene	15.0	[3]100	[3]100	
Bis(2-ethylhexyl)phthalate		[3]100	[3]100	
Cadmium		[3]100	[3]100	
Chlordane	86.0	[3]100	[3]100	
Chromium	12,000.0		[3]100	
Copper		[3]46	[3]100	1,400.0
DDD, DDE, DDT (Total)	1.2	2,000	2,000	
2,4 Dichlorophenoxy-acetic acid		7	7	
Fluoride	730.0			
Heptachlor	7.4			
Hexachlorobenzene	29.0			
Hexachlorobutadiene	600.0			
Iron	[3]78.0			
Lead		[3]100	[3]100	
Lindane	84.0	[3]28	[3]28	
Malathion		0.63	0.63	
Mercury		[3]100	[3]100	
Molybdenum		40	40	
Nickel			[3]100	
N-Nitrosodimethylamine	2.1	0.088	0.088	
Pentachlorophenol	30.0			
Phenol		82	82	
Polychlorinated biphenyls	4.6	<50	<50	
Selenium		4.8	4.8	4.8
Toxaphene	10.0	[3]26	[3]26	
Trichloroethylene	[3]10.0	9,500	[3]10	
Zinc		4,500	4,500	4,500.0

[1] Sewage sludge unit without a liner and leachate collection system.
[2] Sewage sludge unit with a liner and leachate collection system.
[3] Value expressed in grams per kilogram—dry weight basis.

KEY:
LA—land application
SD—surface disposal
I—incineration

PART 503—STANDARDS FOR THE USE OR DISPOSAL OF SEWAGE SLUDGE

1. The authority citation for 40 CFR part 503 continues to read as follows:

Authority: Sections 405(d) and (e) of the Clean Water Act, as amended by Pub. L. 95–217, Sec. 54(d), 91 Stat. 1591 (33 U.S.C. 1345 (d) and (e)); and Pub. L. 100–4, Title IV, Sec. 406(a), (b), 101 Stat., 71, 72 (33 U.S.C. 1251 et seq.).

* * * * *

2. Section 503.2 is amended by adding a new paragraph (d) to read as follows:

§ 503.2 Compliance period.

* * * * *

(d) Compliance with the requirements for sewage sludge incineration in subpart E that were revised on [date of publication of the final regulations] shall be achieved as expeditiously as practicable, but in no case later than [90 days from the date of publication of the final regulations]. When new pollution control facilities must be constructed to comply with the revised requirements for sewage sludge incineration in subpart E, compliance with the revised requirements shall be achieved as expeditiously as practicable but no later than [12 months from date of publication of the final regulations].

3. Section 503.10 is amended by revising paragraphs (b)(1), (c)(1), (d), (e), (f), and (g) to read as follows:

§ 503.10 Applicability.

* * * * *

(b) * * *

(1) Bulk sewage sludge. The general requirements in § 503.12 and the management practices in § 503.14 do not apply when bulk sewage sludge is applied to the land if the bulk sewage sludge meets the ceiling concentrations in Table 1 of § 503.13 and the pollutant concentrations in Table 3 of § 503.13; the Class A pathogen requirements in § 503.32(a); and one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority.

* * * * *

(c) * * *

(1) The general requirements in § 503.12 and the management practices in § 503.14 do not apply when a bulk material derived from sewage sludge is applied to the land if the derived bulk material meets the ceiling concentrations in Table 1 of § 503.13 and the pollutant concentrations in Table 3 of § 503.13; the Class A pathogen requirements in § 503.32(a); and one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority.

* * * * *

(d) The requirements in this subpart do not apply when a bulk material derived from sewage sludge is applied to the land if the sewage sludge from

which the bulk material is derived meets the ceiling concentrations in Table 1 of § 503.13 and the pollutant concentrations in Table 3 of § 503.13; the Class A pathogen requirements in § 503.32(a); and one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority.

(e) Sewage sludge sold or given away in a bag or other container for application to the land. The general requirements in § 503.12 and the management practices in § 503.14 do not apply when sewage sludge is sold or given away in a bag or other container for application to the land if the sewage sludge sold or given away in a bag or other container for application to the land meets the ceiling concentrations in Table 1 of § 503.13 and the pollutant concentrations in Table 3 of § 503.13; the Class A pathogen requirements in § 503.32(a); and one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority.

(f) The general requirements in § 503.12 and the management practices in § 503.14 do not apply when a material derived from sewage sludge is sold or given away in a bag or other container for application to the land if the derived material meets the ceiling concentrations in Table 1 of § 503.13 and the pollutant concentrations in Table 3 of § 503.13; the Class A pathogen requirements in § 503.32(a); and one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority.

(g) The requirements in this subpart do not apply when a material derived from sewage sludge is sold or given away in a bag or other container for application to the land if the sewage sludge from which the material is derived meets the ceiling concentrations in Table 1 of § 503.13 and the pollutant concentrations in Table 3 of § 503.13; the Class A pathogen requirements in § 503.32(a); and one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority.

4. Section 503.15 is amended by revising paragraphs (c)(1), (c)(2), and (c)(3) to read as follows:

§ 503.15 Operational standards—pathogens and vector attraction reduction.

* * * * *

(c) * * *

(1) One of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8); a requirement that is equivalent to one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8), as determined by the permitting authority; or the vector attraction reduction requirements in § 503.33 (b)(9) or (b)(10) shall be met when bulk sewage sludge is applied to agricultural land, forest, a public contact site, or a reclamation site.

(2) One of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority, shall be met when bulk sewage sludge is applied to a lawn or home garden.

(3) One of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority, shall be met when sewage sludge is sold or given away in a bag or other container for application to the land.

* * * * *

5. Section 503.16 is amended by revising the text preceding the table in paragraph (a)(1) and revising paragraph (a)(2) to read as follows:

§ 503.16 Frequency of monitoring.

(a) Sewage sludge. (1) The frequency of monitoring for the pollutants listed in Table 1, Table 2, Table 3 and Table 4 of § 503.13; the pathogen density requirements in § 503.32(a) and in § 503.32(b)(2); the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(4) and § 503.33 (b)(6) through (b)(8) shall be the frequency in Table 1 of § 503.16.

* * * * *

(2) After the sewage sludge has been monitored for two years at the frequency in Table 1 of § 503.16, the permitting authority may reduce the frequency of monitoring for pollutant concentrations and for the pathogen density requirements in § 503.32(a)(5)(ii) and (a)(5)(iii).

* * * * *

6. Section 503.17 is amended by revising paragraphs (a)(1)(ii), (a)(1)(iv), (a)(2)(ii), (a)(2)(iv), (a)(3)(i)(B), (a)(3)(ii)(A), (a)(4)(i)(B), (a)(4)(i)(D), (a)(4)(ii)(A), (a)(5)(i)(B), (a)(5)(i)(D), (a)(5)(ii)(C), (a)(5)(ii)(F), (a)(5)(ii)(H), (a)(5)(ii)(J), (a)(5)(ii)(L), (a)(6)(iii), (a)(6)(v), (b)(3), (b)(6), and (b)(7) and by adding a new paragraph (a)(4)(ii)(E) to read as follows:

§ 503.17 Recordkeeping.

(a) Sewage sludge.

(1) * * *

(ii) The following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the Class A pathogen requirements in § 503.32(a) and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in § 503.33 (b)(1) through § 503.33(b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority] has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

* * * * *

(iv) A description of how one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority, is met.

(2) * * *

(ii) The following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the Class A pathogen requirements in § 503.32(a) and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in § 503.33(b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority] has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

* * * * *

(iv) A description of how one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting, is met.

(3) * * *

(i) * * *

(A) * * *

(B) The following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the pathogen requirements in § 503.32(a) has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

* * * * *

(ii) * * *

(A) The following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the management practices in § 503.14 and the vector attraction reduction requirement in [insert either § 503.33 (b)(9) or (b)(10)] has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

* * * * *

(4) * * *

(i) * * *

(B) The following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the Class B pathogen requirements in § 503.32(b) and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority, if one of those requirements is met] has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

* * * * *

(D) When one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or when an equivalent vector attraction reduction requirement, as determined by the permitting authority, is met, a description of how the vector attraction reduction requirement is met.

(ii) * * *

(A) The following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the management practices in § 503.14, the site restrictions in § 503.32(b)(5), and the vector attraction reduction requirement in [insert either § 503.33 (b)(9) or (b)(10) if one of those requirements is met] has been prepared for each site on which bulk sewage sludge is applied under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

* * * * *

(E) The date bulk sewage sludge is applied to each site.

(5) * * *

(i) * * *

(B) The following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the pathogen requirements in [insert either § 503.32(a) or § 503.32(b)] and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority, if one of those requirements is met] has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

* * * * *

(D) When one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority, is met, a description of how the vector attraction reduction requirement is met.

(ii) * * *

(C) The date bulk sewage sludge is applied to each site.

* * * * *

(F) The following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the requirements to obtain information in § 503.12(e)(2) has been prepared for each site on which bulk sewage sludge is applied under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

* * * * *

(H) The following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the management practices in § 503.14 has been prepared for each site on which bulk sewage sludge is applied under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

* * * * *

(J) The following certification statement when the bulk sewage sludge meets the Class B pathogen requirements in § 503.32(b):

"I certify, under penalty of law, that the information that will be used to determine compliance with the site restrictions in § 503.32(b)(5) has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

* * * * *

(L) The following certification statement when the vector attraction reduction requirement in either § 503.33 (b)(9) or (b)(10) is met:

"I certify, under penalty of law, that the information that will be used to determine compliance with the vector attraction reduction requirement in [insert either § 503.33(b)(9) or § 503.33(b)(10)] has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

* * * * *

(6) * * *

(iii) The following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the management practice in § 503.14(e), the Class A pathogen requirement in § 503.32(a), and the vector attraction

reduction requirement in [insert one of the vector attraction reduction requirements in § 503.33(b)(1) through § 503.33(b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority] has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

* * * * *

(v) A description of how one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority, is met.

(b) * * *

(3) The date domestic septage is applied to each site.

* * * * *

(6) The following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the pathogen requirements [insert either § 503.32(c)(1) or § 503.32(c)(2)] and the vector attraction reduction requirement in [insert § 503.33(b)(9), § 503.33(b)(10), or § 503.33(b)(12)] has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

(7) A description of how the pathogen requirements in either § 503.32 (c)(1) or (c)(2) are met.

* * * * *

7. Section 503.18 is amended by revising paragraph (a)(2) to read as follows:

§ 503.18 Reporting.

(a) * * *

(2) The information in § 503.17 (a)(5)(ii)(A) through (a)(5)(ii)(g) on February 19th of each year when 90 percent or more of any of the cumulative pollutant loading rates in Table 2 of § 503.13 is reached at a site.

* * * * *

8. Section 503.22 is amended by revising paragraph (b) to read as follows:

§ 503.22 General requirements.

* * * * *

(b) An active sewage sludge unit located within 60 meters of a fault that has displacement in Holocene time; located in an unstable area; or located in a wetland, except as provided in a permit issued pursuant to either section 402 or 404 of the CWA, shall close by March 22, 1994, unless, in the case of an active sewage sludge unit located within 60 meters of a fault that has displacement in Holocene time, otherwise specified by the permitting authority.

* * * * *

9. Section 503.25 is amended by revising paragraph (b) to read as follows:

§ 503.25 Operational standards—pathogens and vector attraction reduction.

* * * * *

(b) Vector attraction reduction—sewage sludge (other than domestic septage). One of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8); a requirement that is equivalent to one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8), as determined by the permitting authority; or one of the vector attraction reduction requirements in § 503.33 (b)(9) through (b)(11) shall be met when sewage sludge is placed on an active sewage sludge unit.

* * * * *

10. Section 503.26 is amended by revising the text preceding the table in paragraph (a)(1), and revising paragraph (a)(2) to read as follows:

§ 503.26 Frequency of monitoring.

(a) Sewage sludge (other than domestic septage).

(1) The frequency of monitoring for the pollutants in Tables 1 and 2 of § 503.23; the pathogen density requirements in § 503.32(a) and in § 503.32(b)(2); and the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(4) and § 503.33 (b)(6) through (b)(8) for sewage sludge placed on an active sewage sludge unit shall be the frequency in Table 1 of § 503.26.

* * * * *

(2) After the sewage sludge has been monitored for two years at the frequency in Table 1 of § 503.26, the permitting authority may reduce the frequency of monitoring for pollutant concentrations and for the pathogen density requirements in § 503.32 (a)(5)(ii) and (a)(5)(iii).

* * * * *

11. Section 503.27 is amended by revising paragraphs (a)(1)(ii), (a)(1)(iv), (a)(2)(ii), (b)(1)(i), and (b)(2)(i) to read as follows:

§ 503.27 Recordkeeping.

(a) * * *

(1) * * *

(ii) The following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the pathogen requirements in [insert § 503.32(a), § 503.32(b)(2), § 503.32(b)(3), or § 503.32(b)(4) when one of those requirements is met] and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority, when one of those requirements is met] have been met. This determination has been made under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate the information used to determine that the [pathogen requirements and vector attraction reduction requirements] have been met. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

* * * * *

(iv) A description of how one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority, is met when one of those requirements is met.

(2) * * *

(ii) The following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the management practices in § 503.24 and the vector attraction reduction requirement in [insert one of the requirements in § 503.33(b)(9) through § 503.33(b)(11) if one of those requirements is met] has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

* * * * *

(b) * * *

(1) * * *

(i) The following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the vector attraction reduction requirements in § 503.33(b)(12) has been prepared under my direction and supervision in

accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment."

* * * * *

(2) * * *

(i) The following certification statement:

"I certify, under penalty of law, that the information that will be used to determine compliance with the management practices in § 503.24 and the vector attraction reduction requirements in [insert § 503.33(b)(9) through § 503.33(b)(11) when one of those requirements is met] has been prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine or imprisonment."

* * * * *

12. Section 503.31 is amended by revising paragraph (g) to read as follows:

§ 503.31 Special definitions.

* * * * *

(g) pH means the logarithm of the reciprocal of the hydrogen ion concentration measured at 25°C or measured at another temperature and then converted to an equivalent value at 25°C.

* * * * *

13–15. Section 503.32 is amended by revising the heading for paragraph (a)(3) and revising paragraphs (b)(2)(i) and (b)(5)(v) to read as follows:

§ 503.32 Pathogens.

(a) * * *

(3) Class A—Alternative 1 (Not applicable for composting). * * *

* * * * *

(b) * * *

(2) Class B—Alternative 1.

(i) Seven representative samples of the sewage sludge that is used or disposed shall be collected.

* * * * *

(5) * * *

(v) Animals shall not be grazed on the land for 30 days after application of sewage sludge.

* * * * *

16–17. Section 503.33 is amended by revising paragraphs (a)(1) through (a)(4) and paragraphs (b)(6) through (b)(8) and paragraph (b)(10)(i) to read as follows:

§ 503.33 Vector attraction reduction.

(a)(1) One of the vector attraction reduction requirements in § 503.33(b)(1) through § 503.33(b)(8); a requirement that is equivalent to one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8), as determined by the permitting authority; or the vector attraction reduction requirements in § 503.33 (b)(9) or (b)(10) shall be met when bulk sewage sludge is applied to agricultural land, forest, a public contact site, or a reclamation site.

(2) One of the vector attraction reduction requirements in § 503.33(b)(1) through § 503.33(b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority, shall be met when bulk sewage sludge is applied to a lawn or a home garden.

(3) One of the vector attraction reduction requirements in § 503.33(b)(1) through § 503.33(b)(8) or an equivalent vector attraction reduction requirement, as determined by the permitting authority, shall be met when sewage sludge is sold or given away in a bag or other container for application to the land.

(4) One of the vector attraction reduction requirements in § 503.33(b)(1) through § 503.33(b)(8); a requirement that is equivalent to one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8), as determined by the permitting authority; or one of the vector attraction reduction requirements in § 503.33 (b)(9) through (b)(11) shall be met when sewage sludge (other than domestic septage) is placed on an active sewage sludge unit.

* * * * *

(b) * * *

(6) The pH of sewage sludge shall be raised to 12 or higher by alkali addition and, without the addition of more alkali, shall remain at 12 or higher for two hours and then at 11.5 or higher for an additional 22 hours at the time the sewage sludge is used or disposed; at the time the sewage sludge is prepared for sale or given away in a bag or other container for application to the land; or at the time the sewage sludge is prepared to meet the requirements in § 503.10 (b), (c), (e), or (f).

(7) The percent solids of sewage sludge that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75 percent, based on the moisture content and total solids prior to mixing with other materials, at the time the sewage sludge is used or disposed; at the time the sewage sludge is prepared for sale or given away in a bag or other container for application to the land; or at the time the sewage sludge is prepared to meet the requirements in § 503.10 (b), (c), (e), or (f).

(8) The percent solids of sewage sludge that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90 percent, based on the moisture content and total solids prior to mixing with other materials, at the time the sewage sludge is used or disposed; at the time the sewage sludge is prepared for sale or given away in a bag or other container for application to the land; or the time the sewage sludge is prepared to meet the requirements in § 503.10 (b), (c), (e), or (f).

* * * * *

(10) (i) Sewage sludge applied to the land surface or placed on a surface disposal site shall be incorporated into the soil within six hours after application to or placement on the land, unless otherwise specified by the permitting authority.

* * * * *

18. Section 503.40 is amended by adding a new paragraph (d) to read as follows:

§ 503.40 Applicability.

* * * * *

(d) The frequency of monitoring requirements for a pollutant in § 503.46 (a)(2) and (a)(3), the recordkeeping requirement for a pollutant in § 503.47(b), and the reporting requirement for a pollutant in § 503.48 do not apply when the following conditions are met, if approved by the permitting authority.

(i) The average daily concentration for the pollutant calculated pursuant to § 503.43(c) or § 503.43(d) exceeds the highest average daily concentration for the pollutant measured in the sewage sludge for the months in the previous calendar year.

(ii) The incinerator is operated within the operating parameters established during the performance test required by § 503.43(c)(3) or § 503.43(d)(5).

19. Section 503.43 is amended by revising paragraphs (c)(1), (c)(2), (c)(3), (d)(1), the text preceding the table in paragraphs (d)(2) and (d)(3), revising paragraph (d)(4), and (d)(5), and by adding a new paragraph (e) to read as follows:

§ 503.43 Pollutant limits.

* * * * *

(c) Pollutant limit—lead.

(1) The average daily concentration of lead in sewage sludge fed to a sewage sludge incinerator shall not exceed the concentration calculated using Equation (4).

$$C = \frac{0.1 \times NAAQS \times 86{,}400}{DF \times (1 - CE) \times SF} \qquad \text{Eq. (4)}$$

Where:

C=Average daily concentration of lead in sewage sludge in milligrams per kilogram of total solids (dry weight basis) for the days in the month that the sewage sludge incinerator operates.

NAAQS=National Ambient Air Quality Standard for lead in micrograms per cubic meter.

DF=Dispersion factor in micrograms per cubic meter per gram per second.

CE=Sewage sludge incinerator control efficiency for lead in hundredths.

SF=Sewage sludge feed rate in metric tons per day (dry weight basis).

(2) The dispersion factor (DF) in equation (4) shall be determined from an air dispersion model.

(i) When the sewage sludge stack height is 65 meters or less, the actual sewage sludge incinerator stack height shall be used in the air dispersion model to determine the dispersion factor (DF) for equation (4).

(ii) When the sewage sludge incinerator stack height exceeds 65 meters, the creditable stack height shall be determined in accordance with 40 CFR 51.100(ii) and the creditable stack height shall be used in the air dispersion model to determine the dispersion factor (DF) for equation (4).

(3) The control efficiency (CE) in equation (4) shall be determined from a performance test of the sewage sludge incinerator.

(d) * * *

(1) The average daily concentration for arsenic, cadmium, chromium, and nickel in sewage sludge fed to a sewage sludge incinerator each shall not exceed the concentration calculated using equation (5).

$$C = \frac{RSC \times 86{,}400}{DF \times (1 - CE) \times SF} \qquad \text{Eq. (5)}$$

Where:

C=Average daily concentration of arsenic, cadmium, chromium, or nickel in sewage sludge in milligrams per kilogram of total solids (dry weight basis) for the days in the month that the incinerator operates.

CE=Sewage sludge incinerator control efficiency for arsenic, cadmium, chromium, or nickel in hundredths.

DF=Dispersion factor in micrograms per cubic meter per gram per second.

RSC=Risk specific concentration, in micrograms per cubic meter.

SF=Sewage sludge feed rate in metric tons per day (dry weight basis).

(2) The risk specific concentrations for arsenic, cadmium, and nickel used in equation (5) shall be obtained from Table 1 of § 503.43.

* * * * *

(3) The risk specific concentration for chromium used in equation (5) shall be obtained from Table 2 of § 503.43 or shall be calculated using equation (6).

* * * * *

(4) The dispersion factor (DF) in equation (5) shall be determined from an air dispersion model.

(i) When the sewage sludge incinerator stack height is equal to or less than 65 meters, the actual sewage sludge incinerator stack height shall be used in the air dispersion model to determine the dispersion factor (DF) for equation (5).

(ii) When the sewage sludge incinerator stack height is greater than 65 meters, the creditable stack height shall be determined in accordance with 40 CFR 51.100(ii) and the creditable stack height shall be used in the air dispersion model to determine the dispersion factor (DF) for equation (5).

(5) The control efficiency (CE) in equation (5) shall be determined from a performance test of the sewage sludge incinerator.

(e) Air Dispersion Modeling and Performance Testing

(1) The air dispersion models and performance tests used to determine the pollutant limits in paragraphs (c) and (d) of this section shall be consistent with good air pollution control practices for minimizing air emissions. The air dispersion model shall be appropriate for the geographical, physical, and population characteristics at the sewage sludge incinerator site. The performance test shall be appropriate for the type of sewage sludge incinerator.

(2) A proposed air dispersion modeling protocol shall be submitted to the permitting authority no later than 30 days from [date of publication of the final regulation]. The protocol shall include a clear and complete description of the proposed model and rational including data that supports the validity of the chosen approach. The submitted air dispersion modeling protocol may be used to develop the air dispersion factor if the permitting authority concurs or does not respond within 30 days from submission.

(3) The following procedures, at a minimum, shall apply in conducting performance tests:

(i) The performance test shall be conducted under representative incinerator conditions at the highest expected sewage sludge feed rate within design specifications.

(ii) The permitting authority shall be provided notice at least 30 days prior to any performance test so the permitting authority may have the opportunity to observe the test. This notice shall include a test protocol with incinerator operating conditions and a list of test methods to be used.

(iii) Performance testing facilities shall contain safe sampling platforms and safe access to them.

(iv) Each performance test shall consist of three separate runs using the applicable test method. For the purpose of establishing a control efficiency, the arithmetic mean of the results of the three runs shall apply.

(4) The pollutant limits in paragraphs (c) and (d) of this section shall be submitted to the permitting authority no later than 30 days after completion of the air dispersion modelling and performance test.

(5) Significant changes in geographic or physical characteristics at the incinerator site or in incinerator operating conditions will require new air dispersion modeling or performance testing to determine a new dispersion factor or new control efficiency that will be used to establish revised pollutant limits.

20. Section 503.45 is amended by revising paragraphs (a)(1), (b), (c), (d), (e), and (f), and by adding a new paragraph (h) to read as follows:

§ 503.45 Management practices.

(a)(1) An instrument that continuously measures and records the total hydrocarbons concentration in the sewage sludge incinerator stack exit gas shall be installed, calibrated, operated, and maintained for each sewage sludge incinerator.

* * * * *

(b) An instrument that continuously measures and records the oxygen concentration in the sewage sludge incinerator stack exit gas shall be installed, calibrated, operated, and maintained for each sewage sludge incinerator.

(c) An instrument that continuously measures and records information used to determine the moisture content in the sewage sludge incinerator stack exit gas shall be installed, calibrated, operated, and maintained for each sewage sludge incinerator.

(d) An instrument that continuously measures and records combustion temperatures shall be installed, calibrated, operated, and maintained for each sewage sludge incinerator.

(e) Operation of the sewage sludge incinerator shall not cause a significant exceedence of the maximum combustion temperature for the sewage sludge incinerator. The maximum combustion temperature for the sewage

sludge incinerator shall be based on information obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies.

(f) Appropriate air pollution control devices shall be installed for the sewage sludge incinerator. Operating parameters for the air pollution control devices shall be selected that indicate adequate performance of the device. The values for the operating parameters for the air pollution control device shall be based on information obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies. Operation of the sewage sludge incinerator shall not cause a significant exceedence of the values for the selected operating parameters for the air pollution control device.

* * * * *

(h) The instruments required in § 503.45(a)–(d) shall be appropriate for the type of sewage sludge incinerator and shall be installed, calibrated, operated, and maintained consistent with good air pollution control practice for minimizing air emissions.

21. Section 503.46 is amended by revising paragraphs (a)(1), (a)(3), (b) and (c) to read as follows:

§ 503.46 Frequency of monitoring.

(a) Sewage sludge.

(1) The frequency of monitoring for beryllium shall be as required under subpart C of 40 CFR part 61 and for mercury as required under subpart E of 40 CFR part 61.

* * * * *

(3) After the sewage sludge has been monitored for two years at the frequency in Table 1 of § 503.46, the permitting authority may reduce the frequency of monitoring for arsenic, cadmium, chromium, lead, and nickel.

(b) Total hydrocarbons, oxygen concentration, information to determine moisture content, and combustion temperatures.

The total hydrocarbons concentration and oxygen concentration in the exit gas from a sewage sludge incinerator stack, the information used to measure moisture content in the exit gas, and the combustion temperatures for the sewage sludge incinerator shall be monitored continuously, unless otherwise specified by the permitting authority.

(c) Air pollution control device operating parameters. The frequency of monitoring for the air pollution control device operating parameters shall be at least daily.

* * * * *

22. Appendix B to 40 CFR part 503 is amended by revising the description of "Process to Further Reduce Pathogen" paragraph (6) to read as follows:

Appendix B to Part 503—Pathogen Treatment Processes

* * * * *

B. Processes To Further Reduce Pathogens (PFRP)

* * * * *

(6) Gamma ray irradiation—Sewage sludge is irradiated with gamma rays from certain isotopes, such as ^{60}Cobalt and ^{137}Cesium, at dosages of at least 1.0 megarad at room temperature (ca. 20° C).

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Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 3500

Mortgage Broker Fee Disclosure Rule: Intent to Establish a Negotiated Rulemaking Advisory Committee and Notice of First Meeting; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 3500

[Docket No. FR-3780-N-02]

RIN 2502-AG40

Mortgage Broker Fee Disclosure Rule: Intent to Establish a Negotiated Rulemaking Advisory Committee and Notice of First Meeting

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Intent to establish committee and notice of first meeting.

SUMMARY: The Department is considering the establishment of a Negotiated Rulemaking Advisory Committee under the Federal Advisory Committee Act (FACA). The first objective of the Committee would be to determine whether or not the amount and nature of indirect payments to mortgage brokers and certain other mortgage originators (retail lenders) should be disclosed to consumers. Second, the Committee will seek to resolve whether the Real Estate Settlement Procedures Act (RESPA) permits volume-based compensation from wholesale lenders, entities that purchase mortgage loans, to mortgage brokers and, if such compensation is found permissible, whether and how the compensation should be disclosed. The Committee would consist of representatives with a definable interest in the outcome of a proposed rule. HUD has prepared a charter and has initiated the requisite consultation process pursuant to the FACA, Executive Order 12838, and the implementing regulations. If the charter is approved and a final determination is made to form the Committee, the first meeting will take place in late 1995 or early 1996, after the close of the comment period, in Washington, D.C.; the exact date of the meeting will be announced when it has been finalized.

The Department also recently published a proposed rule on this same subject (60 FR 47650, September 13, 1995). Public comments received on that proposed rule will be given to the members of the committee for their consideration as they are negotiating a new proposed rule.

DATES: Comments must be received by November 24, 1995. The exact date of the first meeting in late 1995 or early 1996, in Washington, D.C., will be announced in a subsequent Federal Register document. Interested persons may also contact David Williamson, at the telephone number listed under **FOR FURTHER INFORMATION CONTACT**, for this information.

ADDRESSES: Interested persons are invited to submit comments regarding the proposed Committee and membership to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500. Comments or any other communications submitted should consist of an original and four copies and refer to the above docket number and title. Facsimile (FAX) comments are *not* acceptable. The docket will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

The location for the first meeting in late 1995 or early 1996 will be: the Office of Administrative Law Judges, Washington Office Center, 409 3rd Street SW., Suite 320, Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: David R. Williamson, Director, RESPA Enforcement Unit, Department of Housing and Urban Development, Room 5241, 451 Seventh Street SW., Washington, DC 20410-0500; telephone (202) 708-4560, or on e-mail through Internet at drwilliamson@hud.gov. The TDD number for persons who are hearing- or speech-impaired is (202) 708-4594 (TDD). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Background

Issue 1: Mortgage Broker Fee Disclosure

Since the enactment of the RESPA (12 U.S.C. 2601 *et seq.*) in 1974, the mortgage lending industry has experienced a rapid evolution due, in part, to major technological advances, innovative business entities, and new types of business relationships that serve consumers in single lending transactions. Much of the change that has occurred is attributable to the impressive growth of the secondary mortgage market. By the early 1980s, secondary market entities, such as the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), not only bought major amounts of mortgage loans, but repackaged many of these loans and sold them as mortgage-backed securities, allowing them to purchase even greater numbers of lenders' mortgage loans.

A further industry development since the passage of RESPA is that many loans are purchased by, or servicing is transferred to, a wholesale lender at, or shortly after, closing, with the retail lender serving as the intermediary between the consumer and the purchasing entity. When a retail lender serves as an intermediary, it may perform services in processing the loan for which it is compensated. Such compensation may be "direct", where the fees are paid directly by the consumer, or "indirect", where fees are paid by the wholesale lender to the retail lender. The issue arises over whether under RESPA, the amount and the nature of indirect compensation must be disclosed to the consumer, and if so, in what form.

The Congress enacted RESPA in order to avoid unnecessarily high prices and to ensure that consumers were afforded timely and effective information as to the nature and costs of real estate settlement service transactions. To this end, Section 4 of RESPA (12 U.S.C. 2603) requires the Secretary to create a uniform settlement statement that "shall conspicuously and clearly itemize all charges imposed on the borrower * * * and the seller in connection with the settlement" (Section 4(a)). Section 5(c) of RESPA further requires the provision of a "good faith estimate of the amount or range of charges for specific settlement services the borrower is likely to incur in connection with the settlement * * *." 12 U.S.C. 2604(c).

Under HUD's current rules, the disclosure of all fees paid to retail lenders, including all compensation from wholesale lenders, is required where the retail lender is being compensated as part of the settlement transaction. 24 CFR 3500.5(b)(7); Appendix B, Fact Situations 5 and 11. This same disclosure requirement has not been applied to subsequent purchases of loans by wholesale lenders on the theory that Congress only intended to cover costs related to the initial settlement transactions.

The Department's current regulations, therefore, treat compensation to the retail lender under three settlement situations somewhat differently, depending upon how the loans are funded at settlement. First, there must be a disclosure of any fees paid by consumers where the retail lender processes the loan from start to finish, funds the loan, and closes the loan in its own name. Subsequent sales of the loan to a wholesale lender, however, would require no further disclosures. Second, where loan funds are provided by the

wholesale lender and the loan is closed in the wholesale lender's name, current RESPA regulations require that indirect, as well as direct, payments to the retail lender and the wholesale lender be disclosed. Under the third method of origination, a loan is processed by, and closed in the name of, the retail lender with a simultaneous advance of loan funds to the retail lender by the wholesale lender, and an assignment of the loan and servicing rights to that wholesale lender ("table-funding"). The Department has determined that all compensation received by a mortgage broker in such a table-funded transaction is subject to disclosure.

The Department's current rules treat mortgage brokers in table-funded transactions as *settlement service providers* ancillary to the loan, akin to title agents, attorneys, appraisers, etc., whose fees are subject to disclosure. This interpretation does not view a mortgage broker as the functional equivalent of a mortgage lender. The salient criterion for this conclusion is the source of funds—unlike a mortgage lender, the mortgage broker in a table-funded transaction does not close the loan with its own funds. Conversely, a mortgage broker using its own funds, or with a "warehouse" line of credit for which it is liable, is not viewed as a mortgage broker but rather as a mortgage lender under the extant HUD interpretation.

HUD's interpretation has given rise to some controversy. Opponents contend that the Department's reading of RESPA's disclosure requirements to include indirect charges and payments that the borrower funds is too expansive. First, they argue that indirect compensation need not be separately enumerated since it is already reflected in direct charges. They further assert that all the consumer needs to know is enough to compare the ultimate cost to the consumer of competing products. Second, critics argue that such loans are akin to, and should thus be treated as, secondary market transactions. Mortgage brokers further complain that an unlevel playing field is created since mortgage bankers do not bear the burden of disclosing the terms of a subsequent sale of the loan. They argue that the competitive disadvantage is amplified by the fact that the Department makes mortgage brokers subject to the requirements of Section 8 of RESPA, adding a level of scrutiny that does not apply to transactions of other originators who sell their loans to wholesale lenders following settlement. They also assert that HUD's interpretation, insofar as it places retail lenders at a competitive disadvantage, deters the expansion of access to mortgage credit for "non-traditional" borrowers.

Issue 2: Volume-Based Compensation

Volume-based compensation is a payment of money or any other thing of value, as defined by the RESPA regulation, § 3500.14(d), that a wholesale lender provides to a retail lender, based on a number or dollar value of loans that the retail lender sells to the wholesale lender in a fixed period of time. Volume compensation also encompasses volume discounts, wherein a retail lender, who is to provide a stated volume of loans, is given a lower "start-rate" than the wholesale lender's advertised rate, and the retail lender keeps a differential between the start rate and the advertised rate as part of its compensation at settlement.

HUD has never enunciated a formal policy on whether volume-based compensations are permissible under RESPA. Critics of volume-based compensation argue that permitting such payments may lead to loan-steering. Arguably, the consumer's interest (in seeing a range of loan options) may be subordinated to the interest of the retail lender in receiving greater compensation from a particular wholesale lender. Moreover, additional compensation for loans closed above a threshold number, where no added services are provided, could, standing alone, violate Section 8 of RESPA.

Other critics argue that, if the retail lender originates in its own name, the consumer is generally unaware that the retail lender has wholesale options available and may not even be consciously aware of the retail lender's intention to sell the mortgage. It is also conceivable that the retail lender may influence the consumer not to select a favorable loan package so that the retail lender can increase its volume of business with a lender which offers volume compensation.

Consumers may, however, benefit from volume-based compensation. A retail lender will strive to obtain the higher price available from volume compensation. To obtain the needed volume of business, the retail lender may pass along part of the higher price to the consumer in terms of lower points or other cost savings. Retail lenders required to make disclosure could also argue that HUD has created an "uneven playing field" between mortgage bankers and other retail lenders, inasmuch as the issue of volume-based compensation is not relevant for mortgage banker transactions.

In addition to volume-based compensation, retail lenders also receive compensation from wholesale lenders under a variety of names, the most common of which are "servicing release premiums", "yield spread premiums", "yield spread differentials" or "overage". These terms generally refer to any compensation paid to or retained by a retail lender based upon the difference in the interest rate provided in the sold loan and some other benchmark interest rate. It compensates the retail lender for a loan priced at a rate higher than that at which the wholesale lender would otherwise have been willing to accept the loan. A "servicing release premium" is any compensation paid to a retail lender for the release of rights to service the loan. The concerns regarding such forms of compensation are similar to those expressed regarding volume based compensation, that is, do they constitute kickbacks or fee-splitting for delivery of the loans.

Regulatory Negotiation

Negotiated rulemaking has emerged in recent years as an alternative to conventional procedures for drafting proposed regulations. The essence of the concept is that, in appropriate circumstances, it is possible and preferable to bring together agency representatives and all parties substantially affected by the subject matter of the regulation in order to negotiate the terms of the proposed rule. The literature identifies two principal purposes of negotiated rulemaking: to gather information so that agency regulation results in better-informed and well-fashioned rules, and to attempt to reach consensus as to the text of the rule by a process through which negotiators evaluate their own priorities and make tradeoffs to achieve an acceptable outcome on the issues of greatest importance to them. Each element is an extremely valuable outcome of the regulatory negotiation process.

If a consensus is achieved, the resulting rule will likely be easier to implement and less subject to subsequent litigation. Even if consensus is not reached, the process may prove valuable as a means of better informing the regulatory agency of the issues and the concerns of the affected interests.

The final convening report was provided to HUD in September 1995, and concludes that "negotiated rulemaking would be appropriate and feasible and that this process may offer the best means of accommodating the difficult issues involved here." A copy of the report, titled *Convening Report for Regulatory Negotiations on Mortgage*

Broker Fee Disclosures, is available in the office of the Rules Docket Clerk at the above address.

Chartering of Reg-Neg Committee

As a general rule, an agency of the Federal Government is required to comply with the requirements of the Federal Advisory Committee Act (FACA) when it establishes or uses a group of non-Federal members as a source of advice. Under FACA, HUD must receive a charter for this reg-neg committee. HUD has prepared a charter and sent it to the Office of Management and Budget for approval. If the charter is approved and schedule changes are not necessary as a result of public comments, the Committee will be convened in accordance with this notice.

Substantive Issues for Negotiation

The convening report noted that regulatory negotiation could lead to uniform disclosure requirements for all retail lenders either: (1) to require the disclosure of all direct fees paid to retail lenders by borrowers *and* to require disclosure of all indirect fees paid to retail lenders by wholesale lenders; or (2) to require the disclosure of all direct fees paid to retail lenders by borrowers only. In addition to or instead of modifying the rules on disclosure of fees in loan transactions, HUD may choose to redefine what constitutes a "secondary market transaction". As set forth above, such transactions are exempt from RESPA including, *inter alia*, its disclosure requirements, its prohibitions against kickbacks and referral fees, and its requirement that all compensation be reasonably related to the goods or services provided. A "secondary market transaction" could be defined as a loan transaction involving: (1) The sale of a loan by a retail lender to a wholesale lender occurring after settlement (the position in the current regulations); (2) the sale of a loan by a retail lender at any time—before, contemporaneous with, or after settlement; or (3) the sale of a loan on some other date, such as after the first accrual date for the loan following settlement, *i.e.*, the date the first payment is due from the borrower under the loan.

Combining various options for requiring disclosure of direct and indirect fees, or disclosure of direct fees only, with the three possibilities for defining the secondary market transaction, results in at least six alternative approaches to regulating settlement transactions under RESPA. Each of these six alternatives would have a different effect on each of the major types of loan transactions described above, including: (1) loan closing and subsequent assignment of the loan; (2) loan closing in the wholesale lender's name using the wholesale lender's funds; and (3) table-funding. None of these alternatives will affect a fourth type of transaction—a portfolio transaction where a retail lender processes, funds and closes a loan in its own name for its own portfolio and the lender then holds the loan (if the loan is sold at all, it occurs long after settlement). The alternatives, or possible combination of requirements, available to the Committee include requiring the:

(1) Disclosure of direct and indirect fees at settlement and classification of a loan sale as a "secondary market transaction" only if it occurs after settlement;

(2) Disclosure of direct and indirect fees at settlement and the classification of any loan sale—before, contemporaneous with, or after settlement—as a "secondary market transaction";

(3) Disclosure of direct and indirect fees at settlement and the classification of loan sales following the first accrual—the date the first payment is due from the borrower under the loan—as "secondary market transactions";

(4) Disclosure of only direct (not indirect) fees at settlement and the classification of a loan sale as a "secondary market transaction" only if it occurs after settlement;

(5) Disclosure of only direct (not indirect) fees at settlement and the classification of a loan sale, at any time, as a "secondary market transaction"; and

(6) Disclosure of only direct (not indirect) fees at settlement and the classification of a loan sale as a "secondary market transaction" only if it occurs after the first accrual date.

As to volume-based compensation, those arguments identified in the "Issue 2" section above define the issues likely to arise in negotiations. Additionally, if negotiated rulemaking leads to a conclusion that such compensation is allowable under RESPA, the question also arises as to whether and how the payment should be disclosed on the Good Faith Estimate and the HUD–1 and HUD–1A forms.

Committee Membership

The convener consulted and interviewed over 30 officials of various organizations interested and affected by the mortgage fee disclosure rule. These include the National Association of Mortgage Brokers, the Mortgage Bankers Association of America, the Mortgage Capitol Group, the American Bankers Association, and America's Community Bankers. The convener also concluded that it was essential that the Committee include an appropriate number of consumer advocates. Moreover, the convener felt that it was important to include participation from the national group representing state financial regulators, the American Association of Residential Mortgage Regulators, due to its active and important role in consumer protection issues and its expertise, especially in the real estate arena.

The convener recommended the inclusion of additional entities, either because of their technical expertise in real estate settlement issues or by virtue of their interests in issues ancillary to this regulation. Those recommended by the convener included the National Association of Realtors, because many of its member realtors are also mortgage brokers and mortgage lenders, and RESPRO, whose members are diversified affiliated real estate settlement service providers and include large real estate companies, controlled businesses, and mortgage providers.

Finally, the convener recommended two Government-Sponsored Enterprises—the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac)—for inclusion, because of their importance in determining what constitute secondary mortgage market transactions for purposes of RESPA.

After reviewing the recommendations by the convener, HUD has tentatively identified the following list of possible interests and parties:

Tentative List of Regulatory Negotiations Committee Membership

National Industry Groups

1. Paul Reid, President, American Home Funding, Richmond, VA, President-Elect, Mortgage Bankers Association of America, 1125 15th Street, NW., Washington, DC 20005–2766
2. David Shirk, Member of Board of Directors, National Association of Mortgage Brokers, 1735 N. Lynn Street, Suite 950, Arlington, VA 22209
3. John Rasmus, Esq., Senior Federal Administrative Counsel/Manager, Agency Relations, American Bankers Association, 1120 Connecticut Avenue NW., Washington, DC 20036
4. Glen Gimble, Esq., Program Manager and Counsel, Real Estate Lending Compliance, America's Community Bankers, 900 19th Street, NW., Washington, D.C. 20006

5. Roy DeLoach, Policy Representative, Business Issues, National Association of Realtors, 700 Eleventh Street NW., Washington, D.C. 20001–4507
6. Sue Johnson, President and Executive Director, RESPRO, 1800 M Street NW., Suite 900 South, Washington, D.C. 20036
7. David Goldberg, The Mortgage Capitol Group, Senior Vice President, Administration, PHH Mortgage Services Corporation, 6000 Atrium Way, Mt. Laurel, NJ 08054

Consumer Groups

1. Robert Creamer, Citizen Action, 1730 Rhode Island Avenue NW., Washington, DC 20036
2. William J. Brennan, Jr., Esq. (Member, Board of Directors, National Association of Consumer Advocates), Home Defense Program of the Atlanta Legal Aid Society, 340 West Ponce De Leon Avenue, Decatur, Georgia 30030
3. Nina Simone, Esq., Jean Davis, Esq., Legal Counsel for the Elderly, American Association of Retired Persons, 601 E Street NW., Washington, DC 20049.

State Organizations

1. Craig Jordan, Esq., Assistant Attorney General for the State of Texas, Consumer Affairs Division, 714 Jackson Street, Suite 800, Dallas, Texas 75202
2. Daniel Muccia, President, American Association of Residential Mortgage Regulators and Deputy Superintendent of Banks, State of New York Banking Department, Two Rector Street, New York, New York 10006

Government-Sponsored Enterprises

1. Jim Newell, Esq., Associate General Counsel, Federal Home Loan Mortgage Corporation, 8200 Jones Branch Drive, McLean, VA 22102–3107
2. JoAnn Carpenter, Esq., Vice President and Deputy General Counsel, Federal National Mortgage Association, 3900 Wisconsin Avenue N.W., Washington, DC 20016–2899

Federal Government

Designated Federal Officer: Sarah X. Rosen, Esq., Special Assistant to the Assistant Secretary for Housing, Room 9100, U.S. Department of Housing and Urban Development, 451 7th Street S.W., Washington, D.C. 20410, (202) 708–3600

Comments and suggestions on this tentative list of Committee members are invited. HUD does not believe that each potentially affected organization or individual must necessarily have its own representative. However, HUD must be satisfied that the group as a whole reflects a proper balance and mix of interests. Negotiation sessions will be open to members of the public, so individuals and organizations that are not members of the Committee may attend all sessions and communicate informally with members of the Committee.

Requests for Representation

If in response to this Notice, an additional individual or representative of an interest requests membership or representation on the Committee, HUD, in consultation with the convener, will determine whether that individual or representative will be added to the Committee. Each additional nomination for membership on the Committee must include the name of the nominee and a description of the interests the nominee would represent, evidence that the nominee is authorized to represent relevant parties, a written commitment that the nominee shall participate in good faith, and the reasons that the members proposed in this notice do not adequately represent the interests of the person submitting the nomination. HUD will make the decision on membership based on whether the individual or interest would be substantially affected by the proposed rule and whether the individual or interest is already adequately represented on the Committee.

Final Notice Regarding Committee Establishment

After reviewing any comments on this Notice and any requests for representation, HUD will issue a final notice. That notice will announce the establishment of a Negotiated Rulemaking Advisory Committee, unless HUD's charter request is disapproved, or HUD decides, based on comments and other relevant considerations, that such action is inappropriate.

Tentative Schedule

If HUD determines that the Committee should be formed and negotiations started, HUD plans to hold the first meeting of the Committee in late 1995 or early 1996, after the close of the 30-day comment period on this notice and the approval of the Committee's charter. The meeting will be for two and a half days, with the first day starting at 10:00 a.m. and running until completion; the second day starting at 9:00 a.m. and running until completion; and the last day starting at 9:00 a.m. and running until approximately 1:00 p.m. The exact dates of the meeting in Washington, D.C., will be announced in a subsequent **Federal Register** notice. The location of the meeting will be: the Office of Administrative Law Judges, Washington Office Center, 409 3rd Street, SW, Suite 320, Washington, D.C. 20024, (202) 708–5004. The facilitator for the Committee will be the Honorable Alan W. Heifetz, Chief Administrative Law Judge. The purpose of the first meeting will be to orient members to the reg-neg process, establish a basic set of understandings and ground rules (protocols) regarding the process that will be followed in seeking a consensus, and begin to address the issues. This meeting is open to the public.

Decisions with respect to future meetings will be made at the first meeting and from time to time thereafter. Notices of future meetings will be published in the **Federal Register**, if time permits.

To prevent delays that might postpone timely issuance of a proposed rule, HUD intends to terminate the Committee's activities if the Committee does not reach consensus within 5 months of the first meeting. The process may end earlier if the facilitator believes that sufficient progress cannot be made or that an impasse has developed that cannot be resolved.

Authority: 42 U.S.C. 1437g, 3535(d).

Dated: September 29, 1995.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 95–26412 Filed 10–24–95; 8:45 am]

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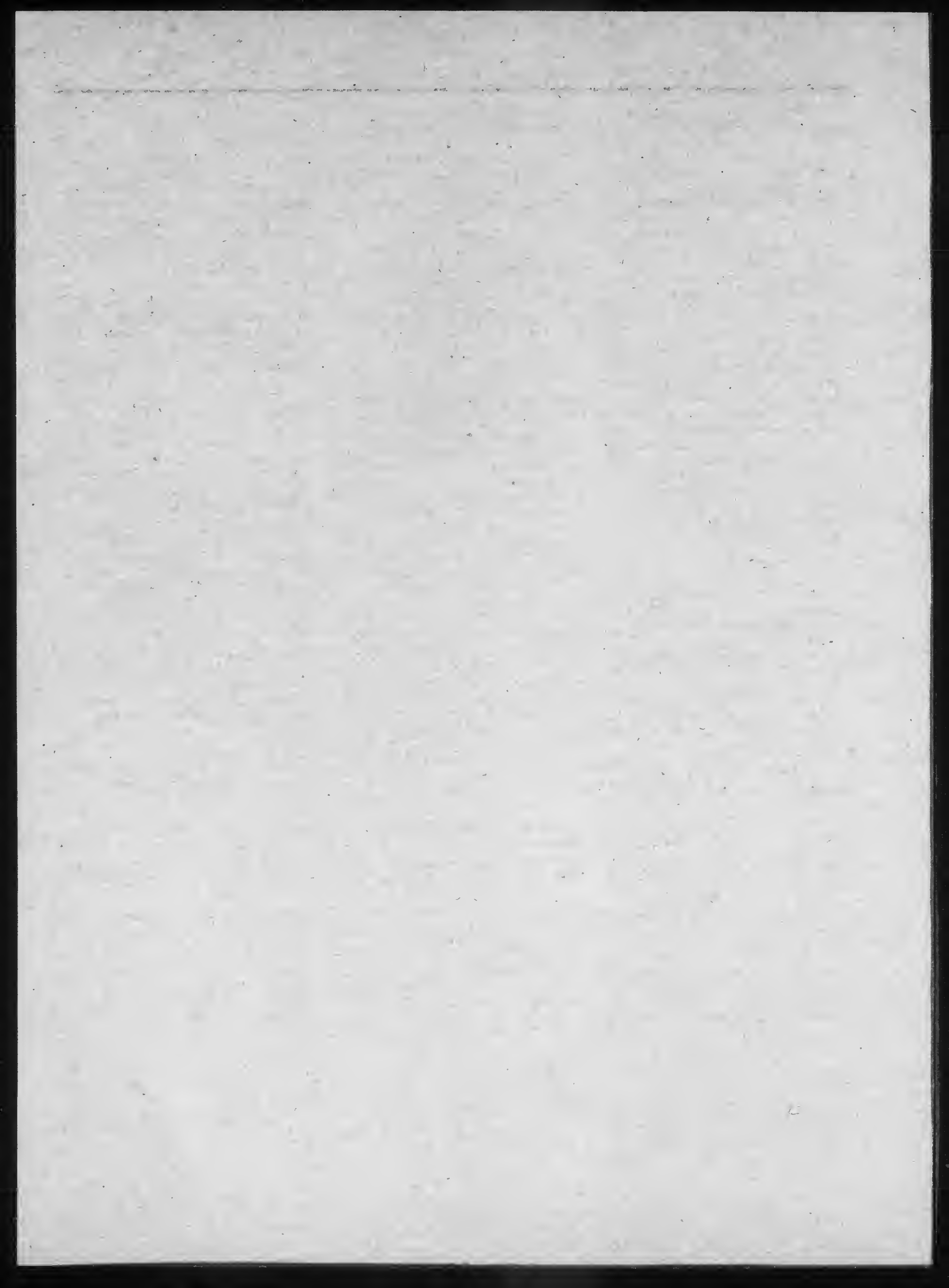

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H.R. 1976/P.L. 104–37

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996 (Oct. 21, 1995; 109 Stat. 299)

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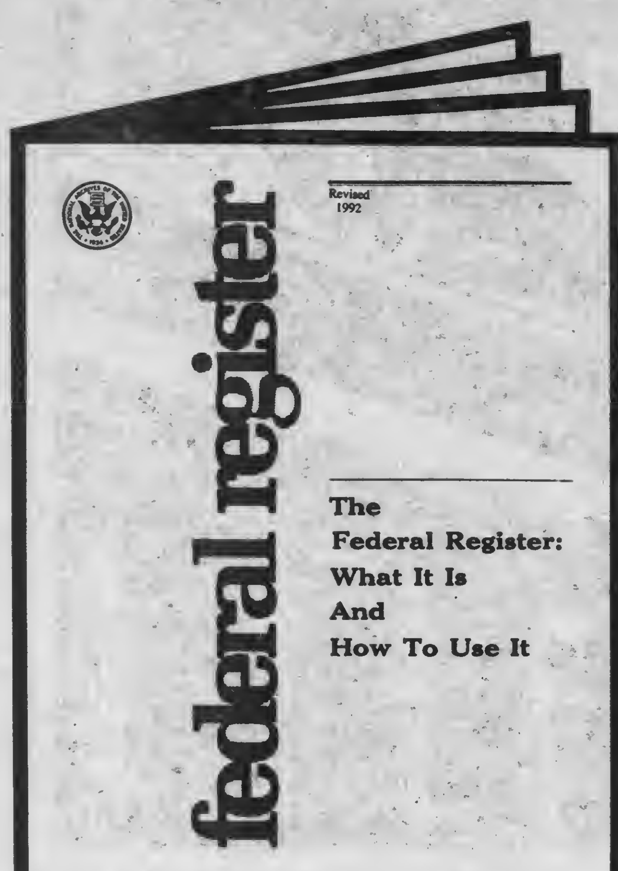

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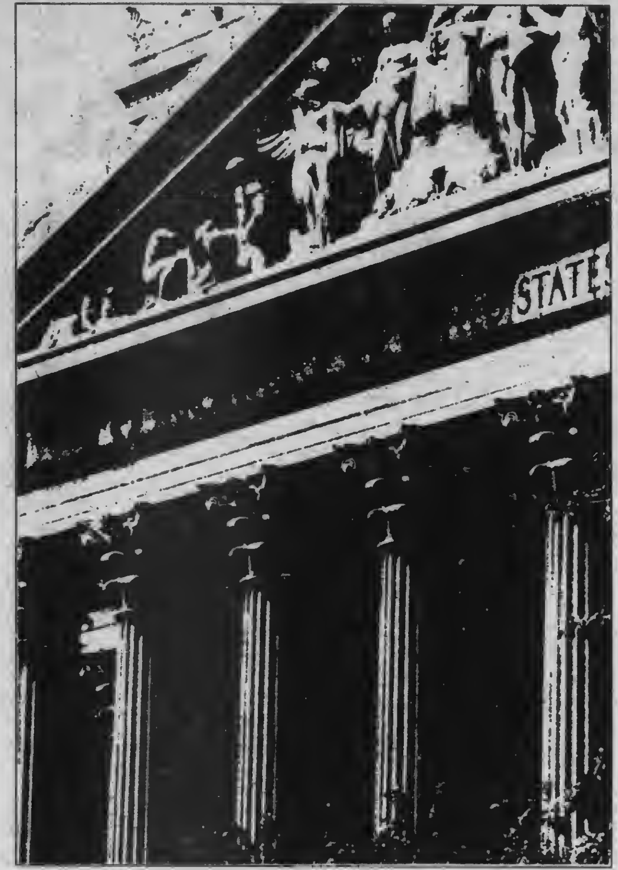

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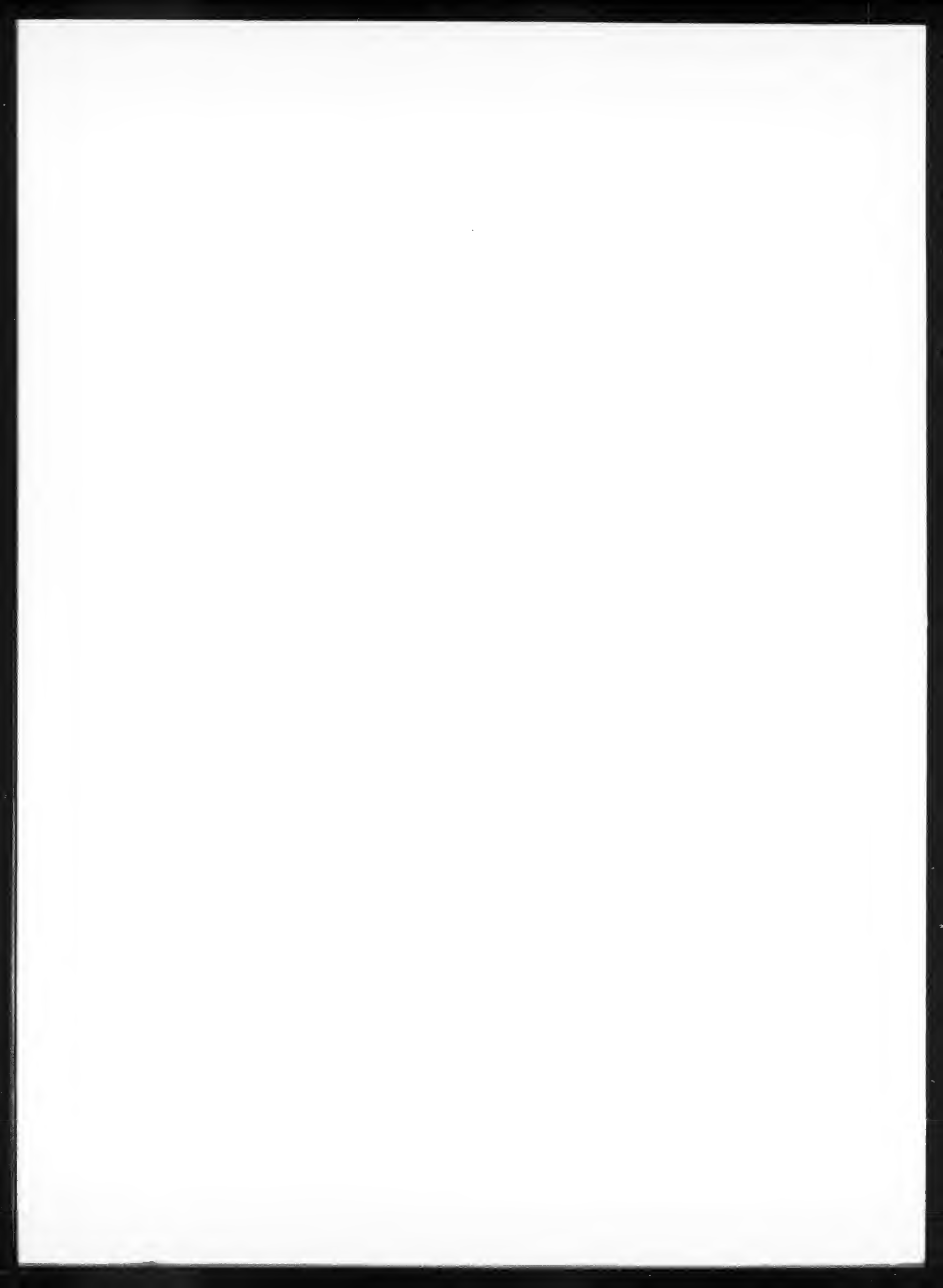

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