2-24-99
Vol. 64 No. 36

Federal Register

Wednesday
February 24, 1999

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(ISSN 0097-6326)

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Pages 9053–9262

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Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV99–989–2 IFR]

Raisins Produced From Grapes Grown In California; Increase in Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule increases the assessment rate established under the Federal marketing order for California raisins (order) from $5.00 to $8.50 per ton for raisins acquired by handlers for the 1998–99 and subsequent crop years. The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (Committee). Authorization to assess raisin handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The crop year runs from August 1 through July 31. The 1998–99 crop is smaller than initially estimated. Further, for this crop year, volume regulation will only be applied to one minor varietal type of raisin. As a result, some expenses paid by assessments will increase. The $5.00 per ton assessment rate will not generate enough revenue to cover expenses. The $8.50 per ton assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: February 25, 1999. Comments which are received by April 26, 1999, will be considered prior to issuance of any final rule.

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

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, or Fax: (202) 720–5698. Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay_N_Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California raisin handlers are subject to assessments. It is intended that the assessment rate as issued herein will apply to all assessable raisins beginning August 1, 1998, the beginning of the 1998–99 crop year, and continue in effect until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule increases the assessment rate established under the order for the 1998–99 and subsequent crop years from $5.00 to $8.50 per ton of raisins acquired by handlers. Authorization to assess raisin handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1998–99 crop is smaller than initially estimated. Further, for this crop year, volume regulation will be applied to one minor varietal type of raisin. As a result, some expenses paid by assessments will increase. The $5.00 per ton rate of assessment will not generate enough revenue to cover expenses. This action was unanimously recommended by the Committee at a meeting on January 15, 1999.

Sections 989.79 and 989.80, respectively, of the Federal order for California raisins provide authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California raisins. They are familiar with the Committee's needs and with

the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

An assessment rate of $5.00 per ton for raisins acquired by handlers has been in effect under the Federal order since the 1996–97 crop year (61 FR 52684; October 8, 1996). Regarding the 1998–99 crop year, the Committee met on August 13, 1998, and recommended administrative expenditures of $1,655,000 for the year. Major administrative expenditures included $545,500 for export program administration and related activities; $478,000 for salaries; and $100,000 for compliance activities. These expenditures were approved by the Department on August 18, 1998. At that time, the Committee estimated the crop at about 321,400 tons, and anticipated that 333,000 tons of raisins would be acquired by handlers during the 1998–99 crop year (included about 59,800 tons of 1997 reserve raisins sold to handlers for free use). The $5.00 per ton assessment rate was expected to generate $1,665,000 in revenue which would have allowed the Committee to meet its administrative expenses.

Section 989.79 of the order also provides authority for the Committee to formulate an annual budget of expenses likely to be incurred during the crop year in connection with reserve raisins held for the account of the Committee. A certain percentage of each year's raisin crop may be held in a reserve pool during years when volume regulation is implemented to help stabilize raisin supplies and prices. The remaining "free" percentage may be sold by handlers to any market. Reserve raisins are disposed of through various programs authorized under the order. Reserve pool expenses are deducted from proceeds obtained from the sale of reserve raisins. Net proceeds are returned to the pool's equity holders, primarily producers.

At its August 1998 meeting, the Committee recommended a 1998–99 reserve pool budget of $2,941,500. Major pool expenses included $1,050,000 for insurance and repair of bins for storing reserve raisins; $545,500 for export program administration and related activities; $462,000 for salaries; and $235,000 for compliance activities.

Adverse crop conditions during the spring of 1998 created by the weather phenomenon known as El Nino, combined with scattered rain and a labor shortage during harvest contributed to a smaller 1998–99 raisin crop than initially anticipated. Also, reserve pools were initially established in October 1998 for five of the nine varietal types of raisins covered under the order—Natural (sun-dried) Seedless (Naturals), Zante Currants (Zantes), Dipped Seedless, Oleate and Related Seedless, and Other Seedless—when the Committee computed and announced preliminary free and reserve marketing percentages pursuant to § 989.54. In November 1998, the Committee determined that volume regulation was not warranted for Dipped Seedless, Oleate and Related Seedless, and Other Seedless raisins.

The Committee met on January 15, 1999, to review crop conditions, its financial situation, and various marketing order programs. The Committee reduced its production estimate from 321,000 to 276,500 tons, and reduced its estimate of assessable tonnage from 333,000 to 315,000 tons. The Committee also determined that volume regulation was not warranted for Naturals and all other varietal types, but is warranted for Zantes, for the 1998–99 crop year. This is the first time in 16 years that volume regulation for Naturals has not been implemented.

With a smaller 1998 crop, reduced estimate of assessable tonnage, and volume regulation only warranted for Zantes, the Committee recommended revising its administrative and reserve pool budgets. The 1998 reserve pool budget was reduced from $2,941,500 to $25,000 which should cover operating expenses for Zante reserve raisins. In addition, $975,000 initially budgeted for 1998 reserve pool operating expenses were applied to the existing 1997 Natural and Zante reserve pool budgets. Included in the $975,000 is $683,000 which will be utilized for export program administration.

The Committee also reviewed and identified those expenses that were considered reasonable and appropriate to continue the raisin marketing order program, without a significant reserve pool. The expenses that were associated with the initial reserve pool budget were modified and adjusted as appropriate and included in the administrative budget. For example, salaries, payroll, taxes, retirement contributions, insurance, rent for office space, telephone, and other administrative items are usually split between the Committee's administrative and reserve budgets. Although the 1998 crop is reduced, the Committee needs to maintain its staff to administer the order and ongoing export programs.

Many operating expenses were adjusted from the Committee's initial administrative and reserve budgets, such as for overall compliance ($335,000 to $200,000), overall auditing fees ($35,000 to $10,000), overall printing ($20,000 to $17,000), and overall Committee meetings ($24,000 to $20,000). Ultimately, the Committee recommended increasing its administrative expenses from $1,665,000 to $2,677,500, which includes an additional $1,012,500 in operating expenses initially associated with the 1998 reserve budget. Major expenses to be funded through handler assessments now include $940,000 in salaries; $408,000 for export program administration; $200,000 for compliance activities; $150,000 for Committee travel; and $140,000 for membership dues and surveys.

The Committee recommended increasing its assessment rate from $5.00 to $8.50 per ton of raisins acquired by handlers. The $8.50 per ton assessment rate when applied to anticipated acquisitions of 315,000 tons will yield $2,677,500 in assessment income which will be adequate to cover anticipated administrative expenses. Authority for the Committee to recommend an increase in the assessment rate during a crop year to obtain sufficient funds to meet expenses is provided in § 989.80(c) of the order. Any unexpended assessment funds from the crop year are required to be credited or refunded to the handlers from whom collected, as provided in § 989.81(a) of the order.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information. Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1998–99 revised budget and those for subsequent crop years will be reviewed and, as appropriate, approved by the Department.

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

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

There are approximately 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities. Thirteen of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining 7 handlers have sales less than $5,000,000, excluding receipts from any other sources.

This rule increases the assessment rate established under the Federal order for the 1998–99 and subsequent crop years, as specified in § 989.347, from $5.00 to $8.50 per ton of raisins acquired by handlers. The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Committee. Authorization to assess raisin handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1998–99 crop is smaller than initially estimated due to adverse weather conditions and a labor shortage during harvest. Further, for this crop year, volume regulation will be applied to one minor varietal type of raisin. As a result, some expenses paid by assessments will increase. The $5.00 per ton rate of assessment will not generate enough revenue to cover expenses.

With a smaller crop, reduced estimate of assessable tonnage, and volume regulation only warranted for Zantes, the Committee recommended revising its administrative and reserve pool budgets. The 1998 reserve pool budget was reduced from $2,941,500 to $25,000 which should cover operating expenses for Zante Currant reserve raisins. In addition, $975,000 initially budgeted for 1998 reserve pool operating expenses were applied to the existing 1997 Natural and Zante reserve pool budgets. Included in the $975,000 is $683,000 which will be utilized for export program administration.

The Committee also reviewed and identified those expenses that were considered reasonable and appropriate to continue the raisin marketing order program, without a significant reserve pool. Those expenses that were associated with the initial reserve pool budget were modified and adjusted as appropriate and included in the administrative budget. For example, salaries, payroll taxes, retirement contributions, insurance, rent for office, space, telephone, and other administrative items are usually split between the Committee's administrative and reserve budgets. Although the 1998 crop is reduced, the Committee needs to maintain its staff to administer the order and ongoing export programs. Many operating expenses were adjusted from the Committee's initial administrative and reserve budgets. These included adjustments for overall compliance ($335,000 to $200,000), overall auditing fees ($35,000 to $10,000), overall printing ($20,000 to $17,000), and overall Committee meetings ($24,000 to $20,000). Ultimately, the Committee recommended increasing its administrative expenses from $1,665,000 to $2,677,500, which includes an additional $1,012,500 in operating expenses initially associated with the 1998 reserve budget.

The $8.50 per ton assessment rate, when applied to anticipated acquisitions of 315,000 tons, will yield $2,677,500 in revenue and allow the Committee to meet expenses, which include $940,000 for salaries; $408,000 for export program administration; $200,000 for compliance activities; $150,000 for Committee travel; and $140,000 for membership dues and surveys. Authority for the Committee to incur expenses, generate revenue by assessing raisin handlers, and increase the assessment rate during a crop year is provided in §§ 989.79 and 989.80 of the order, respectively.

Regarding the impact of this rule on handlers and producers, while assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the marketing order. With the 1998–99 producer price for Naturals, the major raisin varietal type covered under the order, averaging $1,290 per ton of raisins acquired, estimated assessment revenue for the 1998–99 crop year as a percentage of total producer revenue is expected to be less than 2 percent. The increased assessment rate will allow the Committee to meet its expenses and continue program operations. Any unexpended assessment funds from the crop year are required to be credited or refunded to the handlers from whom collected, as provided in § 989.81(a) of the order.

The Committee considered some alternatives to the recommended action. The Committee's Audit Subcommittee formed a working group which held a meeting on December 16, 1998, to discuss revisions to the budget. The Audit Subcommittee held a follow-up meeting on January 6, 1999. Alternatives discussed at these meetings were based on the assumption that no volume regulation would be in effect for any varietal type of California raisins for the remainder of the crop year. Accordingly, one option considered was to have the 1998 administrative budget absorb all of the operating costs that are typically split between the administrative and reserve pool budgets, and increase the assessment rate to $11.50 per ton of raisins acquired to cover these costs. However, the majority of subcommittee members determined that the increase in expenses should be funded more appropriately with 1998–99 handler assessments and proceeds from the anticipated 1998 reserve pool for Zantes, and the existing 1997 reserve pools for Naturals and Zantes, respectively.

The working group and subcommittee members also considered various scenarios regarding the itemized expenses, estimate of assessable tonnage, and necessary assessment income. Ultimately, the Committee determined that volume regulation will only be warranted for Zantes, that administrative expenses should be increased to $2,677,500, that the estimate of assessable tonnage should be reduced from 333,000 to 315,000 tons, and that the assessment rate should be increased to $8.50 per ton of raisins acquired by handlers.

This rule imposes no additional reporting or recordkeeping requirements on either small or large raisin handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, the Department

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

In addition, the Committee's working group meeting on December 16, 1998, subcommittee meeting on January 6, 1999, and the Committee meeting on January 15, 1999, where this action was deliberated were public meetings widely publicized throughout the raisin industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations. Finally, all interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The Committee needs to begin assessing handlers at the $8.50 rate as soon as possible to generate sufficient revenue to meet its expenses; (2) the 1998–99 crop year began on August 1, 1998, and the order requires that the rate of assessment for each crop year apply to all raisins acquired during such crop year; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this rule provides for a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 989.347 is revised to read as follows:

§ 989.347 Assessment rate.

On and after August 1, 1998, an assessment rate of $8.50 per ton is established for assessable raisins produced from grapes grown in California.

Dated: February 17, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–4540 Filed 2–23–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–74–AD; Amendment 39–11050; AD 98–24–03]

RIN 2120–AA64

Airworthiness Directives; BMW Rolls-Royce GmbH Models BR700–710A1–10 and BR700–710A2–20 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule, request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 98–24–03 that was sent previously to all known U.S. owners and operators of BMW Rolls-Royce GmbH (BRR) Models BR700–710A1–10 and BR700–710A2–20 turbofan engines by individual letters. This AD requires repetitive visual inspections of the fairing and fasteners for correct installation and damage, and verification that the engine core fairing fasteners are torqued to the higher torque value. This amendment is prompted by a report of an engine compressor core fairing failure during engine ground runs. The actions specified by this AD are intended to prevent engine compressor or combustion core fairing detachment and damage to the engine bypass duct, resulting in engine failure and damage to the aircraft.

DATES: Effective March 11, 1999, to all persons except those persons to whom it was made immediately effective by priority letter AD 98–24–03, issued on November 12, 1998, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 11, 1999.

Comments for inclusion in the Rules Docket must be received on or before April 26, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 98–ANE–74–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.gov". Comments sent via the Internet must contain the docket number in the subject line.

The applicable service information may be obtained from BMW Rolls-Royce GmbH, Eschenweg 11, D–15827 Dahlewitz, Germany; telephone 011–49–33–7086–1883; fax 011–49–33–7086–3276. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Diane Cook, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7133, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On November 12, 1998, the Federal Aviation Administration (FAA) issued priority letter airworthiness directive (AD) 98–24–03, applicable to BMW Rolls-Royce GmbH (BRR) Models BR700–710A1–10 and BR700–710A2–20 turbofan engines, which requires visual inspections of the fairing and fasteners to ensure proper installation and for cracks or damage, and if cracked or damaged, replacement with serviceable parts, and also requires that the engine core fairing fasteners be torqued to a higher torque value. That action was prompted by a report of an engine compressor core fairing failure during engine ground runs on a BRR Model BR700–710A1–10 turbofan engine installed on a Gulfstream G–V model aircraft. Preliminary investigation indicates that the upper right compressor core fairing became detached and lodged in the engine bypass duct. The engine bypass duct was substantially damaged, resulting in engine removal. Following the event, additional in-field engine inspections of the compressor and combustion core fairings found some engine core fairing fasteners that were cracked, loose, not engaged, or no longer engageable.

The FAA received a comment to the Priority Letter AD recommending that

the language of Paragraph (a) in the compliance section be changed to clarify the intent. The commenter expressed concern that Paragraph (a) may be interpreted as requiring the removal and disassembly of the fairing and fasteners in order to visually inspect for cracks. The FAA disagrees. The language in Paragraph (a) is adequate without adding clarification. The intent of this paragraph not to remove or disassemble the fairings or fasteners but to visually inspect the fairings and fasteners for correct installation. Any damage or cracked hardware found during this visual inspection should be replaced.

Although the investigation continues, the FAA has determined that if this event occurred during flight, the damaged bypass duct could be potentially hazardous to the aircraft. This condition, if not corrected, could result in engine compressor or combustion core fairing detachment and damage to the engine bypass duct, resulting in engine failure and damage to the aircraft.

The FAA has reviewed and approved the technical contents of BRR Service Bulletin (SB) BR700–72–900062, Revision 2, dated November 3, 1998, that describes visual inspections to ensure proper installation of the engine compressor and combustion core fairings (also referred to as the engine core fairing) and increases the torque limits for the fairing fasteners.

Since the unsafe condition described is likely to exist or develop on other engines of the same type design, the FAA issued priority letter AD 98–24–03 to prevent engine failure and damage to the aircraft. The AD requires, prior to further flight, and thereafter at 50 hours time in service (TIS) intervals, visual inspection of the fairing and fasteners for correct installation and for cracks and damage, and verification that the engine core fairing fasteners are torqued to the higher torque value. These actions are required to be accomplished in accordance with the SB described previously.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on November 12, 1998, to all known U.S. owners and operators of BRR Models BR700–710A1–10 and BR700–710A2–20 turbofan engines. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to Section 39.13 of part 39 of the Federal Aviation Regulations (14 CFR part 39) to make it effective to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–ANE–74–AD." The postcard will be date stamped and returned to the commenter.

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

98–24–03 BMW Rolls-Royce GmbH: Amendment 39–11050. Docket 98–ANE–74–AD.

Applicability: BMW Rolls-Royce GmbH (BRR) Model BR700–710A1–10 and BR700–710A2–20 turbofan engines installed on, but not limited to, Gulfstream Aerospace G–V and Bombardier BD–700–1A10 model aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent engine compressor and combustion core fairing detachment which could result in damage to the engine bypass duct, engine failure and damage to the aircraft, accomplish the following:

(a) Prior to further flight, visually inspect the engine compressor and combustion core

fairings and fasteners to ensure correct installation and for cracks or damage, and if cracked or damaged, replace with serviceable parts. Torque all the fasteners to the increased torque value, in accordance with BRR Service Bulletin (SB) BR700–72–900062, Revision 1, dated October 29, 1998, or Revision 2, dated November 3, 1998.

(b) Thereafter, at intervals not to exceed 50 hours time in service (TIS) since last inspection, visually inspect the engine compressor and combustion core fairings and fasteners to ensure correct installation and for cracks or damage and, if cracked or damaged, replace with serviceable parts. Torque all the fasteners to the increased torque value, in accordance with BRR SB BR700–72–900062, Revision 2, dated November 3, 1998.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(d) The actions required by this AD shall be done in accordance with the following BRR SB:

Document No.	Pages	Revision	Date
BR700–72–900062 ..... Total pages: 8.	1–8	2	November 3, 1998.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from BMW Rolls-Royce GmbH, Eschenweg 11, D–15827 Dahlewitz, Germany; telephone 011–49–33–7086–1883; fax 011–49–33–7086–3276. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective March 11, 1999, to all persons except those persons to whom it was made immediately effective by priority letter AD 98–24–03, issued November 12, 1998, which contained the requirements of this amendment.

Issued in Burlington, Massachusetts, on February 16, 1999.

David A. Downey,

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

[FR Doc. 99–4368 Filed 2–23–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 133

[T.D. 99–21]

RIN 1515–AB49

Gray Market Imports and Other Trademarked Goods

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations in light of *Lever Bros. Co.* v. *United States* (D.C. Cir. 1993). In line with that decision, the rule will, upon application by the U.S. trademark owner, restrict importation of certain gray market articles that bear genuine trademarks identical to or substantially indistinguishable from those appearing on articles authorized by the U.S. trademark owner for importation or sale in the U.S., and that thereby create a likelihood of consumer confusion, in circumstances where the gray market articles and those bearing the authorized U.S. trademark are physically and materially different. These restrictions apply notwithstanding that the U.S. and foreign trademark owners are the same, are parent and subsidiary companies, or are otherwise subject to common ownership or control. The restrictions are not applicable if the otherwise restricted articles are labeled in accordance with a prescribed standard under the rule that eliminates consumer confusion.

In addition, the Customs Regulations are reorganized, with respect to importations bearing recorded trademarks or trade names, in order to clarify Customs enforcement of trademark rights as they relate to products bearing counterfeit, copying, or simulating marks and trade names, and to clarify Customs enforcement against gray market goods.

EFFECTIVE DATE: March 26, 1999.

FOR FURTHER INFORMATION CONTACT: John F. Atwood, Intellectual Property Rights Branch, (202–927–2330).

SUPPLEMENTARY INFORMATION:

Background

Section 42 of the Lanham Act, 15 U.S.C. 1124, protects against consumer deception or confusion concerning an article's origin or sponsorship by restricting the importation of trademarked goods under certain circumstances. When an article is the domestic product of the U.S. trademark owner, that owner exercises control over the use of the trademark and the resulting goodwill. Similarly, Customs has taken the position that an article bearing an identical trademark and produced abroad by the U.S. trademark owner, a parent or subsidiary of the U.S. trademark owner, or a party subject to common ownership or control with the U.S. trademark owner, would be under the constructive control of either the U.S. trademark owner or a party who owned or controlled the U.S. trademark owner.

Customs has long taken the position that enforcement of the distribution rights of a gray market article produced abroad by a party related to the U.S. trademark holder was a matter to be addressed through private remedies. This is known as the "affiliate exception" to Customs enforcement of restrictions under section 42 of the Lanham Act against the importation of gray market goods. Thus, Customs Regulations do not provide for restrictions on the importation of such gray market articles.

In this regard, "gray market" articles, in general, are articles that the U.S. trademark owner has not authorized for importation or domestic sale, although the articles in fact bear genuine trademarks that are identical to or substantially indistinguishable from those appearing on articles that the U.S. trademark owner has so authorized.

Until *Lever Bros. Co.* v. *United States*, 981 F.2d 1330 (D.C. Cir. 1993) (*Lever*), the applicability of the affiliate exception depended simply on the presence of the genuine trademark and the existence of the relevant relationship between the companies, and was not contingent on whether the gray market articles were the same as, or different from, the articles that the U.S. trademark holder had authorized for importation or domestic sale.

In *Lever*, the court drew a distinction between identical goods produced abroad under the affiliate exception and goods produced abroad under the affiliate exception that were physically and materially different from the goods authorized by the U.S. trademark owner.

The court in *Lever* found that section 42 of the Lanham Act precluded Customs application of the affiliate exception with respect to physically, materially different goods.

Accordingly, by a document published in the **Federal Register** (63 FR 14662) on March 26, 1998, Customs proposed to make its regulations (19 CFR part 133, subpart C) consistent with *Lever* to protect against consumer confusion as to the source or sponsorship of imported gray market goods, even if the goods were produced by the owner of the U.S. trademark or by a party related to the U.S. trademark owner.

Under the proposed rule, however, the trademarked gray goods would not be restricted from importation, if they bear a prescribed label, informing the ultimate retail purchaser that they were not authorized by the U.S. trademark owner and were physically and materially different from the goods that were so authorized.

To enable and assist Customs in determining the scope of what is physically and materially different, a U.S. trademark owner under the proposed regulatory changes would need to submit an application for "Lever-rule" protection (§ 133.2(e)), including a summary of the physical and material differences between the gray market goods and those goods authorized by the U.S. trademark owner for importation or sale. This would result in Customs publishing a notice in the **Federal Register**, giving interested parties an opportunity to comment on the request for protection, before making a final determination in the matter. If Customs determined to grant protection, a notice to this effect would likewise be published in the **Federal Register**.

In addition to these proposed changes, Customs also proposed to reorganize and renumber the remainder of subpart C, part 133, for editorial clarity. None of the proposed clerical changes, other than those relating to the *Lever* decision, would alter Customs enforcement practices.

Discussion of Comments

Twenty commenters responded to the notice of proposed rulemaking. The major issues raised by the commenters, together with Customs analysis, are presented below.

Labeling Provision

Comments

The label in proposed § 133.23(b) is not consistent with the *Lever* decision's rationale, language, or spirit. Customs does not have jurisdiction to establish a consumer labeling requirement of this type under that decision.

Because the proposed label fails to meet the court's disclosure standard for genuine gray market imports, it is inadequate to eliminate consumer confusion and protect the trademark owner in the case of non-genuine (*i.e.*, materially different) imports. Generally, case law under the Lanham Act has explicitly rejected the notion that disclaimers absolve infringing conduct. Courts dealing with this issue have rejected such disclaimer language.

The *Lever* decision does not indicate that a labeling statement, such as the one proposed by Customs, would be adequate to cure potential consumer confusion. In any event, the label as proposed does not provide enough information to the consumer to eliminate the likelihood of confusion as to the nature and quality of the goods. The label exception ignores trademark owners' rights. Even if the product reaches the consumer with the label intact, the trademark owner's reputation and goodwill are likely to suffer.

Physically and materially different gray market goods bearing the proposed label are not equal to the goods that are perceived as "genuine" by the American consumer. Thus, an unfair burden is placed on U.S. trademark owners to correct any confusion caused by the label. Even if it were otherwise acceptable, the language of the label would have to be changed to provide that the product is not genuine. The label exception amounts to unfair competition and represents an undue emphasis on price as just one of the many factors entering into a consumer's purchasing decision.

The label is not permanent and could be removed after importation. If a label is allowed, it should be affixed in the same manner as a country of origin label under the marking law (19 U.S.C. 1304). Customs should specify what civil penalties would be imposed on persons intentionally removing, obliterating, or concealing the labels prior to sale to retail customers. Customs should also consider seeking authority to impose criminal penalties for such intentional acts.

Alternatively, the proposed rule should be changed to provide that Customs will review alternative labels. The proposed "label" should be presented merely as an acceptable form of labeling, not the exclusive form of labeling, allowable to permit importation. Importers should be permitted to affix labels after importation. Consumer confusion is eliminated by affixing the labels prior to distribution into commerce; the absence of labels on products at the time they arrive in the U.S. is of no consequence.

The label should not be required in order to import gray market goods in situations where the sale of the goods with the prescribed label would violate some state or Federal law. In particular, the label provision could result in violation of Food and Drug Administration (FDA) or other Federal labeling requirements, such as those of the Bureau of Alcohol, Tobacco and Firearms (BATF). Such violations could place the public at risk. In such instances, the labeling provision under the proposed rule as a prelude to importation should be excused.

Customs Responses

The court in *Lever* provided that confusion will be caused in the absence of some "specially differentiating feature" that will distinguish gray market articles that are physically and materially different from articles authorized by the U.S. trademark holder. Customs is of the opinion that the label as prescribed in § 133.23(b) constitutes a specially differentiating feature under *Lever*. The *Lever* decision does not specifically address labeling, an issue that was not before the court. Customs does not believe that the absence of language in the opinion expressly sanctioning the use of a label precludes Customs, as the agency responsible for enforcing the statute, from exercising its rule making authority to interpret the statute so as to permit the use of a label to identify a physically and materially different gray market good, to differentiate it from the authorized product, and thus dispel consumer confusion.

Customs believes that a label that makes clear that the gray market product is physically and materially different from the U.S. trademark owner's product is an appropriate means of dispelling consumer confusion and eliminating potential harm, for purposes of importation. This is for Customs entry purposes only. It is emphasized that Customs is not making an infringement decision. The language of the label is intended to inform the consumer that the product is not authorized by the U.S. trademark owner for importation and that the product is physically and materially different from the authorized product. To accomplish this purpose, the required label language in § 133.23(b) is slightly revised by this final rule. Customs is of the opinion that this language is sufficient to alert the U.S. consumer to the fact that the product is not authorized by the U.S. trademark owner.

Customs believes that legitimate gray market goods are "genuine" in the sense that the goods were produced and marketed abroad by authority of the trademark owner. Customs' role is limited. The rule, as proposed and adopted, imposes an import restriction; it is not intended to address all infringement and consumer protection issues. Customs is of the opinion that informing the U.S. consumer that the product is not authorized by the U.S. trademark owner for importation and that the product is physically and materially different provides sufficient information to alert U.S. consumers to such differences and satisfies the obligation of Customs with regard to regulation of importation. As indicated in § 133.23(b), other information designed to further dispel consumer confusion may be added to the standard language.

The label should help protect U.S. trademark owners because it should put consumers on notice that the imported article is not authorized by the U.S. trademark owner. Currently, Customs position is that physically and materially different goods could enter U.S. commerce where the trademark does not qualify for gray market protection. Under the amended regulation, where *Lever*-rule protection is granted, such goods may enter the U.S. only if they are labeled as required by this rule. To this extent, greater protection and product differentiation is provided under the new regulation.

The primary purpose of the label is not to promote price competition. Previously, where trademarks did not qualify for gray market protection, physically and materially different goods were imported into the U.S. without any differentiating information to inform the consumer. Because these products contained no specially differentiating feature prior to the labeling provision in this regulation and were permitted to be imported, the amended regulation provides the consumer with information that differentiates the imported physically and materially different product from the authorized product of the U.S. trademark owner. To this extent, any burden on the trademark owner is lessened by the labeling provision in the regulation. For additional clarity, the language on the label in § 133.23(b) is slightly changed to read as follows: "This product is not a product authorized by the United States trademark owner for importation and is physically and materially different from the authorized product."

Because it is within Customs' jurisdiction to enforce gray market restrictions, the label informs the consumer that the imported product is not the product authorized by the U.S. trademark owner. Customs is implementing the *Lever* decision, relating to the importation of physically and materially different goods, by adopting a prescribed label as the "specifically differentiating feature". Customs is of the opinion that it has the authority to establish a label that will avoid the *Lever*-rule prohibition. The label is not a requirement, but rather a "safe harbor" option.

With regard to removal of the label, the regulation provides that the label is to remain on the product until the first point of sale to a retail consumer in the U.S. The requirement that the label be placed next to the trademark in its most prominent location insures that the consumer is alerted to the label and the physical and material difference between the products. The labeling provision is not governed by the regulations on country of origin marking. With regard to penalties for intentionally removing, obliterating, or concealing the label prior to the first sale to retail customers, the removal of the label after importation and prior to retail sale could result in seizure and forfeiture of the goods (19 U.S.C. 1595a(c)(2)(C)).

Imported goods that are subject to *Lever*-rule protection must have a label conforming to § 133.23(b) applied *prior* to release of the goods by Customs. The label may be applied after the articles are presented for entry but prior to release of the goods. To clarify this point, § 133.23(d) is revised to indicate that if goods are detained under *Lever*-rule protection, the label must then be placed on the goods before they are entered.

The labeling provision does not supersede any Federal or state labeling requirement. Additionally, the Bureau of Alcohol, Tobacco and Firearms laws make an exception for other labels required by Federal law. The label provision does not nullify or supersede any Federal statute or regulation regarding the article or its labeling.

Physical-and-Material-Differences Standard

Comment

The physical and material differences standard in proposed § 133.2(e) should be broadened. Later court decisions following *Lever* have spoken only of "materially different goods", and have held that "any difference" between the product authorized by the trademark owner and the unauthorized goods creates a presumption of consumer confusion sufficient to support a trademark infringement claim. Although the *Lever* decision did involve products which were both physically and materially different from the product authorized for sale in the U.S., no rationale exists for confining the import restriction to physically and materially different goods, while allowing goods that are physically similar, but different in other material respects, to be freely imported. A number of courts have found that a difference can be "material" without having to also be a "physical" difference. The proposed rule ignores the importance of material differences such as packaging, quality control, and handling. Nothing in the *Lever* decision suggests that only physically different imports are subject to seizure. The proposed rule should be withdrawn and a revised materiality test should be issued that encompasses the full range of physical and non-physical differences deemed relevant under the Lanham Act.

Customs Response

The *Lever* court applied a standard using both physical and material differences. The regulation, applying the *Lever* standard, is the extent to which Customs will enforce such protection. However, the *Lever* court did not set out the parameters of the "physically and materially different" standard. In setting out categories that fall within the standard set by the *Lever* court, Customs will use the guidelines contained in § 133.2(e) as a starting point for determining if protection is warranted under the *Lever* decision. In particular, § 133.2(e)(5) provides that Customs will consider other characteristics that can be described with particularity and that would likely result in consumer deception or confusion under the law. The bases explicitly enumerated for granting *Lever*-rule protection are not all inclusive.

Application for "Lever-Rule" Protection

Comments

Interested (third) parties should not be involved in an application for protection. Application for *Lever* protection could likely turn into a contested adversarial proceeding. Customs should use the same or similar procedures used to record trademarks to process applications for *Lever* protection. Customs currently makes its own decision whether gray market protection should be granted. Similarly, there is no reason to give third parties a role in the application process.

The burden should be on the "gray marketeer" to rebut a presumption of

infringement. The proposed rule is unsound in shifting to the trademark owner the burden of demonstrating that the gray market import infringes the owner's trademark rights. The proposed rule should be withdrawn and re-issued to provide that once the U.S. trademark owner has shown a material difference, whether physical or not, the burden is on the "gray marketeer" to rebut a presumption of infringement.

The comment period provided in proposed § 133.2(f) is too long for applications for *Lever*-rule protection. By publishing in the **Federal Register**, at approximately 30-day intervals, a list of those trademarks for which gray market protection has been requested, followed by another 30-day period for comments, and then allowing time for a Customs determination of eligibility and subsequent publication in the **Federal Register** of a notice to this effect, a full calendar quarter will have gone by before protection may be afforded. This amounts to a virtual public invitation to import surges of a product that ultimately is excluded. No more than half this time should be tolerated.

Customs Responses

As part of the application process provided in § 133.2(f), as proposed, Customs would have published in the **Federal Register**, at thirty-day intervals, a list of trademarks for which *Lever*-rule protection was requested. After a thirty-day comment period, Customs would determine whether to grant *Lever*-rule protection. If *Lever*-rule protection was granted, Customs would then publish in the **Federal Register** a notice that the trademark would receive *Lever*-rule protection.

However, in response to the comment regarding the length of the application process, Customs has determined to revise the application process in § 133.2(f) by eliminating the thirty day comment period. To further expedite the application process while safeguarding the rights of the parties involved, Customs will publish a list of trademarks and the specific products for which *Lever*-rule protection was requested in the Customs Bulletin, rather than in the **Federal Register**. Customs will endeavor to process applications for *Lever*-rule protection as promptly as possible. Where *Lever*-rule protection is granted, Customs will publish in the Customs Bulletin a notice that the trademark will receive *Lever*-rule protection. Section 133.2(f) is revised accordingly.

If a trademark owner has applied for and received *Lever*-rule protection, goods that bear the protected trademark and are physically and materially different from the U.S. trademark owner's product initially will be detained. The trademark owner is not required to demonstrate that the gray market import infringes its trademark rights. Once the goods have been detained, the burden is on the importer to show either that the goods are identical and *Lever*-rule protection should not apply, or that an exception is applicable. With regard to the disclosure of proprietary information, upon application for *Lever*-rule protection, in addition to specific physical and material differences, the trademark owner must submit a summary of the physical and material differences, which need not disclose proprietary information.

Effect of Rule on Exclusion Orders

Comment

The proposed rule should not have any retroactive effect or affect general exclusion orders issued by the U.S. International Trade Commission (USITC), cease and desist orders of the USITC, or Customs enforcement of existing orders. Trademark owners who have obtained injunctions or exclusion orders relating to the importation and sale in the United States of gray market goods should not be forced to apply for protection under the proposed rule. In addition, no "gray marketeer" previously enjoined or excluded by court order from importing or selling gray market goods in the United States should be able to circumvent the injunction or exclusion order through Customs proposed labeling exception.

Customs Response

The regulation is prospective only and will not be applied retroactively. The rule should not undermine exclusion orders or court orders enjoining the importation of goods. Customs expects that the courts and the USITC will take the rule into consideration when fashioning injunctions or exclusion orders that are relevant to the regulations.

Conclusion

In view of the forgoing, and following careful consideration of the comments received and further review of the matter, Customs has concluded that the proposed amendments, with the changes discussed above, should be adopted.

Additional Changes

For greater clarity: in § 133.2(e), in the first sentence, the word "specific" is added after the words "between the" and before the words "articles authorized for importation or sale in the United States"; and, in § 133.2(e)(1) the word "specific" is added after the word "The" and before the words "composition of both the authorized and gray market products". For enhanced editorial accuracy, the heading of subpart C, part 133, is slightly revised.

Regulatory Flexibility Act and Executive Order 12866

This final rule document implements a court decision intended to protect products with valid U.S. trademarks against infringing imports. For this reason, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is hereby certified that the rule does not have a significant economic impact on a substantial number of small entities. Any economic impact is a consequence of the *Lever* decision. Accordingly, it is not subject to the regulatory analysis requirements of 5 U.S.C. 603 and 604. Nor does the rule meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information related to this final rule has been previously reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 and assigned OMB Control Number 1515–0114. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. This document restates the collection[s] of information without substantive change.

Comments concerning suggestions for reducing the burden of the collections of information should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, D.C. 20229.

List of Subjects in 19 CFR Part 133

Copyrights, Customs duties and inspection, Fees assessment, Imports, Penalties, Prohibited merchandise, Reporting and recordkeeping requirements, Restricted merchandise (counterfeit goods), Seizures and forfeitures, Trademarks, Trade names, Unfair competition.

Amendments to the Regulations

Part 133, Customs Regulations (19 CFR part 133), is amended as set forth below.

PART 133—TRADEMARKS, TRADE NAMES, AND COPYRIGHTS

1. The general authority citation for part 133 continues to read as follows, and the specific sectional authority for part 133 is revised to read as follows:

Authority: 17 U.S.C. 101, 601, 602, 603; 19 U.S.C. 66, 1624; 31 U.S.C. 9701.

Section 133.1 also issued under 15 U.S.C. 1096, 1124;

Sections 133.2 through 133.7, 133.11 through 133.13, and 133.15 also issued under 15 U.S.C. 1124;

Sections 133.21 through 133.25 also issued under 15 U.S.C. 1124, 19 U.S.C. 1526;

Sections 133.26 and 133.46 also issued under 19 U.S.C. 1623;

Sections 133.27 and 133.52 also issued under 19 U.S.C. 1526;

Section 133.53 also issued under 19 U.S.C. 1558(a).

2. Section 133.2 is amended by adding new paragraphs (e) and (f) to read as follows:

§ 133.2 Application to record trademark.

* * * * *

(e) *"Lever-rule" protection.* For owners of U.S. trademarks who desire protection against gray market articles on the basis of physical and material differences (see *Lever Bros. Co. v. United States*, 981 F.2d 1330 (D.C. Cir. 1993)), a description of any physical and material difference between the specific articles authorized for importation or sale in the United States and those not so authorized. In each instance, owners who assert that physical and material differences exist must state the basis for such a claim with particularity, and must support such assertions by competent evidence and provide summaries of physical and material differences for publication. Customs determination of physical and material differences may include, but is not limited to, considerations of:

(1) The specific composition of both the authorized and gray market product(s) (including chemical composition);

(2) Formulation, product construction, structure, or composite product components, of both the authorized and gray market product;

(3) Performance and/or operational characteristics of both the authorized and gray market product;

(4) Differences resulting from legal or regulatory requirements, certification, etc.;

(5) Other distinguishing and explicitly defined factors that would likely result in consumer deception or confusion as proscribed under applicable law.

(f) Customs will publish in the Customs Bulletin a notice listing any trademark(s) and the specific products for which gray market protection for physically and materially different products has been requested. Customs will examine the request(s) before issuing a determination whether gray market protection is granted. For parties requesting protection, the application for trademark protection will not take effect until Customs has made and issued this determination. If protection is granted, Customs will publish in the Customs Bulletin a notice that a trademark will receive *Lever*-rule protection with regard to a specific product.

3. Part 133 is amended by revising subpart C to read as follows:

Subpart C—Importations Bearing Registered and/or Recorded Trademarks or Recorded Trade Names

Sec.

Subpart C—Importations Bearing Registered and/or Recorded Trademarks or Recorded Trade Names

§ 133.21 Articles bearing counterfeit trademarks.

(a) *Counterfeit trademark defined.* A "counterfeit trademark" is a spurious trademark that is identical to, or substantially indistinguishable from, a registered trademark.

(b) *Seizure.* Any article of domestic or foreign manufacture imported into the United States bearing a counterfeit trademark shall be seized and, in the absence of the written consent of the trademark owner, forfeited for violation of the customs laws.

(c) *Notice to trademark owner.* When merchandise is seized under this section, Customs shall disclose to the owner of the trademark the following information, if available, within 30 days, excluding weekends and holidays, of the date of the notice of seizure:

(1) The date of importation;

(2) The port of entry;

(3) A description of the merchandise;

(4) The quantity involved;

(5) The name and address of the manufacturer;

(6) The country of origin of the merchandise;

(7) The name and address of the exporter; and

(8) The name and address of the importer.

(d) *Samples available to the trademark owner.* At any time following seizure of the merchandise, Customs may provide a sample of the suspect merchandise to the owner of the trademark for examination, testing, or other use in pursuit of a related private civil remedy for trademark infringement. To obtain a sample under this section, the trademark/trade name owner must furnish Customs a bond in the form and amount specified by the port director, conditioned to hold the United States, its officers and employees, and the importer or owner of the imported article harmless from any loss or damage resulting from the furnishing of a sample by Customs to the trademark owner. Customs may demand the return of the sample at any time. The owner must return the sample to Customs upon demand or at the conclusion of the examination, testing, or other use in pursuit of a related private civil remedy for trademark infringement. In the event that the sample is damaged, destroyed, or lost while in the possession of the trademark owner, the owner shall, in lieu of return of the sample, certify to Customs that: "The sample described as [insert description] and provided pursuant to 19 CFR 133.21(d) was (damaged/destroyed/lost) during examination, testing, or other use."

(e) *Failure to make appropriate disposition.* Unless the trademark owner, within 30 days of notification, provides written consent to importation of the articles, exportation, entry after obliteration of the trademark, or other appropriate disposition, the articles shall be disposed of in accordance with § 133.52, subject to the importer's right to petition for relief from the forfeiture under the provisions of part 171 of this chapter.

§ 133.22 Restrictions on importation of articles bearing copying or simulating trademarks.

(a) *Copying or simulating trademark or trade name defined.* A "copying or simulating" trademark or trade name is one which may so resemble a recorded mark or name as to be likely to cause the public to associate the copying or

simulating mark or name with the recorded mark or name.

(b) *Denial of entry.* Any articles of foreign or domestic manufacture imported into the United States bearing a mark or name copying or simulating a recorded mark or name shall be denied entry and subject to detention as provided in § 133.25.

(c) *Relief from detention of articles bearing copying or simulating trademarks.* Articles subject to the restrictions of this section shall be detained for 30 days from the date on which the goods are presented for Customs examination, to permit the importer to establish that any of the following circumstances are applicable:

(1) The objectionable mark is removed or obliterated as a condition to entry in such a manner as to be illegible and incapable of being reconstituted, for example by:

(i) Grinding off imprinted trademarks wherever they appear;

(ii) Removing and disposing of plates bearing a trademark or trade name;

(2) The merchandise is imported by the recordant of the trademark or trade name or his designate;

(3) The recordant gives written consent to an importation of articles otherwise subject to the restrictions set forth in paragraph (b) of this section or § 133.23(c) of this subpart, and such consent is furnished to appropriate Customs officials;

(4) The articles of foreign manufacture bear a recorded trademark and the one-item personal exemption is claimed and allowed under § 148.55 of this chapter.

(d) *Exceptions for articles bearing counterfeit trademarks.* The provisions of paragraph (c)(1) of this section are not applicable to articles bearing counterfeit trademarks at the time of importation (see § 133.26).

(e) *Release of detained articles.* Articles detained in accordance with § 133.25 may be released to the importer during the 30-day period of detention if any of the circumstances allowing exemption from trademark or trade name restriction set forth in paragraph (c) of this section are established.

(f) *Seizure.* If the importer has not obtained release of detained articles within the 30-day period of detention, the merchandise shall be seized and forfeiture proceedings instituted. The importer shall be promptly notified of the seizure and liability to forfeiture and his right to petition for relief in accordance with the provisions of part 171 of this chapter.

§ 133.23 Restrictions on importation of gray market articles.

(a) *Restricted gray market articles defined.* "Restricted gray market articles" are foreign-made articles bearing a genuine trademark or trade name identical with or substantially indistinguishable from one owned and recorded by a citizen of the United States or a corporation or association created or organized within the United States and imported without the authorization of the U.S. owner. "Restricted gray market goods" include goods bearing a genuine trademark or trade name which is:

(1) *Independent licensee.* Applied by a licensee (including a manufacturer) independent of the U.S. owner, or

(2) *Foreign owner.* Applied under the authority of a foreign trademark or trade name owner other than the U.S. owner, a parent or subsidiary of the U.S. owner, or a party otherwise subject to common ownership or control with the U.S. owner (see §§ 133.2(d) and 133.12(d) of this part), from whom the U.S. owner acquired the domestic title, or to whom the U.S. owner sold the foreign title(s); or

(3) "*Lever-rule*". Applied by the U.S. owner, a parent or subsidiary of the U.S. owner, or a party otherwise subject to common ownership or control with the U.S. owner (see §§ 133.2(d) and 133.12(d) of this part), to goods that the Customs Service has determined to be physically and materially different from the articles authorized by the U.S. trademark owner for importation or sale in the U.S. (as defined in § 133.2 of this part).

(b) *Labeling of physically and materially different goods.* Goods determined by the Customs Service to be physically and materially different under the procedures of this part, bearing a genuine mark applied under the authority of the U.S. owner, a parent or subsidiary of the U.S. owner, or a party otherwise subject to common ownership or control with the U.S. owner (see §§ 133.2(d) and 133.12(d) of this part), shall not be detained under the provisions of paragraph (c) of this section where the merchandise or its packaging bears a conspicuous and legible label designed to remain on the product until the first point of sale to a retail consumer in the United States stating that: "This product is not a product authorized by the United States trademark owner for importation and is physically and materially different from the authorized product." The label must be in close proximity to the trademark as it appears in its most prominent location on the article itself or the retail package or container. Other information designed to dispel consumer confusion may also be added.

(c) *Denial of entry.* All restricted gray market goods imported into the United States shall be denied entry and subject to detention as provided in § 133.25, except as provided in paragraph (b) of this section.

(d) *Relief from detention of gray market articles.* Gray market goods subject to the restrictions of this section shall be detained for 30 days from the date on which the goods are presented for Customs examination, to permit the importer to establish that any of the following exceptions, as well as the circumstances described above in § 133.22(c), are applicable:

(1) The trademark or trade name was applied under the authority of a foreign trademark or trade name owner who is the same as the U.S. owner, a parent or subsidiary of the U.S. owner, or a party otherwise subject to common ownership or control with the U.S. owner (in an instance covered by §§ 133.2(d) and 133.12(d) of this part); and/or

(2) For goods bearing a genuine mark applied under the authority of the U.S. owner, a parent or subsidiary of the U.S. owner, or a party otherwise subject to common ownership or control with the U.S. owner, that the merchandise as imported is not physically and materially different, as described in § 133.2(e), from articles authorized by the U.S. owner for importation or sale in the United States; or

(3) Where goods are detained for violation of § 133.23(a)(3), as physically and materially different from the articles authorized by the U.S. trademark owner for importation or sale in the U.S., a label in compliance with § 133.23(b) is applied to the goods.

(e) *Release of detained articles.* Articles detained in accordance with § 133.25 may be released to the importer during the 30-day period of detention if any of the circumstances allowing exemption from trademark restriction set forth in § 133.22(c) of this subpart or in paragraph (d) of this section are established.

(f) *Seizure.* If the importer has not obtained release of detained articles within the 30-day period of detention, the merchandise shall be seized and forfeiture proceedings instituted. The importer shall be notified of the seizure and liability of forfeiture and his right to petition for relief in accordance with the provisions of part 171 of this chapter.

§ 133.24 Restrictions on articles accompanying importer and mail importations.

(a) *Detention.* Articles accompanying an importer and mail importations subject to the restrictions of §§ 133.22 and 133.23 shall be detained for 30 days from the date of notice that such

restrictions apply, to permit the establishment of whether any of the circumstances described in § 133.22(c) or 133.23(d) are applicable.

(b) *Notice of detention.* Notice of detention shall be given in the following manner:

(1) *Articles accompanying importer.* When the articles are carried as accompanying baggage or on the person of persons arriving in the United States, the Customs inspector shall orally advise the importer that the articles are subject to detention.

(2) *Mail importations.* When the articles arrive by mail in noncommercial shipments, or in commercial shipments valued at $250 or less, notice of the detention shall be given on Customs Form 8.

(c) *Release of detained articles.* (1) *General.* Articles detained in accordance with paragraph (a) of this section may be released to the importer during the 30-day period of detention if any of the circumstances allowing exemption from trademark or trade name restriction(s) set forth in § 133.22(c) or 133.23(d) of this subpart are established.

(2) *Articles accompanying importer.* Articles arriving as accompanying baggage or on the person of the importer may be exported or destroyed under Customs supervision at the request of the importer, or may be released if:

(i) The importer removes or obliterates the marks in a manner acceptable to the Customs officer at the time of examination of the articles; or

(ii) The request of the importer to obtain skillful removal of the marks is granted by the port director under such conditions as he may deem necessary, and upon return of the article to Customs for verification, the marks are found to be satisfactorily removed.

(3) *Mail importations.* Articles arriving by mail in noncommercial shipments, or in commercial shipments valued at $250 or less, may be exported or destroyed at the request of the addressee or may be released if:

(i) The addressee appears in person at the appropriate Customs office and at that time removes or obliterates the marks in a manner acceptable to the Customs officer; or

(ii) The request of the addressee appearing in person to obtain skillful removal of the marks is granted by the port director under such conditions as he may deem necessary, and upon return of the article to Customs for verification, the marks are found to be satisfactorily removed.

(d) *Seizure.* If the importer has not obtained release of detained articles within the 30-day period of detention, the merchandise shall be seized and forfeiture proceedings instituted. The importer shall be promptly notified of the seizure and liability to forfeiture and his right to petition for relief in accordance with the provisions of part 171 of this chapter.

§ 133.25 Procedure on detention of articles subject to restriction.

(a) *In general.* Articles subject to the restrictions of §§ 133.22 and 133.23 shall be detained for 30 days from the date on which the merchandise is presented for Customs examination. The importer shall be notified of the decision to detain within 5 days of the decision that such restrictions apply. The importer may, during the 30-day period, establish that any of the circumstances described in § 133.22(c) or § 133.23(d) are applicable. Extensions of the 30-day time period may be freely granted for good cause shown.

(b) *Notice of detention and disclosure of information.* From the time merchandise is presented for Customs examination until the time a notice of detention is issued, Customs may disclose to the owner of the trademark or trade name any of the following information in order to obtain assistance in determining whether an imported article bears an infringing trademark or trade name. Once a notice of detention is issued, Customs shall disclose to the owner of the trademark or trade name the following information, if available, within 30 days, excluding weekends and holidays, of the date of detention:

(1) The date of importation;

(2) The port of entry;

(3) A description of the merchandise;

(4) The quantity involved; and

(5) The country of origin of the merchandise.

(c) *Samples available to the trademark or trade name owner.* At any time following presentation of the merchandise for Customs examination, but prior to seizure, Customs may provide a sample of the suspect merchandise to the owner of the trademark or trade name for examination or testing to assist in determining whether the article imported bears an infringing trademark or trade name. To obtain a sample under this section, the trademark/trade name owner must furnish Customs a bond in the form and amount specified by the port director, conditioned to hold the United States, its officers and employees, and the importer or owner of the imported article harmless from any loss or damage resulting from the furnishing of a sample by Customs to the trademark owner. Customs may demand the return of the sample at any time. The owner must return the sample to Customs upon demand or at the conclusion of the examination or testing. In the event that the sample is damaged, destroyed, or lost while in the possession of the trademark or trade name owner, the owner shall, in lieu of return of the sample, certify to Customs that: "The sample described as [insert description] and provided pursuant to 19 CFR 133.25(c) was (damaged/destroyed/lost) during examination or testing for trademark infringement."

(d) *Form of notice.* Notice of detention of articles found subject to the restrictions of § 133.22 or § 133.23 shall be given the importer in writing.

§ 133.26 Demand for redelivery of released merchandise.

If it is determined that merchandise which has been released from Customs custody is subject to the restrictions of § 133.22 or § 133.23 of this subpart, the port director shall promptly make demand for the redelivery of the merchandise under the terms of the bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, in accordance with § 141.113 of this chapter. If the merchandise is not redelivered to Customs custody, a claim for liquidated damages shall be made in accordance with § 141.113(g) of this chapter.

§ 133.27 Civil fines for those involved in the importation of counterfeit trademark goods.

In addition to any other penalty or remedy authorized by law, Customs may impose a civil fine on any person who directs, assists financially or otherwise, or aids and abets the importation of merchandise bearing a counterfeit mark (within the meaning of § 133.21 of this subpart) as follows:

(a) *First violation.* For the first seizure of such merchandise, the fine imposed will not be more than the domestic value of the merchandise (see § 162.43(a) of this chapter) as if it had been genuine, based on the manufacturer's suggested retail price of the merchandise at the time of seizure.

(b) *Second and subsequent violations.* For the second and each subsequent seizure of such merchandise, the fine imposed will not be more than twice the domestic value of the merchandise as if it had been genuine, based on the

manufacturer's suggested retail price of the merchandise at the time of seizure.

Raymond W. Kelly,

Commissioner of Customs.

Approved: February 19, 1999.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 99–4531 Filed 2–23–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250, 256, 270, 282

Outer Continental Shelf Regulations

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Correcting amendments.

SUMMARY: This document corrects various regulations that were published in several **Federal Registers** and are codified in the July 1, 1998, edition of Title 30—Mineral Resources, Parts 200–699, Code of Federal Regulations (CFR). These regulations relate to operations, leasing, and nondiscrimination in the Outer Continental Shelf (OCS). Many of the sections being corrected have been amended or redesignated several times. The primary dates of publication are: April 1, 1988 (53 FR 10690); June 29, 1979 (44 FR 38276); May 22, 1985 (50 FR 21048); and January 18, 1989 (54 FR 2067). The CFR references all of the **Federal Register** publication dates and page numbers that amended or redesignated each section.

EFFECTIVE DATE: February 24, 1999.

FOR FURTHER INFORMATION CONTACT: Kumkum Ray (703) 787–1600.

SUPPLEMENTARY INFORMATION:

Background

The final rules that are being corrected affect persons holding leases and operating in the OCS, or who have violated the OCS Lands Act. The corrections cover a variety of miscellaneous administrative amendments resulting from the following:

(a) Recent redesignation of the entire 30 CFR 250 regulations (5/29/98, 63 FR 29477) makes citation references in other parts of the CFR incorrect. In addition, several citation references in 30 CFR 250 were overlooked in the redesignation rulemaking. This document corrects the redesignated regulatory citations.

(b) Changes to the 30 CFR 250, Subpart O, regulations on Training (2/5/97, 62 FR 5322), make obsolete the reference to a training standard in the Subpart D regulations on Drilling. This document deletes the reference to the obsolete training standard.

(c) Elimination of the former MMS OCS Atlantic regional office requires the removal of references to that Region. The area offshore the Atlantic Coast is now included with the OCS Gulf of Mexico Region. This document corrects references to the OCS Regions.

(d) Revised 30 CFR 250, Subpart N, regulations on OCS Civil Penalties (8/8/97, 62 FR 42688), contain typographical errors and an incorrect reference to "alleged" violations. This document corrects the errors and deletes the reference.

(e) Revisions to 30 CFR 256.52(c) in 1997 changed the status of operators' areawide bonds to exclude coverage of lessees (5/22/97, 62 FR 27955). This document returns the regulation to its historical position.

Need for Correction

As published, the final regulations contain errors or incorrect references that are misleading and need to be clarified.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Geological and geophysical data, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

List of Subjects in 30 CFR Part 256

Administrative practice and procedures, Continental shelf, Environmental Protection, Government contracts, Mineral royalties, Oil and gas exploration, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Surety bonds.

List of Subjects in 30 CFR Part 270

Civil rights, Continental shelf, Environmental Protection, Government contracts, Oil and gas exploration.

List of Subjects in 30 CFR Part 282

Continental shelf, Prospecting, Public lands—mineral resources, Reporting and recordkeeping requirements, Research.

Accordingly, 30 CFR Parts 250, 256, 270, and 282 are revised by making the following correcting technical amendments:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for Part 250 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*

§ 250.204 [Corrected]

2. In § 250.204(b)(1)(vii), the citation "250.139" is revised to read "250.909".

§ 250.413 [Corrected]

3. In § 250.413, the first sentence in paragraph (c) is revised to read as follows:

§ 250.413 Supervision, surveillance, and training.

* * * * *

(c) Lessee and drilling contractor personnel must be trained and qualified according to Subpart O of this part.

* * *

§ 250.604 [Corrected]

4. In § 250.604, the citation "250.67" is revised to read "250.417".

§ 250.900 [Corrected]

5. In § 250.900(b), the citation "250.131" is revised to read "250.901".

§ 250.901 [Corrected]

6. In § 250.901(b)(3)(iv), the citation "250.139" is revised to read "250.909".

§ 250.911 [Corrected]

7. In § 250.911(b)(4)(ii), the citation "250.137(a)(4)" is revised to read "250.907(a)(4)".

§ 250.1009 [Corrected]

8. In § 250.1009, paragraph (b)(2) is revised to read as follows:

§ 250.1009 General Requirements for a pipeline right-of-way grant.

* * * * *

(b) * * *

(2) For the purpose of this paragraph, there are three areas:

(i) The areas offshore the Gulf of Mexico and Atlantic Coast;

(ii) The area offshore the Pacific Coast States of California, Oregon, Washington, and Hawaii; and

(iii) The area offshore the Coast of Alaska.

* * * * *

§ 250.1403 [Corrected]

9. Section 250.1403 is revised to read as follows:

§ 250.1403 What is the maximum civil penalty?

The maximum civil penalty is $25,000 per day per violation.

§ 250.1404 [Corrected]

10. In § 250.1404, paragraph (b) is revised to read as follows:

§ 250.1404 Which violations will MMS review for potential civil penalties?

* * * * *

(b) Violations that MMS determines may constitute, or constituted, a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment; or

* * * * *

§ 250.1406 [Corrected]

11. In § 250.1406, paragraph (b) is revised to read as follows:

§ 250.1406 When will MMS notify me and provide penalty information?

* * * * *

(b) Information on the violation(s); and

* * * * *

PART 256—LEASING OF SULPHUR OR OIL AND GAS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for Part 256 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*

§ 256.52 [Corrected]

2. In § 256.52, paragraph (b) and the last sentence of paragraph (c) are revised to read as follows:

§ 256.52 Bond requirements for an oil and gas or sulphur lease.

* * * * *

(b) For the purpose of this section, there are three areas. The area offshore the Atlantic Coast is included in the Gulf of Mexico. Areawide bonds issued in the Gulf of Mexico will cover oil and gas or sulphur operations offshore the Atlantic Coast. The three areas are:

(1) The areas offshore the Gulf of Mexico and Atlantic Coast;

(2) The area offshore the Pacific Coast States of California, Oregon, Washington, and Hawaii; and

(3) The area offshore the Coast of Alaska.

(c) * * * Your operator may use an areawide bond under this paragraph to satisfy your bond obligation.

* * * * *

3. In paragraph 256.52(h)(2), the citation "250.10" is revised to read "250.110."

§ 256.56 [Corrected]

4. In § 256.56(a)(1), the citation "250.110" is revised to read "250.700".

§ 256.70 [Corrected]

5. In § 256.70, the citation "250.13" is revised to read "250.113".

§ 256.73 [Corrected]

6. In § 256.73, in paragraphs (a) and (b), the citation "250.10" is revised to read "250.110".

§ 256.76 [Corrected]

7. In § 256.76(a)(3), the citation "250.12" is revised to read "250.112".

PART 270—NONDISCRIMINATION IN THE OUTER CONTINENTAL SHELF

1. The authority citation for Part 270 continues to read as follows:

Authority: Sec. 604, Pub. L. 95–372, 92 Stat 695 (43 U.S.C. 1863).

§ 270.6 [Corrected]

2. In § 270.6, the citations "250.70, 250.71, 250.72, and 250.80" are revised to read "250.500, 250.501, 250.502, and 250.510".

§ 270.7 [Corrected]

3. In § 270.7, the citations "§§ 250.81–1 and 250.80–2" are revised to read "30 CFR 250, subpart N".

PART 282—OPERATIONS IN THE OUTER CONTINENTAL SHELF FOR MINERALS OTHER THAN OIL, GAS, AND SULPHUR

1. The authority citation for Part 282 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*

§ 282.28 [Corrected]

2. In § 282.28(a), the citations "250.26, 250.33(b)(19), 250.34(b)(12), and 250.45", are revised to read "250.126, 250.203(b)(19), 250.204(b)(12), and 250.303".

Dated: February 18, 1999.

E. P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 99–4599 Filed 2–23–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01 99–008]

Safety Zone: Sunken Fishing Vessel CAPE FEAR, Buzzards Bay Entrance

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: This Safety Zone is an extension of the original Safety Zone around the sunken fishing vessel CAPE FEAR published in the **Federal Register** on January 27, 1999. The Coast Guard has established a safety zone within a 500-yard radius of the site of the sunken fishing vessel CAPE FEAR in the entrance to Buzzards Bay at approximate position 41°23′ North and 71°01′ West. This safety zone is needed to protect the maritime community from possible hazards associated with the sunken vessel, ongoing oil-pollution response, and the exposed-location salvage. Entry into this zone is prohibited unless authorized by the Captain of the Port (COTP), Providence, RI.

EFFECTIVE DATES: This rule is effective from 12 midnight Friday, February 12, 1999, until the last minute of 12 midnight Wednesday, March 31, 1999.

FOR FURTHER INFORMATION CONTACT: CWO Payne, Waterways Management, Coast Guard Marine Safety Office, Providence, RI, at (401) 435–2300.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, no notice of proposed rulemaking (NPRM) was published for this regulation, and good cause exists for making it effective less than 30 days after **Federal Register** publication. Because conclusive information for this emergency was received so late, there was insufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close a portion of the entrance to Buzzards Bay to protect the maritime public from the hazards associated with the sunken vessel, ongoing oil-pollution response, and the exposed-location salvage.

Background and Purpose

This regulation extends the safety zone in all the waters within a 500-yard radius of the site of the sunken fishing vessel CAPE FEAR (O.N. D655734) in the entrance to Buzzards Bay in approximate position 41°23′ N and 71°01′ W. The safety zone is needed to protect vessels from the hazards associated with the sunken vessel, ongoing oil-pollution response, and the exposed-location salvage. No vessel may enter the safety zone without permission of the Captain of the Port, Providence, RI.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that

order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects its economic impact to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Costs to the shipping industry from it, if any, will be minor and have no significant adverse financial effect on vessel operators. In addition, because of the limited number of vessels affected, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons addressed in the Regulatory Evaluation, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

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

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under Figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, this regulation is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. Add temporary section 165.T01–008 to read as follows:

§ 165.T01–008 Safety Zone: Sunken Fishing Vessel CAPE FEAR, Buzzards Bay Entrance.

(a) *Location.* The following area has been declared a safety zone. All waters within a 500-yard radius of the site of the sunken fishing vessel CAPE FEAR (O.N. D655734), in the entrance to Buzzards Bay in approximate position 41°–23′ North and 71°–01′ West.

(b) *Effective date:* This rule is effective from 12 midnight Friday, February 12, 1999, until 12 midnight Wednesday, March 31, 1999.

(b) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the COTP Providence.

(2) All persons and vessels shall comply with the instructions of the COTP or the designated on-scene patrol personnel of the U.S. Coast Guard. These comprise commissioned, warrant, and petty officers of the U.S. Coast Guard.

(3) The general regulations covering safety zones in § 165.23 of this part apply.

Dated: February 8, 1999.

Peter A. Popko,

Captain, U.S. Coast Guard, Captain of the Port.

[FR Doc. 99–4592 Filed 2–23–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 980724195–9038–02; I.D. 070798F]

RIN 0648–AK95

Final List of Fisheries for 1999; Update of Regulations Authorizing Commercial Fisheries Under the Marine Mammal Protection Act

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

ACTION: Final rule.

SUMMARY: NMFS is publishing its final List of Fisheries (LOF) for 1999 as required by the Marine Mammal Protection Act (MMPA). In addition, NMFS is amending the regulations implementing section 118 of the MMPA by clarifying and updating existing regulations. The final LOF for 1999 reflects new information on interactions between commercial fisheries and marine mammals. Under the MMPA, NMFS must place a commercial fishery on the LOF into one of three categories based upon the level of serious injury and mortality of marine mammals that occurs incidental to that fishery. The categorization of a fishery in the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements.

DATES: The amendments to 50 CFR part 229 are effective on February 24, 1999. Changes to the List of Fisheries for 1999 are effective on March 26, 1999.

ADDRESSES: You may obtain registration information and materials and marine mammal reporting forms from the following regional offices:

NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930–2298, Attn: Sandra Arvilla;

NMFS, Southeast Region, 9721 Executive Center Drive North, St. Petersburg, FL 33702, Attn: Joyce Mochrie;

NMFS, Southwest Region, Protected Species Management Division, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213, Attn: Don Peterson;

NMFS, Northwest Region, 7600 Sand Point Way NE, Seattle, WA 98115, Attn: Permits Office;

NMFS, Alaska Region, Protected Resources, P.O. Box 22668, 709 West 9th Street, Juneau, AK 99802, Attn: Ursula Jorgensen.

You may send comments regarding the burden-hour estimates or any other aspect of the collection of information requirements contained in this final rule to Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910 and to the Office of Information and Regulatory Affairs, OMB, Attention: NOAA Desk Officer, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Cathy Eisele, Office of Protected Resources, 301–713–2322; Kim Thounhurst, Northeast Region, 978–281–9138; Kathy Wang, Southeast Region, 727–570–5312; Irma Lagomarsino, Southwest Region, 562–980–4016; Brent Norberg, Northwest Region, 206–526–6733; Brian Fadely, Alaska Region, 907–586–7642. Individuals who use a telecommunications device for the deaf may call the Federal Information Relay Service at 1–800–877–8339 between 8:00 a.m. and 4:00 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

What Is the List of Fisheries?

Under section 118 of the MMPA, NMFS (we) must publish, at least annually, an LOF that places all U.S. commercial fisheries into one of three categories based on the level of incidental serious injury and mortality of marine mammals that occurs incidental to that fishery. The categorization of a fishery in the LOF determines whether participants in that fishery (you) are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements.

How Does NMFS Determine Which Category a Fishery Is Placed In?

You can find the definitions for the fishery classification criteria for Category I, II, and III fisheries in the implementing regulations for section 118 of the MMPA (50 CFR part 229). In addition, these definitions are summarized in the preambles to the final rule implementing section 118 (60 FR 45086, August 30, 1995), the final LOF for 1996 (60 FR 67063, December 28, 1995), and the proposed LOF for 1999 (63 FR 42803, August 11, 1998).

How Do I Find Out Which Category a Specific Fishery Is In?

This final rule includes two tables that list all U.S. commercial fisheries by category. Table 1 to the preamble of this document is a listing of all fisheries in the Pacific Ocean (including Alaska). Table 2 to the preamble of this document is a listing of all fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean.

Under section 118 of the MMPA, we must include all U.S. commercial fisheries on the LOF. You should contact one of the Regional Offices if you are aware of a fishery that is not included in these tables.

Am I Required To Register Under the MMPA?

If you are an owner of a vessel or gear engaging in a Category I or II fishery, you are required under 50 CFR 229.4 to obtain a marine mammal authorization from us in order to lawfully incidentally take a marine mammal in a commercial fishery.

How Do I Register?

If you participate in a fishery that does not have an integrated registration program, you must register through one of our Regional Offices (see **ADDRESSES**). The fee for obtaining a new or renewed authorization each year is $25. Upon receipt of a completed registration, we will issue vessel or gear owners a decal to display on their vessel and an authorization certificate that must be in the possession of the operator while fishing. The procedures and fees associated with registration differ between Regions. Special procedures and instructions for registration in these Regions are described in the preamble to the final LOF for 1998 (63 FR 5748, February 4, 1998).

For some fisheries, we have integrated the MMPA registration process with existing state and Federal fishery license, registration, or permit systems and related programs. Participants in these fisheries are registered automatically under the MMPA and are not required to pay the $25 registration fee.

Which Fisheries Have Integrated Registration Programs?

We have implemented integrated registration programs in the Alaska Region, Northwest Region, and Northeast Region. The following fisheries have integrated registration programs under the MMPA: all Alaska Category II fisheries; all Washington and Oregon Category II fisheries; and three Atlantic fisheries (the Gulf of Maine, U.S. mid-Atlantic lobster fishery, the Atlantic squid, mackerel, butterfish trawl fishery; and the Northeast sink gillnet fishery). Special procedures and instructions for registration in these integrated fisheries are described in the preamble to the final LOF for 1998 (63 FR 5748, February 4, 1998).

How Do I Renew My Registration Under the MMPA?

The Regional Offices send annually renewal packets to participants in Category I or II fisheries that have previously registered with us; however, it is your responsibility to ensure that your registration or renewal forms are submitted to us at least 30 days in advance of fishing. If you have not received a renewal packet by January 1, or are registering for the first time, you should request a registration form from the appropriate Regional Office (see **ADDRESSES**).

Am I Required To Submit Reports When I Injure or Kill a Marine Mammal During the Course of Commercial Fishing Operations?

If you are a vessel owner or operator, or fisher (in the case of non-vessel fisheries), participating in a Category I, II, or III fishery, you must comply with 50 CFR 229.6 and report all incidental injuries or mortalities of marine mammals that occur during commercial fishing operations. You can find instructions for how to submit reports at 50 CFR 229.6(a).

Am I Required To Take an Observer Aboard My Vessel?

If you are a fisher participating in a Category I or II fishery, you are required to accommodate an observer aboard your vessel(s). You can find the observer requirements at 50 CFR 229.7.

Comments and Responses

We received nine letters of comment on the proposed LOF for 1999 during the 90-day public comment period.

Comments on Fisheries in the Southwest Region: Comments on the Hawaii Swordfish, Tuna, Billfish, Mahi Mahi, Wahoo, Oceanic Sharks Longline/Set Line Fishery

Comment 1: Two commenters believe that NMFS should recategorize the Hawaii Swordfish, Tuna, Billfish, Mahi Mahi, Wahoo, Oceanic Sharks Longline/Set Line Fishery from Category III to Category II. The fact that NMFS has not conducted surveys necessary to determine stock abundance and distribution, and therefore to calculate Potential Biological Removal (PBR) levels for Hawaiian stocks should not be used as a rationale for failing to classify fisheries that interact with animals as Category I or II fisheries.

Given that there is no PBR level calculated for Risso's dolphins, that there are fishery interactions that have not been quantified because there is no definition of serious injury available, and that there is a complete lack of

observer coverage in other fisheries (e.g., gillnet and purse seine operations) that may interact with this stock, the commenters are concerned that this might be a Category I fishery.

Another commenter adds that NMFS has data that demonstrate observed mortality, has guidance from experts on what constitutes serious injury, and has the recommendation of the Pacific Scientific Review Group (SRG) to support a reclassification of this fishery to a Category II fishery.

Response: We recognize that takes of marine mammals are occurring incidental to the operations of the Hawaii swordfish, tuna, billfish, mahi mahi, wahoo, oceanic sharks longline/set line fishery; however, there is significant uncertainty regarding the level of interactions that are occurring, the specific stocks that are involved, and the number of injured animals that die as a result of their interaction with this fishery. Because information regarding incidental takes in this fishery became available in only summer 1998, we have not been able to fully assess the categorization of this fishery in developing the LOF for 1999.

We have expanded observer coverage in this fishery and are in the process of developing expanded take estimates for this fishery. We plan to conduct a thorough review of these estimates and of incidental marine mammal injury information in the development of the proposed LOF for 2000 (see response to Comment 16). The Hawaii longline fishery will be further considered for recategorization as a Category II fishery at that time.

Although this fishery will currently remain in Category III, we will continue to have the authority to place observers on Hawaii longline vessels. In addition, participants in this fishery are required to submit vessel logbooks, to report all interactions with marine mammals, and to obtain a limited entry permit to participate in this fishery.

Comments on Fisheries in the Northwest Region: Comments on Tribal Gillnet Fisheries in Washington

Comment 2: One commenter notes that tribal gillnet fisheries in the state of Washington should be included in the LOF even if NMFS no longer places observers aboard these formerly Category I and II fisheries.

Response: Tribal fisheries are conducted under the authority of Indian treaties rather than under the MMPA. The MMPA's registration and Authorization requirements do not apply to treaty Indian fishers operating in their usual and accustomed fishing areas. Since including tribal fisheries in the LOF would require them to obtain an Authorization Certificate, we do not include tribal fisheries in the LOF. A complete explanation for the exclusion of treaty Indian fisheries can be found in the final rule implementing section 118 of the MMPA (60 FR 45096, August 30, 1995).

Comments on Fisheries in the Alaska Region—General Comments

Comment 3: One commenter notes that there are several fisheries operating in Alaska that may be interacting with marine mammals, yet no observer coverage is possible due to their listing as Category III fisheries. These include, but are not limited to, the salmon set gillnets in Prince William Sound; the Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet fishery; and herring gillnets.

Response: We have marine mammal interaction data from an observer program conducted in 1990 in the Prince William Sound (PWS) salmon set gillnet fishery. Observed rates of harbor seal and marine mammal mortality for this fishery warrant a Category III designation. Salmon set gillnet fisheries in the Yukon-Kuskokwim Delta, Norton Sound and Kotzebue areas mostly comprise of Alaskan Natives. Marine mammals caught incidental to commercial fishing by Alaskan Natives and retained for subsistence use have not been considered in fishery categorization. However, we are currently reviewing this policy. There are few reports of mortalities or serious injuries from these fisheries (see response to Comment 6).

Comment 4: One commenter doubts that no interactions take place between the pot fisheries and humpback whales and other large cetaceans in Alaska. There are large numbers of entanglements of humpback whales and right whales in the buoy lines used by the lobster fishery in the northeastern United States. In Alaska, it would seem that lack of effort more than any other factor leads to lack of reporting of entanglements of whales in Alaska.

Response: No humpback whale mortalities were observed during the 1990–97 Bering Sea and Gulf of Alaska finfish pot fisheries monitored by our observers. During 1997, there were three reports of humpback whales entangled in lines with attached buoy in southeast Alaska, but these were deemed likely to be observations of the same whale based on the limited information in the reports. Because of the limited information in the reports, it was not possible to attribute these interactions to a particular fishery. Details of these interactions can be found in the annual Stock Assessment Reports (SARs).

Comment 5: One commenter believes that failure to report interactions in logbooks cannot be considered sufficient grounds for determining categories, and consideration should be given to upgrading the category if the gear type is one that is known to entangle certain species of marine mammals and if those species are present coincident with the fishery activities.

Response: We agree. The logbook reporting program conducted during 1990–93 was replaced under the 1994 MMPA amendments with a fisher self-reporting program, which requires the reporting of marine mammal injuries or death within 48 hours of completion of a fishing trip, regardless of fishery categorization. Logbook reports of mortality and serious injury were considered to be underestimates of incidental mortality based on comparisons to observer program data.

The reports of injuries and mortalities occurring incidental to fishing from fisher self-reports collected during 1996–97 were significantly fewer than those reported during the logbook program for Alaskan fisheries. Data collected directly through observer programs are thus preferred for categorization. Beginning in 1998, the Alaska Region will exclude fisher self-report estimates for calculation of estimated minimum annual fisheries-related mortality. In the absence of, or in addition to, observer data, we also base fishery categorizations on stranding data, evaluation of fishing techniques, gear used, seasons and areas fished, and distribution of marine mammals within the area.

Comment 6: One commenter notes that additional Category II fisheries in Alaska that may be interacting with marine mammals are unobserved and pose some concern. These include the Cook Inlet salmon drift and set gillnets that may be interacting with the beleaguered Cook Inlet beluga whale stock.

Response: We agree. Because of the immediacy of the Cook Inlet beluga whale decline, we have deferred a planned rotational monitoring program to observe eight Category II salmon net fisheries within Alaska in order to observe Cook Inlet salmon drift and set gillnet fisheries during 1999 and 2000.

Comment 7: One commenter questions the utility of definitions in the Tier system for categorizing fisheries if it is not possible to place observers on unobserved Category II fisheries because they are considered low priority as Category II fisheries. Perhaps some

consideration should be given to listing fisheries as Category I fisheries if they take less than 50 percent of the PBR level of any one stock but they have historically interacted with species listed under the Endangered Species Act (ESA) (e.g., Steller sea lions).

Response: We agree that it is difficult to prioritize fisheries nationally for observation, given the available funds. We recently convened a workshop to attempt to establish a prioritization scheme for Category I and II fishery observer programs. We concluded that the top priority for observation were Category I fisheries required for observation under a Take Reduction Plan (TRP). A second tier of priority was Category I fisheries in the monitoring/compliance phase of a TRP, and unobserved Category II fisheries.

The MMPA also mandates that fisheries that take ESA-listed species have the highest priority for observation. ESA-listed species already have conservative PBR levels associated with them by using 0.1 as a recovery factor; thus, further adjusting the categorization criteria could be inadvertently restrictive.

Comments on the Southeast Alaska Salmon Purse Seine Fishery

Comment 8: One commenter notes that two factors chiefly determine the classification of a fishery: the number of incidental takes and the allowable PBR level. Due to a lack of quality data for the inputs to the PBR formula, it is possible for a fishery to have minimal or even a singular incidental take in 8 years but to still meet the criteria for a Category II fishery (for example, the Southeast Alaska salmon purse seine fishery). The formula that determines the percent PBR (and so the category for the fishery) has three inputs: population size, productivity rate, and the recovery factor. Many of the inputs to the formula are unknown or approximated using theoretical values. Many of these values are very conservative in light of current population trends. Other inputs, such as the recovery factor, are management designations that may not reflect current population status. The output of a formula cannot be more precise than the sum of the inputs. Imprecise inputs can result in an improper classification of a fishery.

Response: This comment has two parts: First, concern about calculation of the PBR level and how uncertainties in data are treated and, secondly how the PBR level is used in the fisheries classification process. The MMPA mandates that we not allow marine mammal stocks to become depleted and that stocks be allowed to recover to or remain at an optimum sustainable population size. We have defined this as a population size between carrying capacity and the maximum net productivity level (for marine mammals it is assumed to be between 50–85 percent of carrying capacity). The intent of using a PBR level mortality-based management scheme is to allow determination of an appropriate human-related mortality level that could be sustained, while still allowing marine mammal populations to recover to or remain above their maximum net productivity level.

Inputs into the PBR formula will have uncertainties or biases that are known or can be estimated (i.e., of population counts) and variability or biases that are unknown. The PBR level achieves a suitably conservative estimate in spite of potential bias and uncertainty in the data. Because the fishery classification criteria are defined relative to a stock's PBR level and because this level can be very low for some endangered stocks, commercial fisheries that incur minimal serious injuries or mortalities may be classified as Category I or II. However, fisheries are also categorized based on evaluation of fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, and the species and distribution of marine mammals in the area. In the absence of observer data, the likelihood that a small increase in PBR level would change the categorization of a fishery is remote. It is fully in keeping the concept of PBR that populations should be increasing if the mean annual mortality does not exceed the PBR level. However, the intent of Congress, as expressed in the MMPA, is that fishery mortalities be reduced much further than PBR to a level approaching a zero mortality rate. See response to Comment 10.

Comment 9: One commenter believes that classification as a Category II fishery is a significant burden to fishermen and constitutes an indictment. Additionally, vessels in a Category II fishery must take observers upon request, a requirement which brings up such issues as size of vessel, space, liability, direct and indirect costs. Any participant in a Category II fishery will also be required to comply with any applicable TRPs.

Response: Participants in Category II fisheries are required to have a Marine Mammal Authorization Program (MMAP) Certificate authorizing incidental serious injuries or mortalities of marine mammals during commercial fishing authorizations. In Alaska, this process is automatic and free of charge to the permit holder, thus greatly minimizing any burden to the fishery. In addition, participants must carry an observer if we request you to do so.

Fishery categorization does not constitute an indictment. Rather, it is a comparison of the best information available that relates an estimated annual incidental marine mammal serious injury and mortality rate to a stock's population status. This is an effective means by which to focus limited resources on the most critical areas of interaction.

Comment 10: One commenter believes that the Southeast Alaska salmon purse seine fishery should be reclassified as a Category III fishery and that it has been unduly singled out as the only Category II purse seine fishery in Alaska. This fishery is a Category II fishery regarding the central north Pacific stock of humpback whales, based on one incidental take in the last 8 years. Given that the population is stable and increasing, using the theoretical cetacean maximum net productivity rate of 4 percent and a recovery factor of 0.1 is unduly conservative. Because there has been only one take in 8 years, the mean annual mortality rate should be 0.125, rather than the 0.2 representing one take in 5 years, as is reported in the SARs.

Response: With the exception of two harbor seal mortalities in 1993, we have neither received reports of serious injury or mortality nor of stranding entanglements attributable to other Alaskan purse seine fisheries. However, this is likely to be an underestimate (see response to Comment 5). Based on the reported humpback whale entanglement, by limiting the categorization to the southeast Alaska salmon purse seine fishery, we appropriately limited our concern to a specific fishery.

It is consistent that marine mammal populations should increase if the total mean annual mortality does not exceed the PBR level. We revised the central north Pacific humpback whale population estimate in the draft 1998 SARs based on newly available data, resulting in an increase of the minimum population estimate relative to that published in the 1996 SAR. However, the draft 1998 SAR also notes that, while there was qualitative evidence of an increase, there was no quantitative evidence. However, the PBR level was appropriately revised from 2.8 to 7.4 whales per year.

We agree that it is ideal to use a maximum net productivity rate (R_{max}) based on reliable stock-specific information rather than a default value, which is 4 percent in the case of cetaceans. This information does not

currently exist for the central north Pacific stock of humpback whales, and it is extremely difficult to collect such data. Higher R_{max} estimates have been generated from the Gulf of Maine (6.5 percent); however, neither the Pacific nor Alaska SRGs recommended applying this to any Pacific Ocean humpback whale stock. As part of efforts to continually improve the PBR-based management process, we are conducting a review of the veracity and applicability of current R_{max} default values, and we will adopt new guidelines if appropriate.

The intent of the recovery factor is to allow for uncertainty and unknown estimation errors, and also to accommodate additional information to allow for management discretion as appropriate with the goals of the MMPA (Barlow *et al*, 1995). Based on simulations, we estimated that a recovery factor of 0.1 would not create more than a 10 percent increase in population recovery time for endangered stocks. The Alaska SRG has recommended, and we agree, to retain the use of 0.1 for this humpback whale stock. This is due to at least four factors: (1) qualitatively, it seems that this stock of humpback whales is increasing, but there is no quantitative estimate; (2) uncertainty of fisheries takes; (3) uncertainty of stock structure; and (4) its endangered species status. However, we prefer to utilize the most appropriate recovery factor values that are not inappropriately restrictive. Thus, an effort is currently underway to develop a more objective system to adjust recovery factors. This will also include an analysis of the appropriateness of using a recovery factor of 0.1 for endangered species.

We currently use the most recent 5 years of data available for mortality calculations. Thus, we calculated the minimum estimated mean annual mortality as 1 mortality in 5 years, or 0.2 per year. This is presumed to be a minimum estimate. Another 1994 entanglement could have been due to this fishery rather than to the southeast Alaska drift gillnet fishery (see response to Comment 11), which would result in 0.4 mortalities per year, or 5 percent of the PBR level. As previously stated, if the estimated minimum total annual mortality rate (i.e., all human-caused mortalities, 1.2 per year for this stock) is less than the PBR level, the stock should be increasing. However, the intent of Congress, as expressed in the MMPA, is that fishery mortality be reduced much further than PBR to a level approaching a zero mortality rate. The current fisheries-related mortality estimate (across all fisheries interacting with this stock) is 1.0 whales per year. This take level does not exceed the PBR level, but is in excess of 10 percent (0.74) of the PBR level, thus justifying application of tier 2 LOF criteria. In the absence of adequate estimates of fisheries-related marine mammal mortality and serious injury, small increases in the PBR level are unlikely to result in the reclassification of a fishery. We are confident that the best available data were incorporated into the PBR equation for this stock of humpback whales.

Comments on the Southeast Alaska Salmon Drift Gillnet Fishery

Comment 11: One commenter believes that the southeast Alaska salmon drift gillnet fishery should be reclassified as a Category III fishery. This fishery interacts with seven marine mammal stocks, but mortality only exceeds 1 percent of the PBR level for the central north Pacific stock of humpback whales and southeast stock of harbor porpoise. For the harbor porpoise, the total annual mortality across all fisheries is less than 10 percent of the PBR level, so all fisheries interacting with this stock should be placed in Category III. A 1994 report of an entanglement in Chatham Strait was attributed to this fishery, but this fishery does not occur in Chatham Strait. Why was a humpback whale that was released trailing gear in 1996 presumed to have been a mortality?

Response: Calculation of a PBR level provides a useful method for quantifying the effect of fisheries-related mortality relative to the size of marine mammal stocks. However, in the absence of adequate estimates of fisheries related mortality, we evaluate additional factors to categorize fisheries (see response to Comment 5). The southeast Alaska salmon drift gillnet fishery is known to interact with six stocks of marine mammals. For a discussion of the data and values used in the calculation of the central north Pacific stock of humpback whales, please see the response to Comment 10. Fisheries-related and other sources of serious injury and mortality are summarized in the Alaska SARs, rather than the LOF. As reported in the 1998 draft SAR, in 1994 a humpback whale in weakened condition was reported entangled in fishing nets with floats attached in Chatham Strait. This entanglement was attributed to the salmon drift gillnet fishery. The SAR goes on to state, however, that this could have been just as likely attributable to the southeast Alaska salmon purse seine fishery. In 1996, a humpback whale was reported entangled and released trailing salmon drift gillnet gear. These entanglements were presumed, but not known, to have resulted in mortalities. These entanglements were presumed to have resulted in mortalities because both animals were released trailing gear that was likely to impede or prevent the animals' ability to move or feed. The classification of either the southeast Alaska salmon purse seine or the southeast Alaska salmon drift gillnet fishery would remain unchanged regardless of whether this entanglement was considered to result in a mortality. See response to Comment 16.

We originally classified this fishery based on a minimum annual estimated fisheries' mortality of harbor porpoise greater than 10 percent of the PBR level based on a presumed single Alaskan stock of harbor porpoise (see 1995 Alaska SAR). In 1996, we determined that harbor porpoise were more appropriately managed as three separate stocks within Alaska (Southeast Alaska stock, Gulf of Alaska stock, and Bering Sea stock). Thus, from a biological standpoint it is now even more critical to have reliable estimates of fishery-related mortality affecting each stock. Additionally, logbook reports and fisher self reports are considered to be underestimates of actual mortality (see response to Comment 5). Based on the gear type used, the temporal and spatial overlap of this fishery with the southeast Alaska stock of harbor porpoise, and the estimated minimum annual mortality rate of humpback whales, a Category II classification is appropriate.

Comment 12: One commenter believes that the Bristol Bay salmon drift gillnet fishery should be reclassified as Category III. This fishery has interactions with seven marine mammals, but mortality attributed to this fishery does not exceed 1 percent of the PBR level of any of the stocks.

Response: Concern over estimated annual fisheries-related mortality of the Bering Sea stock of harbor seals (6.7 percent of the PBR level, of which 5.5 percent is attributable to this fishery) and the endangered western stock of Steller sea lions (8.9 percent of the PBR level, of which 0.8 percent is attributable to this fishery), which are considered to be minimum estimates, warrant a Category II classification for the Bristol Bay salmon drift gillnet fishery. In the absence of observer data, we do not believe that this fishery should be reclassified in Category III given the gear type and temporal and spatial overlap with these marine mammal stocks.

Comments on Fisheries in the Southeast Region: Comments on Gulf of Mexico Menhaden Purse Seine Fishery

Comment 13: One commenter agrees that the three Gulf coastal stocks of bottlenose dolphin should be combined for purposes of categorization; however, the commenter added that the Gulf of Mexico Outer Continental Shelf (OCS) stock should be combined as well. This would result in a PBR level of 586 individuals. In addition, the commenter notes that dolphin mortality in this fishery is a highly isolated event and a linear extrapolation of observer data grossly overestimates the bycatch across the entire fishery. For these reasons, the commenter believes the Gulf of Mexico menhaden purse seine fishery should remain in Category III.

Response: We agree that the stock structure for bottlenose dolphins, as defined in the SARs, is tentative and that, as more information regarding Gulf of Mexico bottlenose stock structure becomes available, the SARs will be revised accordingly. However, the SARs represent the current, best information available, and we must defer to them in order to ensure a risk-averse approach to LOF designations.

We recognize the possibility that the current divisions of the coastal stock(s) may not be the most biologically appropriate and that some mixing with OCS stock(s) may occur; therefore, we proposed to place the Gulf of Mexico menhaden fishery in Category II, rather than the otherwise justifiable Category I.

The best information available indicates that at least three stocks are present in the coastal zone and that animals inhabiting the OCS region are from separate and distinct stock(s). However, if NMFS were to use a PBR level of 586 individuals as suggested, the 68 estimated takes still exceed the 10 percent threshold and warrant a Category II designation. Additionally, a study of the fishery by J.Y. Christmas (1960) indicates that capture rates of bottlenose dolphin in the menhaden fishery at that time were similar to that recorded in the Louisiana State University bycatch study.

We are confident that the estimate of 68 dolphins taken annually in the fishery is reasonable and that elevation to Category II is justified at this time, and believe that an observer program designed to estimate the level of dolphin mortality is necessary to further refine this estimate.

Comment 14: One commenter believes that the Gulf of Mexico menhaden purse seine fishery should be classified as a Category I fishery, rather than as a Category II fishery, because the mortality to this stock exceeds its PBR level. NMFS' rationale for placing this fishery in Category II is that stock structure is being re-examined; however, discussions of the Atlantic SRG focused on the need to re-examine the stock structure of several other stocks of coastal dolphins, not including the Western coastal stock with which this fishery interacts. The commenter believes that this fishery should be placed in Category I and that a take reduction team should be established for bottlenose dolphins, as is required by the MMPA.

Response: With respect to the Gulf of Mexico menhaden fishery, we believe that the uncertainty with respect to Gulf of Mexico bottlenose dolphin structure basin-wide, as well as the fact that the observer program in which the known dolphin takes were recorded was not specifically designed to estimate dolphin mortality, provide justification for placing the fishery in Category II rather than Category I. If we receive new information to indicate that the western coastal stock is an isolated stock, and a mortality estimate (based on a program designed to achieve an estimate of dolphin mortality) indicates that mortality levels exceed 50 percent of the PBR level, we will recategorize this fishery as a Category I fishery.

Our Southeast Regional Office is working in cooperation with industry to develop take reduction strategies aimed at reducing marine mammal bycatch in this fishery.

Comment 15: One commenter supports NMFS' proposal to reclassify the Gulf of Mexico menhaden purse seine fishery from a Category III to a Category II fishery but urged NMFS to re-examine the stock structure of the three Gulf coastal stocks, to increase the observer coverage and collection of effort data, and to improve the bycatch estimate for this fishery in order to more accurately classify this fishery.

Response: We are actively involved in a multi-method approach to determining stock structure of bottlenose dolphins in the mid-Atlantic. The mid-Atlantic area is the current focus for our bottlenose dolphin research because of the depleted listing of the presumed coastal migratory stock(s) and because of the high bycatch rate indicated by the level of fishery-related strandings recorded in the mid-Atlantic states. After this research is complete, we intend to apply the techniques used in the mid-Atlantic to assess bottlenose stocks in the Gulf of Mexico.

We are also working to establish an observer program designed to estimate the level of dolphin mortality associated with the Gulf of Mexico menhaden fishery. Accurate effort data already are routinely collected, independent of an observer program.

Comments on the Atlantic Ocean, Caribbean, and Gulf of Mexico Large Pelagics Longline Fishery

Comment 16: One commenter requests that NMFS revise the categorization of the Atlantic Ocean, Caribbean, and Gulf of Mexico large pelagics longline fishery from Category I to Category II. The Category I classification for this fishery was based on estimates of annual serious injuries and/or incidental mortalities of pilot whale interactions based on the PBR level set in the 1994 SARs. The latest NMFS estimate of annual serious injury and/or incidental mortality for pilot whales by this fishery is 5.5 animals per year, representing only 12 percent of the PBR level for pilot whales (45 animals).

Response: The present Category I classification for the Atlantic pelagic longline fishery is based on an estimated average annual pilot whale mortality of 5.5 pilot whales between 1992 and 1995. Because of the timing and location of these mortalities and lack of photo-documentation, we do not know whether some or all of these whales may have been short-finned pilot whales, *Globicephala macrorhynchus,* which have a PBR level of 3.7 animals per year. The Atlantic SRG, an external panel convened to advise us on the SARs, advised adopting the risk-averse strategy of assuming that an observed mortality or serious injury of a pilot whale may be attributed to either species. Based on an annual short-finned pilot whale mortality of 5.5 animals per year, the Atlantic pelagic longline fishery exceeds the PBR level of 3.7 animals per year; thus, the Atlantic pelagic longline fishery fits the criteria for a Category I fishery.

The annual marine mammal bycatch rate in this fishery is based only on incidental mortalities and does not include those animals that are incidentally injured. Based on observer information and fisher reports, we know that many animals are hooked or entangled in this fishery and subsequently released alive. Some percentage of these injured animals sustain serious injuries that will likely result in death.

Under the MMPA, we are required to consider both incidental mortalities and serious injuries when determining a fishery's annual marine mammal bycatch level. We are currently developing biological criteria for determining what constitutes a serious injury to a marine mammal that is

injured incidental to commercial fishing operations. These guidelines will be based on the results of a workshop that we convened in April 1997 to collect expert opinion on what types of injuries should be considered "serious injuries."

Our consideration of incidental marine mammal injuries that occur incidental to the Atlantic pelagic longline fishery will result in an annual mortality and serious injury rate which is higher than the current level (which is based only on incidental mortalities).

Comment 17: One commenter requests that NMFS review and revise the species listed for each fishery in the LOF. In addition, the commenter requests that NMFS delete species that have not been documented or otherwise verified to have been seriously injured and/or incidentally killed by the U.S. Atlantic pelagic longline gear. Specifically, the commenter requests that the following species/stocks be removed from the list of species that interact with the Atlantic pelagic longline fishery: Humpback whale, Western North Atlantic (WNA); Minke whale, Canadian east stock; Common dolphin, WNA, Striped dolphin, WNA, Bottlenose dolphin, WNA offshore; and Harbor porpoise, Gulf of Maine/Bay of Fundy.

Response: In the development of the proposed LOF for 2000, we will conduct a thorough review of the species and/or stocks that interact with Atlantic Ocean, Gulf of Mexico, and Caribbean fisheries and propose any needed changes to the list of species and/or stocks that interact with the Atlantic pelagic longline fishery at that time.

In considering which stocks should be listed in the LOF as interacting with the Atlantic pelagic longline fishery, the commenter notes the differences between the list of species/stocks that are listed in the LOF and those listed in the SARs. As described in the proposed LOF (63 FR 42803, August 11, 1998), the LOF tables list the marine mammal species/stocks that are incidentally killed or injured (including non-serious injuries) in each fishery based on observer data, logbook data, stranding reports, fishers' reports, anecdotal reports, and other sources of information. The criteria for listing a species/stock in the LOF are much more broad than in the SARs, which often only describes stocks which have incurred mortalities and serious injuries. The list of species/stocks in the LOF includes all species or stocks known to incur injury or mortality for a given fishery; however, not all species or stocks identified are necessarily independently responsible for a fishery's categorization.

Comment 18: One commenter requests that NMFS sub-divide the Atlantic Ocean, Caribbean, and Gulf of Mexico pelagic longline fisheries for swordfish, tuna and sharks into three regional fisheries on the LOF. The pelagic longline fisheries within the Exclusive Economic Zone should be divided into north and south regions with a boundary at Cape Hatteras, NC. The pelagic longline fishery in the Gulf of Mexico should be categorized separately.

Separating these fisheries by fishing region would facilitate establishing a standardized process for monitoring effort, estimating serious injury and incidental mortality rates and evaluating the effectiveness of take reduction methods.

In response to similar previous requests from the commenter, NMFS' response was that the Atlantic Offshore Cetacean Take Reduction Team would be the appropriate forum to discuss this issue; however, this alternative was not discussed during the Team's meetings. In addition, NMFS' previous response indicated that nearly all of the participants moved across the proposed boundaries. The commenter disagrees and thinks that NMFS should review available effort data, which should indicate that nearly all of the participants stay within the proposed boundaries.

Response: We continue to find that fishers in the Atlantic pelagic longline fishery move across the proposed boundaries, as do many of the protected species impacted by the fishery. In addition, this fishery is currently managed on a fishery-wide basis for fishery management purposes, and we believe it is appropriate to maintain the same fishery definitions across NMFS offices wherever possible. For these reasons, we believe that it is not appropriate to subdivide the pelagic longline fishery at this time.

Comments on Mid-Atlantic Coastal Gillnet Fishery

Comment 19: One commenter questions NMFS' assertion that there is no additional information on the Mid-Atlantic coastal gillnet fishery's interactions to justify recategorizing it as a Category I fishery. Data presented to the Mid-Atlantic Take Reduction Team in June 1997 documented stranded bottlenose dolphins with evidence of net marks. Between February 19 and May 30, 1997, 15 of the 31 carcasses whose conditions permitted analysis showed evidence of entanglement-related mortality. These, along with subsequent strandings, certainly exceed 50 percent of the PBR level of 25 for coastal bottlenose dolphins and justify this fishery being listed in Category I.

Response: Although data presented to the take reduction team indicate high take levels of bottlenose dolphins in 1998, the 5-year average dolphin mortality attributable to interaction with monofilament nets, as reported in available stranding data, is 12.5 animals per year, which is exactly 50 percent of the PBR level. These takes cannot be directly ascribed to the Mid-Atlantic coastal gillnet fishery because other fisheries, such as haul seines and pound nets, could also leave net marks on dolphin or porpoise carcasses.

We believe that it is appropriate to maintain the Category II designation until more definitive data are available. This fishery will continue to be observed and participants will be subject to all of the requirements of participants in Category I fisheries. The Mid-Atlantic coastal gillnet fishery observer program has recently recorded interactions with bottlenose dolphins. Provided that we are able to achieve representative sampling of the fishery, these data, once analyzed, will be used instead of the less definitive stranding data. We anticipate that these mortality estimates will be available before publication of the proposed LOF for 2000. We will propose a recategorization of this fishery to Category I at that time, if appropriate.

Comments on North Carolina Inshore Gillnet Fishery

Comment 20: One commenter disagrees with NMFS' decision to retain the North Carolina inshore gillnet fishery as a Category III fishery when evidence indicates that the North Carolina inshore gillnets interact with bottlenose dolphins. While it is true that stock structure is being reconsidered for this stock, the fishery will still be exceeding 10 percent of the PBR level regardless of whether the current stock structure is retained. This fishery, along with other coastal fisheries that are operating in the area where stranded animals are found with evidence of net entanglement, should be listed as Category I or II fishery.

Response: There are very few marine mammal strandings reported from inshore waters; thus, the existing category III designation is currently appropriate. We are currently in the process of reviewing stranding records (e.g., verifying exact location data) to ensure that an accurate count is available from which to assess the percentage of the PBR level which is attributable to gillnet interactions in inshore waters. In addition, we are expending some observer effort in these

waters. Although we believe that the interaction rate is fairly low, if any takes are observed in inshore waters, we will develop an estimate of the level of take in this inshore component of this fishery and use it to re-assess the categorization of the fishery.

Comments on Atlantic Fisheries Interacting with Coastal Bottlenose Dolphins

Comment 21: One commenter is concerned that NMFS does not have adequate population abundance estimates and stock structure information for coastal bottlenose dolphins to allow it to accurately assess the PBR level for this stock and to determine bycatch levels in the Atlantic Ocean, Gulf of Mexico blue crab trap/pot fishery, the North Carolina inshore gillnet fishery, and other fisheries. The commenter notes that it is a violation of the MMPA for NMFS to continue to allow fisheries to take bottlenose dolphins in the absence of this information and any take reduction plan. NMFS must immediately work to obtain accurate population abundance estimates and stock structure information for bottlenose dolphin.

Response: We recognize the importance of these issues and have committed resources to developing accurate abundance estimates and to obtaining critical stock structure information. We are committed to answering complex bottlenose dolphin stock structure questions and, wherever possible, are devoting our limited resources toward addressing these issues.

We have been operating an observer program in nearshore waters since early 1998. By spring 1999, marine mammal bycatch data from this observer program will be available and marine mammal bycatch estimates will be developed. We plan to use these data, in conjunction with the best available data on abundance (i.e., information contained in the most recent SAR), and will consider convening a take reduction team at that time, if appropriate.

Comments on North Carolina Haul Seine Fishery

Comment 22: One commenter supports NMFS' proposal to change the name of the "North Carolina haul seine fishery" to the "Mid-Atlantic haul seine fishery."

Response: We agree and are changing the name of the "North Carolina haul seine fishery" to the "Mid-Atlantic haul seine fishery."

Comments on the Mid-Atlantic, Southeastern U.S. Atlantic, Gulf of Mexico Shrimp Trawl Fishery

Comment 23: One commenter believes that the Mid-Atlantic, Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl fishery should be elevated to Category II based on observations of bottlenose dolphins being killed by vessels in this fishery. Given the low PBR level for the stock and the lack of observer coverage, the commenter expects that this fishery is killing more than 10 percent of the PBR level for the stock.

Response: Although there have been approximately 50,000 hours of observer coverage in the shrimp trawl fishery, no incidental mortalities of bottlenose dolphins in this fishery have ever been recorded by observers. We are aware that occasional mortalities do occur, but it is unlikely that the 5-year average number of known interactions with any one dolphin stock exceeds 10 percent of the PBR level. However, we are currently conducting a review of dolphin mortality records in this fishery and will re-evaluate the categorization of this fishery to ensure that it is categorized appropriately.

Comments on Fisheries in the Northeast Region: Comments on the Atlantic Herring Midwater Trawl Fishery

Comment 24: Several commenters wrote in support of including the herring midwater trawl fishery in Category II due to the potential for incidental take of marine mammals, particularly harbor porpoise from the Gulf of Maine/Bay of Fundy stock. The New England Fishery Management Council (NEFMC) expressed support of a Category II listing. In addition to the reasons listed in the Proposed 1999 LOF, the NEFMC Marine Mammal Committee noted that the practice of pair trawling has increased over the last several years and that vessels fishing in pairs in other fisheries have accounted for takes of marine mammals and sea turtles. Vessels fishing singly for herring also may be associated with some level of harbor porpoise bycatch given the close predator/prey relationship between porpoise and herring.

Response: We agree and are adding the Atlantic herring midwater trawl (including pair trawl) fishery to the LOF as a Category II fishery.

Comment 25: One commenter notes that the Harbor Porpoise Take Reduction Plan goals could be compromised by takes of porpoise in fisheries such as the herring trawl fishery, which are not regulated by the Plan, and stated that such takes would undermine the efforts by the sink gillnet fishery (and other parties involved in the take reduction plan development process) to reduce takes of porpoise. The commenter also recommended that NMFS initiate observer coverage in the herring trawl fishery to investigate the potential for porpoise takes.

Response: We agree. If takes of harbor porpoise are reported from fisheries other than the fisheries currently regulated by the harbor porpoise plan, this information will be presented to the take reduction team(s) for their consideration. The Category II listing gives us the authority to place observers on this fishery.

Comment 26: One commenter states that the herring trawl fishery was being reclassified using a "guilty until proven innocent" standard and noted that NMFS do not have data linking the Atlantic herring midwater trawl fishery to any marine mammal injuries or mortalities.

Response: Section 118 of the MMPA provides for flexibility in fishery classifications. In the case of the herring fishery, data on food habits of harbor porpoise and other marine mammal species, the overlap of distribution of the herring fishery and several of these marine mammal species, and documented takes of small cetaceans and pinnipeds in gear used in the herring fishery is sufficient to warrant classification of this fishery in Category II.

Comment 27: One commenter notes that a new herring fishery management plan has just been adopted by the NEFMC which allows for the use of observers in the Atlantic herring fishery. Before imposing an additional regulatory burden on the herring fleet, as the proposal to register herring midwater trawlers as Category II fishermen would do, the commenter requested that NMFS and the NEFMC should expend the effort to develop data through other available means.

Response: We agree that there is authority under the Magnuson-Stevens Fishery Conservation and Management Act to place observers on vessels. However, the MMPA specifically requires that we review the LOF annually to assess a fishery's level of interactions with marine mammals. Through this process, we have determined that this fishery should be reclassified for several reasons explained earlier (see response to comments 24–26). This reclassification should not place a significant regulatory burden on fishery participants. As a result of this action, participants in this fishery will be required to register and to accommodate an observer if

requested. The Category II classification was meant to be an interim stage that allows collection of data to determine the level of take more accurately.

Comment 28: Due to the potential for take of marine mammals in bottom trawl gear targeting herring, one commenter disagrees with the inclusion of bottom trawl vessels targeting herring in the Category III listing for the North Atlantic bottom trawl fishery.

Response: We agree that takes of marine mammals have been observed in the bottom trawl fishery; however, this level of take meets the Category III definition. Very few, if any, of the vessels that catch herring with bottom trawl gear are actually targeting herring. The herring fishery is considered predominantly a mid-water trawl fishery, which is listed separately.

Comments on the Northeast Sink Gillnet Fishery

Comment 29: One commenter requests that the number of participants in the Northeast sink gillnet fishery be changed from 341 to 200 and that "North Atlantic right whale, WNA" be removed from the list of species interacting with the fishery.

Response: The most current analysis of the number of boats in the Northeast sink gillnet fishery was done in the Regulatory Flexibility Act analysis for the Harbor Porpoise Take Reduction Plan. This analysis determined that at least 273 vessels used sink gillnet gear in 1996. Vessels included in that analysis either reported the use of gillnet gear in a fishing vessel log or sold fish to a dealer reporting through the dealer logbook system. There may be a number of vessels fishing in state waters which were not identified by the Federal logbook system. Since the fishery listing under the MMPA includes all state water participants, the number of actual participants in 1996 may be somewhat higher than 273. Therefore, we are not changing the number of participants at this time. We acknowledge that participation is not equal amongst vessels reporting use of gillnet gear; however, the LOF does not attempt to distinguish between active and limited participation.

There are several records of right whale entanglements in gillnet gear. Right whale distribution overlaps areas where U.S. sink gillnet gear is set and observations of right whales entangled in gillnet gear have been recorded in U.S. waters. Therefore, some of the historical gillnet entanglement records may have involved sink gillnet gear, and the potential remains for right whales to become entangled and seriously injured in gear used by the Northeast sink gillnet fishery.

Comment 30: One commenter supports NMFS' proposal to change the name of the "Northeast multispecies sink gillnet fishery" to the "Northeast sink gillnet fishery."

Response: We agree and are changing the name of the "Northeast multispecies sink gillnet fishery" to the "Northeast sink gillnet fishery."

Comments on the Atlantic Squid, Mackerel, Butterfish Trawl Fishery

Comment 31: One commenter questions NMFS' justification for refusing to categorize the Atlantic squid, mackerel, butterfish trawl fishery in Category I based on a vague assertion that uncertainty exists. The commenter expressed concern that data from 1997 had not been analyzed prior to issuing the proposed LOF. The commenter noted that it is difficult to understand how this uncertainty occurred after the spring SRG meeting and yet could not be resolved prior to issuing the LOF. NMFS should be guided by the precautionary principle and list this as a Category I fishery because of its marine mammal interactions.

Response: The data for 1997 have not yet been fully analyzed. We anticipate that these data will be fully analyzed for the draft 1999 SAR and will be available prior to preparation of the proposed 2000 LOF.

Comments on the Gulf of Maine, U.S. Mid-Atlantic Mixed Species Trap/Pot Fishery

Comment 32: One commenter notes that the Gulf of Maine/U.S. Mid-Atlantic mixed species trap/pot fishery is listed as a Category III fishery. They are also listed as interacting with North Atlantic right whales, and whales have been seen entangled with buoy lines that are of unknown origin, but that may have come from this fishery. Because of this, the commenter did not understand why this is a Category III fishery, since the PBR level for right whales is only 0.4 per year and any interaction would likely exceed 10 percent of the PBR level. This fishery should be listed as a Category I or II fishery.

Response: We agree that fixed gear fisheries with gear components capable of entangling whales may pose a risk in times/areas coinciding with whale distribution. However, no records of entanglement in gear known to be used in this fishery were documented during the period analyzed. We intend to analyze this fishery with respect to fishery distribution and other factors to determine if reclassification is warranted for the proposed LOF for 2000.

Comments on Takes From Human Activities Other Than Commercial Fishing

Comment 33: One commenter requests that commercial passenger vessels and other vessels that hit whales and manatees be classified in the LOF.

Response: It is not appropriate to list vessel impacts in the MMPA LOF. The LOF is directed at incidental takes of marine mammals by commercial fisheries. We are addressing ship strike impacts to whales through activities recommended by the Northeast Recovery Plan Implementation Team for commercial shipping traffic and whale watch vessels.

Comments on the Proposed Changes to Regulations at 50 CFR Part 229

Comment 34: One commenter wrote in support of NMFS' proposal to revise 50 CFR part 229 by: removing the definition of "Incidental, but not intentional take," clarifying that the marine mammal deterrence provisions pertain to all commercial fishers, requiring that participants in non-vessel fisheries report their gear permit number, requiring that vessel operators provide specific accommodations to observers, and specifying that under an emergency action, the Assistant Administrator for Fisheries, NMFS (Assistant Administrator) will determine whether a recategorization of the fishery is appropriate.

Response: We agree and are finalizing these changes.

Comment 35: One commenter disagrees with NMFS' proposal to delete the requirement that vessel owners must provide, when they register, the "approximate time, duration, and location of each such fishery operation, and the general type and nature of use of the fishing gear and techniques used." The MMPA specifically mandates that vessel owners provide this information, and the commenter disagrees that this information is included in the fishery title. NMFS cannot manage fisheries if fishers do not provide this information.

Response: As part of their registration, fishers must provide the name of the Category I and II fisheries in which they participate. Fishers are not asked to submit additional fishery description information because we obtain this information from Federal, state, and local fishery management officials. We believe that it is more efficient to obtain this information from fishery management sources, rather than to burden individual fishers by requiring

them to provide this detailed information. In addition, we believe that there is an advantage in collecting compiled fishery information from fishery management sources because it allows us to track the behavior of the entire fishery instead of the behavior of individual fishers.

Comment 36: One commenter strongly opposes NMFS' proposal to remove all references to an "annual decal" and to use the term "decal" in its place. The commenter believes this is a clear violation of the MMPA which requires that a "decal or other physical evidence that the authorization is current and valid * * * and so long as the authorization remains current and valid, shall be reissued annually thereafter." NMFS is violating the MMPA by not issuing an annual decal with an expiration date each year after it receives a vessel owners completed registration.

Response: Upon receiving a vessel owner's completed registration information, we issue an annual Authorization Certificate with an expiration date. This Authorization must be renewed annually. This Authorization Certificate satisfies the requirement of section 118 of the MMPA to have a "decal or other physical evidence that the authorization is current and valid * * * and so long as the authorization remains current and valid, shall be reissued annually thereafter."

We have successfully integrated the Marine Mammal Authorization Program (MMAP) with existing fishery management programs for several fisheries and reduced the burden on fishers in these fisheries. Participants in these integrated fisheries are registered automatically in the MMAP. In order for participants in these fisheries to receive annual MMAP decals, we would need to conduct a separate annual mailing to these participants. We believe that sending these decals to all participants in integrated fisheries is an unnecessary burden and would work against the goal of the integrated registration system. In addition, we believe that the issuance of an annual MMAP decal is unnecessary given that the Authorization certificate provides annual proof that a marine mammal authorization has been granted.

For these reasons, we will continue to distribute MMAP decals that do not have an annual expiration. MMAP decals may not be distributed every year. We are replacing the term "annual decal" with the term "decal."

Comment 37: One commenter opposes NMFS' removing the definition of "Incidental mortality" because it is a term used throughout the MMPA and its implementing regulations.

Response: We agree that the term "incidental mortality" is used throughout the MMPA; however, the term "incidental" is broadly used throughout the MMPA and is used in conjunction with several other terms (e.g., incidental serious injury). We believe that it is more appropriate to define the broad term "incidental" in 50 CFR part 229 than to specifically define "incidental mortality." We are adding the following definition to § 229.2: "Incidental means, with respect to an act, a non-intentional act or accidental act that results from, but is not the purpose of, carrying out an otherwise lawful action."

Comment 38: One commenter opposes NMFS' proposal to remove the provision that requires the Authorization Certificate be signed and dated by the owner or the authorized representative of the owner in order to be valid. NMFS claims that the possession of the certificate is sufficient to provide an authorization for taking marine mammals. The vessel owner's signature means that he/she has read and understands the legal requirements and is bound to abide and carry out these requirements.

Response: We disagree. The Authorization to take marine mammals is granted when we issue the Certificate and is not contingent upon the vessel owner's signature.

In the past, the signature line on the Authorization Certificate has resulted in some confusion. Fishers have assumed that since they were required to sign them, they should send them back to us. Removing the signature line, and the requirement to sign the Authorization Certificates, will help eliminate this confusion.

Comment 39: One commenter states that NMFS' proposal in § 229.7 to add "sleeping accommodations * * * that are equivalent to those provided to the crew" needs to be clarified. It is common for a vessel to only have bunk space sufficient for the number of crew typically carried in any specific fishery. The commenter suggested using instead: "sleeping accommodations that are reasonably equivalent to those provided to the crew, taking the vessel's presently existing sleeping accommodations into account."

Response: We recognize that many vessels only have bunk space for the number of crew carried in any specific fishery. We will continue to take the vessel's existing sleeping accommodations into account with respect to observer accommodations. It is not the intent of this provision to require vessel owners to build extra bunks to accommodate observers. We are clarifying that the requirement to provide "sleeping accommodations * * * that are equivalent to the crew" depends upon the specific accommodations of a given vessel. We believe that the proposed text is adequate and will take a vessel's existing sleeping accommodations into account in enforcing this provision.

Comment 40: One commenter states that the need for the provision under § 229.30 stems from a lack of cooperation between the divisions of Protected Resources and Sustainable Fisheries, NMFS. The fact that Protected Resources needs the power to enact fisheries regulations independent of Sustainable Fisheries indicates a serious problem within NMFS that obviously interferes with its ability to fulfill its mission. The proposed provision does not fix the problem.

Response: Section 229.30 contains the implementing regulations for TRPs developed under the MMPA. The only change that we proposed to this section was to add an introductory paragraph for this section. This section introduces the TRP implementing regulations by outlining our authority under the MMPA in implementing TRPs.

Additional Comments

We received several comments on 50 CFR part 229 that addressed issues that were outside the scope of our currently proposed changes and technical revisions. We will address these comments during a future review of these regulations.

Summary of Changes to the LOF for 1999

With the following exceptions, the placement and definitions of U.S. commercial fisheries are identical to those provided in the LOF for 1998. Thus, the majority of the LOF for 1998 remains valid in 1999. The following summarizes the changes in fishery classification, fishery definition, number of participants in a particular fishery, the species that are designated as strategic stocks, and the species and/or stocks that are incidentally killed or seriously injured that are made final by this LOF for 1999:

Commercial Fisheries in the Pacific Ocean

Fishery Description

The "Alaska Peninsula/Aleutians salmon drift gillnet fishery" is renamed the "Alaska Peninsula/Aleutian Islands salmon drift gillnet fishery."

The "Alaska Peninsula/Aleutian Island salmon set gillnet fishery" is

renamed the "Alaska Peninsula/ Aleutian Islands salmon set gillnet fishery."

The "Alaska Cook Inlet drift gillnet fishery" is renamed the "Alaska Cook Inlet salmon drift gillnet fishery."

The "Alaska Bristol Bay drift gillnet fishery" is renamed the "Alaska Bristol Bay salmon drift gillnet fishery."

The "Alaska Bristol Bay set gillnet fishery" is renamed the "Alaska Bristol Bay salmon set gillnet fishery."

The "Alaska pair trawl fishery" is renamed the "Alaska miscellaneous finfish pair trawl fishery."

The "Alaska Prince William Sound set gillnet fishery is renamed the "Alaska Prince William Sound salmon set gillnet fishery."

The "Alaska Metlakatla purse seine fishery" is renamed the "Alaska Metlakatla salmon purse seine fishery."

The "Alaska other finfish handline and mechanical jig fishery" is renamed the "Alaska miscellaneous finfish handline and mechanical jig fishery."

Number of Vessels/Persons

The estimated number of vessels/ persons for the Alaska Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet fishery is changed from 1,519 to 1,419.

The estimated number of vessels/ persons for the Alaska Bering Sea, Gulf of Alaska finfish fishery is changed from 277 to 274.

The estimated number of vessels/ persons for the Alaska, Washington, Oregon, California commercial passenger fishery is changed from >17,000 (16,276 Alaska only) to >4,000.

The estimated number of persons/ vessels for the Washington Puget Sound Region salmon drift gillnet fishery is changed from 900 to 725.

The estimated number of persons/ vessels for the Washington, Oregon salmon net pens is changed from 21 to 14.

List of Species That Are Incidentally Injured or Killed by a Particular Fishery

The Washington Inland Waters stock of Harbor seals is added to the list of species/stocks that are incidentally killed or injured by the Washington, Oregon salmon net pens.

The southern sea otter is added to the list of species/stocks that are incidentally killed or injured by the California angel shark/halibut and other species large mesh set gillnet fishery.

The southern sea otter is added to the list of species/stocks that are incidentally killed or injured by the California lobster, prawn, shrimp, rock crab, fish pot fishery. Commercial Fisheries in the Atlantic Ocean, Gulf of Mexico, and Caribbean.

Fishery Classification

The "Gulf of Mexico menhaden purse seine fishery" is moved from Category III to Category II.

Addition of Fisheries to the LOF

The "Atlantic herring midwater trawl (including pair trawl) fishery" is added to the LOF as a Category II fishery. This fishery includes those vessels currently participating in the "Gulf of Maine, U.S. mid-Atlantic coastal herring trawl fishery" (which is removed from the LOF).

Removals of Fisheries From the LOF

The "Gulf of Maine, U.S. mid-Atlantic coastal herring trawl fishery" is removed from the LOF.

Fishery Descriptions

The "Gulf of Maine, southeast U.S. Atlantic coastal shad, sturgeon, gillnet (includes waters of North Carolina) fishery" is renamed the "Gulf of Maine, southeast U.S. Atlantic coastal shad, sturgeon, gillnet fishery." Fishers participating in the North Carolina fishery are more appropriately identified under the U.S. mid-Atlantic coastal gillnet fishery.

Number of Vessels/Persons

The estimated number of vessels/ persons for the Southeastern U.S. Atlantic, Gulf of Mexico, Caribbean spiny lobster trap/pot fishery is changed from 750 to 4,847.

List of Species That Are Incidentally Injured or Killed by a Particular Fishery

The stocks of marine mammals that are injured/killed in the Northeast sink gillnet fishery are clarified for the following species: Common dolphin, Western North Atlantic (WNA); Fin whale, WNA; Spotted dolphin, WNA; False killer whale, WNA; Harp seal, WNA.

The WNA coastal stock of bottlenose dolphin is added to the list of species/ stocks that are incidentally injured or killed by the North Carolina inshore gillnet fishery.

The list of marine mammal species/ stocks incidentally injured/killed in the Florida east coast, Gulf of Mexico pelagics king and Spanish mackerel gillnet fishery is changed to "None documented."

Changes Resulting From Draft 1998 SARs

The table in the LOF that lists all U.S. commercial fisheries, the number of participants in each fishery, and the marine mammal stocks and/or species incidentally killed or injured in each fishery is updated to include the following changes in the draft Pacific and Atlantic SARs:

1. The CA/OR/WA stocks of Mesoplodont beaked whales are proposed to be designated as non-strategic;

2. The CA/OR/WA stock of minke whales are proposed to be designated as non-strategic; and

3. The Western North Atlantic stock of white-sided dolphin is proposed to be designated as strategic.

The draft SAR for Alaska provided updates to the number of participants in each Alaska commercial fishery and to the list of species and/or stocks incidentally injured or killed in each fishery. When possible, the number of participants provided in the table in the LOF reflects the number of permits fished in 1996. For those fisheries for which this information was not available, the number of permits issued was used to represent the number of participants.

Summary of Changes to Regulations at 50 CFR Part 229

We are making several revisions and technical edits to 50 CFR part 229. These changes are described here.

Definitions

In § 229.2 and § 229.3 we are removing the term "taking" and adding in its place the term "incidental serious injury and mortality."

In § 229.2, we are removing the definitions of the terms "Fisher", "Incidental, but not intentional, take" and "Incidental mortality" and adding definitions of the terms "Fisher or fisherman", "Incidental" and "Integrated fishery."

Requirements for Category I and II Fisheries

We are removing the requirement that vessel/gear owners provide a description of the gear type and approximate time, duration, and locations of each fishery operation.

In § 229.4(e)(1) and § 229.4(e)(3), we are removing the term "annual" before the term "decal."

We are removing the provision that all Authorization Certificates must be signed and dated by the owner or the authorized representative of the owner in order to be valid.

We are making several additional minor changes to § 229.4, including updating the telephone numbers of NMFS regional offices clarifying registration requirements for participants in integrated fisheries, and restructuring sections.

Requirements for Category III Fisheries

We are correcting the wording of this section to clarify that this deterrence provision applies to all vessel owners and crew members engaged in commercial fishing operations.

Reporting Requirements

We are modifying the reporting requirements under § 229.6 to include all commercial fishermen, regardless of the category of fishery they participate in, and to clarify the registration requirements for participants in non-vessel fisheries. Instead of providing the vessel name and registration number, participants in non-vessel fisheries are required to submit the gear permit number.

Monitoring of Incidental Mortalities and Serious Injuries

We are removing all references to an "onboard observer" and we are further defining the specific accommodations that vessel operators must provide by specifying that vessel operators or crew members must provide "food, toilet, bathing, and sleeping accommodations that are equivalent to those provided to the crew." These accommodations should be provided at no cost to the observer or to us.

We are specifically allowing observers to sample, retain, or store target and non-target catch, which includes marine mammals or other protected species specimens.

We are clarifying that observer requirements apply to "vessel owners/operators" instead of "Authorization Certificate holders."

We are moving the prohibition of marine mammal retention from § 229.7(c)(6) to § 229.3 (e).

Emergency Regulations

We are revising the regulatory language regarding emergency actions to clarify that the Assistant Administrator in reviewing the fishery classification, would also determine whether a recategorization of the fishery is appropriate.

Take Reduction Plans

We are adding a new introductory section under subpart C addressing TRP regulations.

List of Fisheries

The following two tables list U.S. commercial fisheries according to their assigned categories under section 118 of the MMPA. When possible, we express the estimated number of vessels in terms of the number of active participants in the fishery. If this information is not available, we provide the estimated number of vessels or persons licensed for a particular fishery. If no recent information is available on the number of participants in a fishery, we use the number from the 1996 LOF. The tables also list the marine mammal species/stocks that are incidentally killed or injured in each fishery based on observer data, logbook data, stranding reports, and fishers' reports. This list includes all species or stocks known to incur injury or mortality for a given fishery; however, not all species or stocks identified are necessarily independently responsible for a fishery's categorization. There are a few fisheries that are in Category II that do not have any recently documented interactions with marine mammals; the justification for categorization of these fisheries are by analogy to other gear types that are known to injure or kill marine mammals, as discussed in the final LOF for 1996 (60 FR 45086, December 28, 1995).

Commercial fisheries in the Pacific Ocean are listed in Table 1; commercial fisheries in the Atlantic Ocean are listed in Table 2. An asterisk (*) indicates that the stock is a strategic stock; a plus (+) indicates that the stock is listed as threatened or endangered under the Endangered Species Act.

TABLE 1.—LIST OF FISHERIES: COMMERCIAL FISHERIES IN THE PACIFIC OCEAN

Fishery description	Estimated Number of vessels/persons	Marine mammal species/stocks incidentally killed/injured
Category I		
Gillnet Fisheries:		
CA angel shark/halibut and other species large mesh (>3.5in) set gillnet.	58	Harbor porpoise, central CA. Common dolphin, short-beaked, CA/OR/WA. Common dolphin, long-beaked CA. California sea lion, U.S. Harbor seal, CA. Northern elephant seal, CA breeding. Sea otter, CA.
CA/OR thresher shark/swordfish drift gillnet	130	Steller sea lion, Eastern U.S.*+. Sperm whale, CA/OR/WA*+. Dall's porpoise, CA/OR/WA. Pacific white sided dolphin, CA/OR/WA. Risso's dolphin, CA/OR/WA. Bottlenose dolphin, CA/OR/WA offshore. Short-beaked common dolphin CA/OR/WA. Long-beaked common dolphin CA/OR/WA. Northern right whale dolphin, CA/OR/WA. Short-finned pilot whale, CA/OR/WA*. Baird's beaked whale, CA/OR/WA. Mesoplodont beaked whale, CA/OR/WA. Cuvier's beaked whale, CA/OR/WA. Pygmy sperm whale, CA/OR/WA. California sea lion, U.S. Northern elephant seal, CA breeding. Humpback whale, CA/OR/WA-Mexico*. Minke whale, CA/OR/WA. Striped dolphin, CA/OR/WA. Killer whale, CA/OR/WA Pacific coast.

TABLE 1.—LIST OF FISHERIES: COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated Number of vessels/persons	Marine mammal species/stocks incidentally killed/injured
		Northern fur seal, San Miguel Island.
	Category II	
Gillnet Fisheries:		
AK Prince William Sound salmon drift gillnet	509	Steller sea lion, Western U.S.*+. Northern fur seal, Eastern Pacific*. Harbor seal, GOA*. Pacific white-sided dolphin, central North Pacific. Harbor porpoise, GOA. Dall's porpoise, AK.
AK Peninsula/Aleutian Islands salmon drift gillnet	163	Northern fur seal, Eastern Pacific*. Harbor seal, GOA. Harbor porpoise, Bering Sea. Dall's porpoise, AK.
AK Peninsula/Aleutian Islands salmon set gillnet	110	Steller sea lion, Western U.S.*+. Harbor porpoise, Bering Sea.
Southeast Alaska salmon drift gillnet	439	Steller sea lion, Eastern U.S.*+. Harbor seal, Southeast AK. Pacific white-sided dolphin, central. North Pacific. Harbor porpoise, Southeast AK. Dall's porpoise, AK. Humpback whale, central North Pacific*+.
AK Cook Inlet salmon drift gillnet	560	Steller sea lion, Western U.S.*+. Harbor seal, GOA*. Harbor porpoise, GOA. Dall's porpoise, AK. Beluga, Cook Inlet*.
AK Cook Inlet salmon set gillnet	604	Steller sea lion, Western U.S.*+. Harbor seal, GOA*. Harbor porpoise, GOA. Beluga, Cook Inlet*. Dall's porpoise, AK.
AK Yakutat salmon set gillnet	139	Harbor seal, Southeast AK. Gray whale, Eastern North Pacific.
AK Kodiak salmon set gillnet	172	Harbor seal, GOA*. Harbor porpoise, GOA. Sea otter, Southwest AK.
AK Bristol Bay salmon drift gillnet	1,884	Steller sea lion, Western U.S.*+. Northern fur seal, Eastern Pacific*. Harbor seal, Bering Sea. Beluga, Bristol Bay. Gray whale, Eastern North Pacific. Spotted seal, AK. Pacific white-sided dolphin, central. North Pacific.
AK Bristol Bay salmon set gillnet	941	Harbor seal, Bering Sea. Beluga, Bristol Bay. Gray whale, Eastern North Pacific. Northern fur seal, Eastern Pacific*. Spotted seal, AK.
AK Metlakatla/ Annette Island salmon drift gillnet	60	None documented.
WA Puget Sound Region salmon drift gillnet (includes all inland waters south of US-Canada border and eastward of the Bonilla-Tatoosh line—Treaty Indian fishing is excluded).	725	Harbor porpoise, inland WA. Dall's porpoise, CA/OR/WA. Harbor seal, WA inland.
Purse Seine Fisheries:		
CA anchovy, mackerel, tuna purse seine	150	Bottlenose dolphin, CA/OR/WA offshore. California sea lion, U.S. Harbor seal, CA.
CA squid purse seine	65	Short-finned pilot whale, CA/OR/WA*.
AK Southeast salmon purse seine	357	Humpback whale, central North Pacific*+.
Trawl Fisheries:		
AK miscellaneous finfish pair trawl	4	None documented.
Longline Fisheries:		
OR swordfish floating longline	2	None documented.
OR blue shark floating longline	1	None documented.

TABLE 1.—LIST OF FISHERIES: COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated Number of vessels/persons	Marine mammal species/stocks incidentally killed/injured
Category III		
Gillnet Fisheries:		
AK Prince William Sound salmon set gillnet	26	Steller sea lion, Western U.S.*+. Harbor seal, GOA*.
AK Kuskokwim, Yukon, Norton Sound, Kotzebue salmon gillnet.	1,491	None documented.
AK roe herring and food/bait herring gillnet	1,687	None documented.
WA, OR herring, smelt, shad, sturgeon, bottom fish, mullet, perch, rockfish gillnet.	913	None documented.
WA Willapa Bay drift gillnet	82	Harbor seal, OR/WA coast. Northern elephant seal, CA breeding.
WA Grays Harbor salmon drift gillnet (excluding treaty Tribal fishing).	24	Harbor seal, OR/WA coast.
WA, OR lower Columbia River (includes tributaries) drift gillnet.	110	California sea lion, U.S. Harbor seal, OR/WA coast.
CA set and drift gillnet fisheries that use a stretched mesh size of 3.5 in or less.	341	None documented.
AK miscellaneous finfish set gillnet	4	Steller sea lion, Western U.S.*+.
Hawaii gillnet	115	Bottlenose dolphin, HI. Spinner dolphin, HI.
Purse Seine, Beach Seine, Round Haul and Throw Net Fisheries:		
AK salmon purse seine (except Southeast Alaska, which is in Category II).	586	Harbor seal, GOA*.
AK salmon beach seine	6	None documented.
AK roe herring and food/bait herring purse seine	517	None documented.
AK roe herring and food/bait herring beach seine	1	None documented.
AK Metlakatla salmon purse seine	10	None documented.
AK octopus/squid purse seine	2	None documented.
CA herring purse seine	100	Bottlenose dolphin, CA coastal. California sea lion, U.S. Harbor seal, CA.
CA sardine purse seine	120	None documented.
AK miscellaneous finfish purse seine	4	None documented.
AK miscellaneous finfish beach seine	1	None documented.
WA salmon purse seine	440	None documented.
WA salmon reef net	53	None documented.
WA, OR herring, smelt, squid purse seine or lampara	130	None documented.
WA (all species) beach seine or drag seine	235	None documented.
HI purse seine	18	None documented.
HI opelu/akule net	16	None documented.
HI throw net, cast net	47	None documented.
Dip Net Fisheries:		
WA, OR smelt, herring dip net	119.	None documented.
CA squid dip net	115	None documented.
Marine Aquaculture Fisheries:		
WA, OR salmon net pens	14	California sea lion, U.S. Harbor seal, WA inland waters.
CA salmon enhancement rearing pen	>1	None documented.
OR salmon ranch	1	None documented.
Troll Fisheries:		
AK salmon troll	1149	Steller sea lion, Eastern U.S.*+.
CA/OR/WA salmon troll	4,300	None documented.
AK north Pacific halibut, AK bottom fish, WA, OR, CA albacore, groundfish, bottom fish, CA halibut non-salmonid troll fisheries.	1,354	None documented.
HI trolling, rod and reel	1,795	None documented.
Guam tuna troll	50	None documented.
Commonwealth of the Northern Mariana Islands tuna troll	50	None documented.
American Samoa tuna troll	<50	None documented.
HI net unclassified	106	None documented.
Longline/Set Line Fisheries:		
AK state waters sablefish long line/set line	840	None documented.
Miscellaneous finfish/groundfish longline/set line	594	Harbor seal, GOA*. Harbor seal, Bering Sea. Dall's porpoise, AK. Steller sea lion, Western U.S. Harbor seal, Southeast AK.

TABLE 1.—LIST OF FISHERIES: COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated Number of vessels/persons	Marine mammal species/stocks incidentally killed/injured
		Northern elephant seal, CA breeding.
HI swordfish, tuna, billfish, mahi mahi, wahoo, oceanic sharks longline/set line.	140	Hawaiian monk seal*+. Humpback whale, Central North Pacific*+. Risso's dolphin, HI. Bottlenose dolphin, HI. Spinner dolphin, HI. Short-finned pilot whale, HI.
WA, OR North Pacific halibut longline/set line	350	None documented.
AK southern Bering Sea, Aleutian Islands, and Western Gulf of Alaska sablefish longline/set line (federally regulated waters).	762	Northern elephant seal, CA breeding. Killer whale, resident. Killer whale, transient. Steller sea lion, Western U.S. Pacific white-sided dolphin, central. North Pacific. Dall's porpoise, AK.
AK halibut longline/set line (state and Federal waters)	2,882	Steller sea lion, Western U.S.*+.
WA, OR, CA groundfish, bottomfish longline/set line	367	None documented.
AK octopus/squid longline	2	None documented.
CA shark/bonito longline/set line	10	None documented.
Trawl Fisheries:		
WA, OR, CA shrimp trawl	300	None documented.
AK shrimp otter trawl and beam trawl (statewide and Cook Inlet).	62	None documented.
AK Gulf of Alaska groundfish trawl	201	Steller sea lion, Western U.S.*+. Northern fur seal, Eastern Pacific*. Harbor seal, GOA*. Dall's porpoise, AK. Northern elephant seal, CA breeding.
AK Bering Sea and Aleutian Islands groundfish trawl	193	Steller sea lion, Western U.S.*+. Northern fur seal, Eastern Pacific*. Killer whale, resident. Killer whale, transient. Pacific white-sided dolphin, central. North Pacific. Harbor porpoise, Bering Sea. Harbor seal, Bering Sea. Harbor seal, GOA*. Bearded seal, AK. Ringed seal, AK. Spotted seal, AK. Dall's porpoise, AK. Ribbon seal, AK. Northern elephant seal, CA breeding. Sea otter, Southwest AK. Pacific Walrus , AK.
AK state-managed waters of Cook Inlet, Kachemak Bay, Prince William Sound, Southeast AK groundfish trawl.	5	None documented.
AK miscellaneous finfish otter or beam trawl	312	None documented.
AK food/bait herring trawl	4	None documented.
WA, OR, CA groundfish trawl	585	Steller sea lion, Western U.S.*+. Northern fur seal, Eastern Pacific*. Pacific white-sided dolphin, central. North Pacific. Dall's porpoise, CA/OR/WA. California sea lion, U.S. Harbor seal, OR/WA coast.
Pot, Ring Net, and Trap Fisheries:		
AK crustacean pot	1,496	Harbor porpoise, Southeast AK.
AK Bering Sea, GOA finfish pot	274	Harbor seal, GOA*. Harbor seal, Bering Sea. Sea otter, Southwest AK.
WA, OR, CA sablefish pot	176	None documented.
WA, OR, CA crab pot	1,478	None documented.
WA, OR shrimp pot & trap	254	None documented.
CA lobster, prawn, shrimp, rock crab, fish pot	608	Sea otter, CA.
OR, CA hagfish pot or trap	25	None documented.
HI lobster trap	15	Hawaiian monk seal*+.
HI crab trap	22	None documented.
HI fish trap	19	None documented.

TABLE 1.—LIST OF FISHERIES: COMMERCIAL FISHERIES IN THE PACIFIC OCEAN—Continued

Fishery description	Estimated Number of vessels/persons	Marine mammal species/stocks incidentally killed/injured
HI shrimp trap	5	None documented.
Handline and JIG Fisheries:		
AK North Pacific halibut handline and mechanical jig	266	None documented.
AK miscellaneous finfish handline and mechanical jig	258	None documented.
AK octopus/squid handline	2	None documented.
WA groundfish, bottomfish jig	679	None documented.
HI aku boat, pole and line	54	None documented.
HI inshore handline	650	Bottlenose dolphin, HI.
HI deep sea bottomfish	434	Hawaiian monk seal*+.
HI tuna	144	Rough-toothed dolphin, HI. Bottlenose dolphin, HI. Hawaiian monk seal*+.
Guam bottomfish	<50	None documented.
Commonwealth of the Northern Mariana Islands bottomfish	<50	None documented.
American Samoa bottomfish	<50	None documented.
Harpoon Fisheries:		
CA swordfish harpoon	228	None documented.
Pound Net/Weir Fisheries:		
AK Southeast Alaska herring food/bait pound net	154	None documented.
WA herring brush weir	1	None documented.
Bait Pens:		
WA/OR/CA bait pens	13	None documented.
Dredge Fisheries:		
Coastwide scallop dredge	106	None documented.
Dive, Hand/Mechanical Collection Fisheries:		
AK abalone	9	None documented.
AK dungeness crab	3	None documented.
AK herring spawn-on-kelp	200	None documented.
AK urchin and other fish/shellfish	442	None documented.
AK clam hand shovel	62	None documented.
AK clam mechanical/hydraulic	19	None documented.
WA herring spawn-on-kelp	4	None documented.
WA/OR sea urchin, other clam, octopus, oyster, sea cucumber, scallop, ghost shrimp hand, dive, or mechanical collection.	637	None documented.
CA abalone	111	None documented.
CA sea urchin	583	None documented.
HI squiding, spear	267	None documented.
HI lobster diving	6	None documented.
HI coral diving	2	None documented.
HI handpick	135	None documented.
WA shellfish aquaculture	684	None documented.
WA, CA kelp	4	None documented.
HI fish pond	10	None documented.
Commercial Passenger Fishing Vessel (Charter Boat) Fisheries:		
AK, WA, OR, CA commercial passenger fishing vessel	>4,000	None documented.
AK octopus/squid "other"	19	None documented.
HI "other"	114	None documented.
Live Finfish/Shellfish Fisheries:		
CA finfish and shellfish live trap/hook-and-line	93	None documented.

*Marine mammal stock is strategic or is proposed to be listed as strategic in the draft SARs for 1998.
+Stock is listed as threatened or endangered under the Endangered Species Act (ESA) or as depleted under the MMPA.
List of Abbreviations Used in Table 1: AK—Alaska; CA—California; HI—Hawaii; GOA—Gulf of Alaska; OR—Oregon; WA—Washington.

TABLE 2.—LIST OF FISHERIES: COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN

Fishery description	Estimated number of vessels/persons	Marine mammal species/stocks incidentally injured/killed
Category I		
Gillnet Fisheries:		
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics drift gillnet.	15	North Atlantic right whale, WNA*+. Humpback whale, WNA*+. Sperm whale, WNA*+. Dwarf sperm whale, WNA*. Cuvier's beaked whale, WNA*.

TABLE 2.—LIST OF FISHERIES: COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species/stocks incidentally injured/killed
		True's beaked whale, WNA*.
		Gervais' beaked whale, WNA*.
		Blainville's beaked whale, WNA*.
		Risso's dolphin, WNA.
		Long-finned pilot whale, WNA*.
		Short-finned pilot whale, WNA*.
		White-sided dolphin, WNA*.
		Common dolphin, WNA*.
		Atlantic spotted dolphin, WNA*.
		Pantropical spotted dolphin, WNA*.
		Striped dolphin, WNA.
		Spinner dolphin, WNA.
		Bottlenose dolphin, WNA offshore.
		Harbor porpoise, GME/BF*.
Northeast sink gillnet	341	North Atlantic right whale, WNA*+.
		Humpback whale, WNA*+.
		Minke whale, Canadian east coast.
		Killer whale, WNA.
		White-sided dolphin, WNA*.
		Bottlenose dolphin, WNA offshore.
		Harbor porpoise, GME/BF*.
		Harbor seal, WNA.
		Gray seal, WNA.
		Common dolphin, WNA *.
		Fin whale, WNA *+.
		Spotted dolphin, WNA.
		False killer whale, WNA.
		Harp seal, WNA.
Longline Fisheries:		
Atlantic Ocean, Caribbean, Gulf of Mexico large pelagics longline.	361	Humpback whale, WNA*+.
		Minke whale, Canadian east coast.
		Risso's dolphin, WNA.
		Long-finned pilot whale, WNA*.
		Short-finned pilot whale, WNA*.
		Common dolphin, WNA*.
		Atlantic spotted dolphin, WNA*.
		Pantropical spotted dolphin, WNA*.
		Striped dolphin, WNA.
		Bottlenose dolphin, WNA offshore.
		Bottlenose dolphin, GMX Outer Continental Shelf.
		Bottlenose dolphin, GMX Continental Shelf Edge and Slope.
		Atlantic spotted dolphin, Northern GMX.
		Pantropical spotted dolphin, Northern GMX.
		Risso's dolphin, Northern GMX.
		Harbor porpoise, GME/BF*.
Trap/Pot Fisheries—Lobster:		
Gulf of Maine, U.S. mid-Atlantic lobster trap/pot	13,000	North Atlantic right whale, WNA*+.
		Humpback whale, WNA*+.
		Fin whale, WNA*+.
		Minke whale, Canadian east coast.
		White-sided dolphin, WNA*.
		Harbor seal, WNA.
Category II		
Gillnet Fisheries:		
U.S. mid-Atlantic coastal gillnet	>655	Humpback whale, WNA*+.
		Minke whale, Canadian east coast.
		Bottlenose dolphin, WNA offshore.
		Bottlenose dolphin, WNA coastal*+.
		Harbor porpoise, GME/BF*.
Gulf of Maine small pelagics surface gillnet	133	Humpback whale, WNA*+.
		White-sided dolphin, WNA*.
		Harbor seal, WNA.
Southeastern U.S. Atlantic shark gillnet	12	Bottlenose dolphin, WNA coastal*.
		North Atlantic right whale, WNA*+.

TABLE 2.—LIST OF FISHERIES: COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species/stocks incidentally injured/killed
Trawl Fisheries:		
Atlantic squid, mackerel, butterfish trawl	620	Common dolphin, WNA*. Risso's dolphin, WNA. Long-finned pilot whale, WNA*. Short-finned pilot whale, WNA*. White-sided dolphin, WNA*.
Atlantic herring midwater trawl (including pair trawl)	17	None documented.
Purse Seine Fisheries:		
Gulf of Mexico menhaden purse seine	50	Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Northern GMX coastal.
Haul Seine Fisheries:		
Mid-Atlantic haul seine	25	Bottlenose dolphin, WNA coastal*. Harbor porpoise, GME/BF*.
Stop Net Fisheries:		
North Carolina roe mullet stop net	13	Bottlenose dolphin, WNA coastal*.
Category III		
Gillnet Fisheries:		
Rhode Island, southern Massachusetts (to Monomoy Island), and New York Bight (Raritan and Lower New York Bays) inshore gillnet.	32	Humpback whale, WNA*+. Bottlenose dolphin, WNA coastal*+. Harbor porpoise, GME/BF*.
Long Island Sound inshore gillnet	20	Humpback whale, WNA*+. Bottlenose dolphin, WNA coastal*+. Harbor porpoise, GME/BF*.
Delaware Bay inshore gillnet	60	Humpback whale, WNA*+. Bottlenose dolphin, WNA coastal*+. Harbor porpoise, GME/BF*.
Chesapeake Bay inshore gillnet	45	None documented.
North Carolina inshore gillnet	94	Bottlenose dolphin, WNA coastal*+.
Gulf of Mexico inshore gillnet (black drum, sheepshead, weakfish, mullet, spot, croaker).	unknown	None documented.
Gulf of Maine, Southeast U.S. Atlantic coastal shad, sturgeon gillnet.	1,285	Minke whale, Canadian east coast. Harbor porpoise, GME/BF*. Bottlenose dolphin, WNA coastal*+.
Gulf of Mexico coastal gillnet (includes mullet gillnet fishery in LA and MS).	unknown	Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX Bay, Sound, & Estuarine*.
Florida east coast, Gulf of Mexico pelagics king and Spanish mackerel gillnet.	271	Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX Bay, Sound, & Estuarine*.
Trawl Fisheries:		
North Atlantic bottom trawl	1,052	Long-finned pilot whale, WNA*. Short-finned pilot whale, WNA*. Common dolphin, WNA*. White-sided dolphin, WNA*. Striped dolphin, WNA. Bottlenose dolphin, WNA offshore.
Mid-Atlantic, Southeastern U.S. Atlantic, Gulf of Mexico shrimp trawl.	>18,000	Bottlenose dolphin, WNA coastal*+.
Gulf of Maine northern shrimp trawl	320	None documented.
Gulf of Maine, Mid-Atlantic sea scallop trawl	215	None documented.
Mid-Atlantic mixed species trawl	>1,000	None documented.
Gulf of Mexico butterfish trawl	2	Atlantic spotted dolphin, Eastern GMX Pantropical spotted dolphin, Eastern GMX.
Georgia, South Carolina, Maryland whelk trawl	25	None documented.
Calico scallops trawl	200	None documented.
Bluefish, croaker, flounder trawl	550	None documented.
Crab trawl	400	None documented.
U.S. Atlantic monkfish trawl	unknown	Common dolphin, WNA*.
Marine Aquaculture Fisheries:		
Finfish aquaculture	48	Harbor seal, WNA.
Shellfish aquaculture	unknown	None documented.

TABLE 2.—LIST OF FISHERIES: COMMERCIAL FISHERIES IN THE ATLANTIC OCEAN, GULF OF MEXICO, AND CARIBBEAN—Continued

Fishery description	Estimated number of vessels/persons	Marine mammal species/stocks incidentally injured/killed
Purse Seine Fisheries:		
Gulf of Maine Atlantic herring purse seine	30	Harbor porpoise, GME/BF*. Harbor seal, WNA. Gray seal, Northwest North Atlantic.
Mid-Atlantic menhaden purse seine	22	Bottlenose dolphin, WNA coastal*+.
Gulf of Maine menhaden purse seine	50	None documented.
Florida west coast sardine purse seine	10	Bottlenose dolphin, Eastern GMX coastal.
U.S. Atlantic tuna purse seine	unknown	None documented.
U.S. mid-Atlantic hand seine	>250	None documented.
Longline/Hook-and-Line Fisheries:		
Gulf of Maine tub trawl groundfish bottom longline/ hook-and-line.	46	Harbor seal, WNA. Gray seal, Northwest North Atlantic.
Southeastern U.S. Atlantic, Gulf of Mexico snapper-grouper and other reef fish bottom longline/hook-and-line.	3,800	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico shark bottom longline/hook-and-line.	124	None documented.
Gulf of Maine, U.S. mid-Atlantic tuna, shark swordfish hook-and-line/harpoon.	26,223	None documented.
Southeastern U.S. Atlantic, Gulf of Mexico & U.S. mid-Atlantic pelagic hook-and-line/harpoon.	1,446	None documented.
Trap/Pot Fisheries—Lobster, Crab, and Fish:		
Gulf of Maine, U.S. mid-Atlantic mixed species trap/pot	100	North Atlantic right whale, WNA*+. Humpback whale, WNA*+. Minke whale, Canadian east coast. Harbor porpoise, GME/BF*. Harbor seal, WNA. Gray seal, Northwest North Atlantic.
U.S. mid-Atlantic and Southeast U.S. Atlantic black sea bass trap/pot.	30	None documented.
U.S. mid-Atlantic eel trap/pot	>700	None documented.
Atlantic Ocean, Gulf of Mexico blue crab trap/pot	20,500	Bottlenose dolphin, WNA coastal*. Bottlenose dolphin, Western GMX coastal. Bottlenose dolphin, Northern GMX coastal. Bottlenose dolphin, Eastern GMX coastal. Bottlenose dolphin, GMX Bay, Sound, & Estuarine*. West Indian manatee, FL*+.
Southeastern U.S. Atlantic, Gulf of Mexico, Caribbean spiny lobster trap/pot.	4,847	West Indian manatee, FL*+. Bottlenose dolphin, WNA coastal*+.
Stop Seine/Weir/Pound Fisheries:		
Gulf of Maine herring and Atlantic mackerel stop seine/weir	50	North Atlantic right whale, WNA*. Humpback whale, WNA*+. Minke whale, Canadian east coast. Harbor porpoise, GME/BF*. Harbor seal, WNA. Gray seal, Northwest North Atlantic.
U.S. mid-Atlantic mixed species stop/seine/weir (except the North Carolina roe mullet stop net).	500	None documented.
U.S. mid-Atlantic crab stop seine/weir	2,600	None documented.
Dredge Fisheries:		
Gulf of Maine, U.S. mid-Atlantic sea scallop dredge	233	None documented.
U.S. mid-Atlantic offshore surfclam and quahog dredge	100	None documented.
Gulf of Maine mussel	>50	None documented.
U.S. mid-Atlantic/Gulf of Mexico oyster	7,000	None documented.
Haul Seine Fisheries:		
Southeastern U.S. Atlantic, Caribbean haul seine	25	None documented.
Beach Seine Fisheries:		
Caribbean beach seine	15	West Indian manatee, FL+.
Dive, Hand/Mechanical Collection Fisheries:		
Gulf of Maine urchin dive, hand/mechanical collection	>50	None documented.
Atlantic Ocean, Gulf of Mexico, Caribbean shellfish dive, hand/mechanical collection.	20,000	None documented.
Commercial Passenger Fishing Vessel (Charter Boat) Fisheries:		
Atlantic Ocean, Gulf of Mexico, Caribbean commercial passenger fishing vessel.	4,000	None documented.

*Marine mammal stock is strategic or is proposed to be listed as strategic in the draft SARs for 1998.
+Stock is listed as threatened or endangered under the ESA or as depleted under the MMPA.
List of Abbreviations Used in Table 2: FL—Florida; GA—Georgia; GME/BF—Gulf of Maine/Bay of Fundy; GMX—Gulf of Mexico; NC—North Carolina; SC—South Carolina; TX—Texas; WNA—Western North Atlantic.

Classification

When this LOF for 1999 was proposed, 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 rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

This action makes changes to the current LOF and reflects new information on commercial fisheries, marine mammals, and interactions between commercial fisheries and marine mammals. This list informs the public of which U.S. commercial fisheries will be required in 1999 to comply with certain parts of the MMPA, including requirements to register for Authorization Certificates.

This final rule is not a significant regulatory action and is not subject to review by the Office of Management and Budget (OMB) under Executive Order 12866.

This rule does not contain new collection-of-information requirements subject to the Paperwork Reduction Act; however, the addition of two fisheries to Category II in the LOF will result in up to 70 new fishers being subject to collection-of-information requirements. Some of these fishers may currently participate in other Category II fisheries and, therefore, may already be required to register under the MMPA.

Notwithstanding any other provision of law, you are not to respond to nor shall you 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 collection of information required for the reporting of marine mammal injuries or mortalities to NMFS and for the registration of fishers under the MMPA has been approved by OMB under OMB control numbers 0648–0292 (0.15 hours per report) and 0648–0293 (0.25 hours per registration). Those burdens are not expected to change significantly as a result of this final rule and may actually decrease if additional registration systems are integrated with existing programs. You may send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing the burdens, to NMFS and OMB (see **ADDRESSES**).

References

Barlow *et al.* "U.S. Marine Mammal Stock Assessments: Guidelines for Preparation, Background, and a Summary of the 1995 Assessments". NOAA Tech. Memo. NMFS–OPR–6, 1995.

List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Confidential business information, Fisheries, Marine mammals, Reporting and recordkeeping requirements.

Dated: February 17, 1999.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 229 is amended as follows:

PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

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

Authority: 16 U.S.C. 1361 *et seq.*

2. In § 229.1, paragraph (f) is revised to read as follows:

§ 229.1 Purpose and scope.

* * * * *

(f) Authorizations under this part do not apply to the intentional lethal taking of marine mammals in the course of commercial fishing operations except as provided for under §§ 229.4(k) and 229.5(f).

* * * * *

3. In § 229.2, the definition of "Category II fishery" is amended by removing the word "taking" and adding in its place the words "incidental serious injury and mortality" in the penultimate sentence; the last sentence of paragraph (2) of the definition "Category III fishery" is revised; the definitions of "Fisher", "Incidental, but not intentional, take" and "Incidental mortality" are removed; and the definitions of "Fisher or fisherman", "Incidental" and "Integrated Fishery" are added in alphabetical order, to read as follows:

§ 229.2 Definitions.

* * * * *

Category III fishery. * * *

(2) * * * In the absence of reliable information indicating the frequency of incidental mortality and serious injury of marine mammals by a commercial fishery, the Assistant Administrator will determine whether the incidental serious injury or mortality is "remote" by evaluating other factors such as fishing techniques, gear used, methods used to deter marine mammals, target species, seasons and areas fished, qualitative data from logbooks or fisher reports, stranding data, and the species and distribution of marine mammals in the area or at the discretion of the Assistant Administrator.

* * * * *

Fisher or fisherman means the vessel owner or operator, or the owner or operator of gear in a nonvessel fishery.

* * * * *

Incidental means, with respect to an act, a non-intentional or accidental act that results from, but is not the purpose of, carrying out an otherwise lawful action.

* * * * *

Integrated fishery means a fishery for which the granting and the administration of Authorization Certificates have been integrated and coordinated with existing fishery license, registration, or permit systems and related programs.

* * * * *

4. In § 229.3, the word "taking" is removed from paragraph (c) and the words "injury or mortality" are added in its place, paragraphs (e) through (p) are redesignated as paragraphs (f) through (q), and new paragraph (e) is added to read as follows:

§ 229.3 Prohibitions.

* * * * *

(e) It is prohibited to retain any marine mammal incidentally taken in commercial fishing operations unless authorized by NMFS personnel, by designated contractors or an official observer, or by a scientific research permit that is in the possession of the vessel operator.

* * * * *

5. Section 229.4, is amended as follows:

a. Paragraph (b)(2)(v) is removed; paragraphs (b)(2)(vi) and (c) are redesignated as paragraphs (b)(2)(v) and (b)(2)(vi), respectively; in newly redesignated paragraph (b)(2)(vi), the heading "Fee." is removed; paragraphs (d) through (m) are redesignated as paragraphs (c) through (l); and in newly redesignated paragraph (g), the word "onboard" is removed.

b. Newly redesignated paragraphs (c) introductory text, (c)(3) through (c)(5), (d)(1), (d)(2), and the first sentence of newly redesignated paragraph (e)(1) are revised; the last sentence of newly redesignated paragraph (d)(3) is removed; newly redesignated paragraph (e)(3) is amended by removing the term "annual" and newly redesignated

paragraph (l) is amended by removing the phrase "and annual decals".

The revisions read as follows:

§ 229.4 Requirements for Category I and II fisheries.

* * * * *

(c) *Address.* Unless the granting and administration of authorizations under this part 229 is integrated and coordinated with existing fishery licenses, registrations, or related programs pursuant to paragraph (a) of this section, requests for registration forms and completed registration and renewal forms should be sent to the NMFS Regional Offices as follows:

* * * * *

(3) Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; telephone: 562–980–4001;

(4) Northeast Region, NMFS, 1 Blackburn Drive, Gloucester, MA 01930; telephone: 978–281–9254; or

(5) Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702; telephone: 727–570–5312.

(d) *Issuance.* (1) For integrated fisheries, an Authorization Certificate or other proof of registration will be issued annually to each fisher registered for that fishery.

(2) For all other fisheries (i.e., non-integrated fisheries), NMFS will issue an Authorization Certificate and, if necessary, a decal to an owner or authorized representative who:

(i) Submits a completed registration form and the required fee.

(ii) Has complied with the requirements of this section and §§ 229.6 and 229.7

(iii) Has submitted updated registration or renewal registration which includes a statement (yes/no) whether any marine mammals were killed or injured during the current or previous calender year.

* * * * *

(e) * * * (1) If a decal has been issued under the conditions specified in paragraph (e)(2) of this section, the decal must be attached to the vessel on the port side of the cabin or, in the absence of a cabin, on the forward port side of the hull, and must be free of obstruction and in good condition. * * *

* * * * *

6. In § 229.5, paragraph (c) is amended by removing the word "onboard"; paragraph (e) is amended by removing the phrase "a Category I or II fishery" and by adding in its place the phrase "commercial fishing operations"; and paragraph (d) is revised to read as follows:

§ 229.5 Requirements for Category III fisheries.

* * * * *

(d) *Monitoring.* Vessel owners engaged in a Category III fishery must comply with the observer requirements specified under § 229.7(d).

* * * * *

7. In § 229.6, paragraph (a) is amended by removing the words "Category I, II, or III" and by adding in their place the word "commercial"; and paragraph (b) is revised to read as follows:

§ 229.6 Reporting requirements.

* * * * *

(b) Participants in nonvessel fisheries must provide all of the information in paragraphs (a)(1) through (a)(4) of this section except, instead of providing the vessel name and vessel registration number, participants in nonvessel fisheries must provide the gear permit number.

8. In § 229.7, paragraphs (c)(4)(vi) and (c)(6) are removed; paragraphs (c)(4)(vii) through (c)(4)(x) are redesignated as paragraphs (c)(4)(vi) through (c)(4)(ix), respectively; the introductory text of paragraph (b), paragraphs (c) heading, (c)(1), (c)(2), (c)(4) introductory text, and (c)(4)(i), newly redesignated paragraph (c)(4)(vi), and paragraph (c)(5), and the heading of paragraph (d) are revised to read as follows:

§ 229.7 Monitoring of incidental mortalities and serious injuries.

* * * * *

(b) *Observer program.* Pursuant to paragraph (a) of this section, the Assistant Administrator may observe Category I and II vessels as necessary. Observers may, among other tasks:

* * * * *

(c) *Observer requirements for participants in Category I and II fisheries.* (1) If requested by NMFS or by a designated contractor providing observer services to NMFS, a vessel owner/operator must take aboard an observer to accompany the vessel on fishing trips.

(2) After being notified by NMFS, or by a designated contractor providing observer services to NMFS, that the vessel is required to carry an observer, the vessel owner/operator must comply with the notification by providing information requested within the specified time on scheduled or anticipated fishing trips.

* * * * *

(4) The vessel owner/operator and crew must cooperate with the observer in the performance of the observer's duties including:

(i) Providing, at no cost to the observer, the United States government, or the designated observer provider, food, toilet, bathing, sleeping accommodations, and other amenities that are equivalent to those provided to the crew, unless other arrangements are approved in advance by the Regional Administrator;

* * * * *

(vi) Sampling, retaining, and storing of marine mammal specimens, other protected species specimens, or target or non-target catch specimens, upon request by NMFS personnel, designated contractors, or the observer, if adequate facilities are available and if feasible;

* * * * *

(5) Marine mammals or other specimens identified in paragraph (c)(4)(vi) of this section, which are readily accessible to crew members, must be brought on board the vessel and retained for the purposes of scientific research if feasible and requested by NMFS personnel, designated contractors, or the observer. Specimens so collected and retained must, upon request by NMFS personnel, designated contractors, or the observer, be retained in cold storage on board the vessel, if feasible, until removed at the request of NMFS personnel, designated contractors, or the observer, retrieved by authorized personnel of NMFS, or released by the observer for return to the ocean. These biological specimens may be transported on board the vessel during the fishing trip and back to port under this authorization.

(d) *Observer requirements for participants in Category III fisheries.*

* * *

* * * * *

9. In § 229.8 the last sentence of paragraph (c) is redesignated as paragraph (d), and paragraph (b)(2) is revised to read as follows:

§ 229.8 Publication of List of Fisheries.

* * * * *

(b) * * *

(2) List the marine mammals that have been incidentally injured or killed by commercial fishing operations and the estimated number of vessels or persons involved in each commercial fishery.

* * * * *

10. In § 229.9, paragraph (a)(3)(ii) is revised to read as follows:

§ 229.9 Emergency regulations.

(a) * * *

(3) * * *

(ii) Immediately review the stock assessment for such stock or species and the classification of such commercial fishery under this section to determine

if a take reduction team should be established and if recategorization of the fishery is warranted; and

* * * * *

11. In § 229.10, paragraph (g)(1) is amended by removing the word "serious" before "injury" and paragraph (d) is revised to read as follows:

§ 229.10 Penalties.

* * * * *

(d) Failure to comply with take reduction plans or emergency regulations issued under this part may result in suspension or revocation of an Authorization Certificate, and failure to comply with a take reduction plan or emergency regulation is also subject to the penalties of sections 105 and 107 of the Act, and may be subject to the penalties of section 106 of the Act.

* * * * *

§ 229.11 [Amended]

12. In § 229.11, paragraph (b) is amended by removing the parenthetical clause "(see **ADDRESSES**)".

§ 229.20 [Amended]

13. In § 229.20, paragraph (f) is amended by removing the reference to "§ 229.21(b)" and adding in its place a reference to "paragraph (b) of this section".

14. Under subpart C, a new § 229.30 is added to read as follows:

§ 229.30 Basis.

Section 118(f)(9) of the Act authorizes the Director, NMFS, to impose regulations governing commercial fishing operations, when necessary, to implement a take reduction plan in order to protect or restore a marine mammal stock or species covered by such a plan.

[FR Doc. 99–4442 Filed 2–23–99; 8:45 am]
BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 981014259–8312–02; I.D. 012299B]

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Adjustments to the 1999 Summer Flounder Commercial Quota; Commercial Quota Harvested for Delaware; Correction

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

ACTION: Commercial quota adjustment, notice of commercial quota harvest; correction.

SUMMARY: This document contains corrections to the adjustment to the 1999 commercial Summer Flounder Quotas that was published on February 3, 1999, and adds text that was inadvertently omitted.

DATES: Effective January 28, 1999, through December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fisheries Policy Analyst, (978) 281–9273.

SUPPLEMENTARY INFORMATION:

Background

NMFS published a document in the **Federal Register** of February 3, 1999 (64 FR 5196), announcing preliminary adjustments to the 1999 summer flounder commercial quotas. The notification also corrected errors for Rhode Island's commercial summer flounder allocation specified in Table 1.—1999 State Commercial Quotas to the preamble of the document published on December 31, 1998 (63 FR 72203). Portions of the text describing revisions made to Table 1 of the December 31 publication were inaccurate and some text was also omitted. However, Tables 2 and 3 of the February 3, 1999, publication accurately reflect these corrections. Therefore, this document corrects only this text portion of the preamble to the February 3, 1999, correction document related to the Rhode Island commercial summer flounder allocation.

Corrections

In FR Doc. 99–2465, published in the **Federal Register** of February 3, 1999, on page 5196, in column 3, the first 5 complete paragraphs are correctly added and the text that was inadvertently omitted is added to read as follows:

This notification also corrects errors for Rhode Island's commercial summer flounder allocation specified in the preamble to Table 1.—1999 State Commercial Quotas published on December 31, 1998 (63 FR 72203).

In FR Doc. 98–34511, on page 72204, in Table 1.—1999 State Commercial Quotas, the commercial state allocation for Rhode Island is corrected to read as follows:

In the third column of the table, under the heading "Directed", and under the subheading "Lb", in the fourth line, "1,171,379" is corrected to read "1,172,758"; in the last line, the total "7,468,107" is corrected to read "7,477,232" and in the fourth column of the table, under the same heading, and under the subheading "KG", in the fourth line, "53,133" is corrected to read "531,954"; in the last line, the total "3,387,476" is corrected to read "3,391,615".

In the fifth column of the table, under the heading "Incidental catch", under the subheading "Lb", in the fourth line, "571,204" is corrected to read "569,825"; in the last line the total "3,642,191" is corrected to read "3,633,068" and in the sixth column, under the same heading, under the subheading "KG", in the fourth line, "259,094" is corrected to read "258,468" and in the last line, the total "1,652,070" is corrected to read "1,647,932".

In the seventh column, under the heading "Total", under the subheading "Lb", in the fourth line, "1,741,583" is corrected to read "1,742,583"; and under the same heading, under the same subheading, in the last line, the total "11,111,191" is corrected to read "11,110,300"; and in the eighth column, under the same heading and under the subheading "KG", in the fourth line, "789,968" is corrected to read "790,422" and in the last line the total "5,039,951" is corrected to read "5,039,547". These corrections are reflected in Tables 2 and 3 of this document. In addition, Tables 2 and 3 reflect a quota transfer of 5,000 lb (2,268 kg) from North Carolina to Virginia (64 FR 2600. January 15, 1999).

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: February 18, 1999.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–4597 Filed 2–23–99; 8:45 am]
BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 36
Wednesday, February 24, 1999

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

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317, 318, and 381

[Docket No. 97–076P]

RIN 0583–AC50

Irradiation of Meat and Meat Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the meat inspection regulations to permit the use of ionizing radiation for treating refrigerated or frozen uncooked meat, meat byproducts, and certain other meat food products to reduce levels of food borne pathogens and to extend shelf-life. FSIS is proposing this action in light of the Food and Drug Administration's recent final rule which amended its food additive regulations to provide for the safe use of ionizing irradiation sources to treat these same meat food products. FSIS also is proposing to revise the regulations governing the irradiation of poultry so that they will be as consistent as possible with the proposed regulations for the irradiation of meat food products.

DATES: Comments must be received on or before April 26, 1999.

ADDRESSES: Submit one original and two copies of written comments to FSIS Docket #97–076P, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12 St., SW, Washington, DC 20250–3700. All comments submitted in response to this proposed rule will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Daniel L. Engeljohn, Ph.D., Director, Regulation Development and Analysis Division, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Background

Food irradiation is the process of exposing food to high levels of radiant energy. Forms of radiant energy include: microwave and infrared radiation that heat food during cooking; visible light or ultraviolet light used to dry food or kill surface microorganisms; and ionizing radiation, resulting from cobalt-60, cesium-137, x-ray machines, or electron accelerators, that penetrates deeply into food, killing insect pests and microorganisms without raising the temperature of the food significantly. Food is most often irradiated commercially to extend shelf-life, eliminate insect pests, or reduce numbers of pathogenic microorganisms. Food irradiation for these purposes is practiced in many countries, including the United States.

Section 201(s) of the Federal Food, Drug and Cosmetic Act (FFDCA) defines sources of radiation used to treat food as "food additives." The Food and Drug Administration (FDA) of the Department of Health and Human Services has the primary responsibility for determining whether or not food additives are safe for particular uses. FDA lists uses of food additives it has concluded are safe in 21 CFR parts 172 through 180.

On August 25, 1994 (59 FR 43848), FDA announced that it had received a petition from Isomedix, Inc., requesting that FDA amend the food additive regulations in 21 CFR part 179 (Irradiation in the Production, Processing and Handling of Food). The petition requested that FDA authorize the safe use of sources of ionizing radiation to:

> control microbial pathogens in raw, fresh-chilled, and frozen intact and comminuted edible tissue of the skeletal muscle and organ meat of domesticated mammalian food sources; with concomitant control of infectious parasites, and, extension of acceptable edible/marketable life of chilled/refrigerated and defrosted meat through the reduction in levels of spoilage microorganisms.

The petition further specified that the proposed foods were to be "primarily from bovine, ovine, porcine, and equine sources." Also, Isomedix requested that a maximum dose of 4.5 kiloGray (kGy) be established for the irradiation of fresh (chilled, not frozen) meat, and that a maximum dose of 7.0 kGy be established for the irradiation of frozen meat.

On December 3, 1997, FDA published a final rule (FDA Docket No. 94F–0289; 62 FR 64107) granting this petition. In that publication, FDA expanded the list of products (21 CFR 179.26(b)) for which ionizing irradiation may be safely used to control food borne pathogens and extend shelf life to include: refrigerated and frozen uncooked meat; meat byproducts (e.g., edible organs, such as the liver and the kidneys); and certain meat food products (e.g., ground beef and hamburger). Specifically, the foods that may be irradiated are: meat, as defined by FSIS in 9 CFR 301.2(rr); meat byproducts, as defined by FSIS in 9 CFR 301.2(tt); and other meat food products within the meaning of 9 CFR 301.2(uu), with or without nonfluid seasoning, that are otherwise composed solely of intact or ground meat or meat byproducts, or of both.

FDA's Evaluation of the Safety of Irradiation

Under § 409(c)(3)(A) of the FFDCA, a food additive cannot be listed for a particular use unless a fair evaluation of the evidence establishes that the additive is safe for that use. In response to the Isomedix petition, FDA identified the various effects that could result from the irradiation of meat food products and then assessed whether any of these effects could pose a human health risk. FDA did not consider whether irradiation of meat would bring about health or other benefits for consumers.

FDA examined the data and studies submitted by Isomedix, as well as other information in its files relevant to the safety and nutritional adequacy of meat treated with irradiation. Specifically, FDA evaluated:

- Studies of the radiation chemistry of food components and whole foods, including flesh foods ("radiation chemistry" refers to the chemical reactions that occur as a result of absorbing radiation);
- Toxicity studies of irradiated beef, pork, chicken, and fish;
- Studies of the nutritional adequacy of irradiated products derived from livestock and poultry, in light of the dietary consumption patterns for these products; and

• Studies of the effects of irradiation on both pathogenic and nonpathogenic microorganisms.[1]

Based on its evaluation of available data, FDA concluded that irradiation of meat, meat byproducts, and certain other meat food products under the conditions requested in the petition would not present toxicological or microbiological hazards and would not adversely affect the nutritional adequacy of these products. FDA therefore granted the petition and added meat, meat byproducts, and certain other meat food products to the list in 21 CFR 179.26(b) of foods that may be treated with ionizing radiation to reduce levels of food borne pathogens and to extend shelf-life.

Under § 318.7 of the meat inspection regulations, FSIS may approve a substance for use in the preparation of meat food products if the substance has been previously approved by FDA and if FSIS has determined that:

• Its use is in compliance with applicable FDA requirements;

• The use of the substance will not render the product in which it is used adulterated or misbranded or otherwise not in compliance with the requirements of the Federal Meat Inspection Act; and

• Its use is functional and suitable for the product and it is permitted for use at the lowest level necessary to accomplish the stated technical effect as determined in specific cases. FSIS has made these determinations and therefore, in this document is proposing to amend its meat inspection regulations to provide for the safe use of ionizing radiation for the treatment of meat, meat byproducts, and certain other meat food products. FSIS also is proposing labeling requirements for these same products.

Irradiation as a Food Additive in Meat and Poultry

Pathogenic microorganisms are the most significant cause of food borne illness. Ionizing radiation will reduce, and in some circumstances eliminate, pathogenic microorganisms in or on meat and poultry. FSIS therefore recognizes irradiation as a important technology for helping to ensure the safety of meat and poultry. FSIS already has listed ionizing radiation as an approved additive in pork carcasses or fresh or previously frozen cuts of pork carcasses that have not been cured or heat-processed for the control of *Trichinella spiralis* (9 CFR 318.7); and as an approved additive in fresh or frozen, uncooked, packaged poultry products and mechanically separated poultry for the purpose of reducing pathogenic microorganisms (9 CFR 381.147). In fact, FSIS originally petitioned FDA to allow the irradiation of poultry.

Available scientific data indicate that ionizing radiation can significantly reduce the levels of many of the pathogenic microorganisms of concern in meat food products, including various species of *Salmonella; E. coli* O157:H7; *Clostridium perfringens; Staphylococcus aureus; Listeria monocytogenes; Campylobacter jejuni*; and the protozoan parasite *Toxoplasma gondii*. The available reports and published articles establish that the radiation dose necessary to reduce the initial population of many of the bacterial pathogens by 90 percent (the "D value," which is equivalent to 1-$\log_{10}$) ranges from 0.1 kGy to just under 1 kGy. The following chart lists the approximate D values for some of the pathogens of concern in meat food products.[2]

Pathogen	Irradiation D values
C. jejuni	0.18 kGy (in refrigerated product) to 0.24 kGy (in frozen product).
C. perfringens	0.586 kGy (in refrigerated product).
E. coli O157:H7.	0.25 kGy (in refrigerated product) to 0.45 kGy (in frozen product).
L. monocytogenes.	0.4 kGy to 0.64 kGy.
Salmonella spp.	0.48 kGy to 0.7 kGy.
S. aureus	0.45 kGy.
T. gondii	0.4 kGy to 0.7 kGy.
T. spiralis	0.3 kGy to 0.6 kGy.

These approximate ranges of D values are all well beneath the maximum dosages of irradiation authorized by FDA and proposed by FSIS for refrigerated and frozen meat food products (4.5 kGy and 7 kGy, respectively). Treating product with a maximum dose of irradiation, therefore, could result in a significant reduction or even the elimination of certain pathogens. For example, given the highest approximate D value for *E. coli* O157:H7 from the table above, irradiation of a frozen meat food product at 7 kGy could achieve an approximate 15 $\log_{10}$ per gram reduction of *E. coli* O157:H7. That is, approximately 99.9999999999999 percent of the pathogen could be eliminated from the product. Considering that *E. coli* O157:H7 is usually found at levels of 3 $\log_{10}$ per gram or lower in ground meat products[3], there is a high probability that irradiation of frozen ground meat products with a 7 kGy dose could eliminate *E. coli* O157:H7 from the product.

It is important to remember, however, that the D value for any individual pathogen varies depending on such factors as the type of food to be irradiated, the physical state (frozen versus nonfrozen) of the food, product temperature, and ambient oxygen level. For example, higher radiation doses are needed to achieve the same antimicrobial effect in a frozen food versus a nonfrozen food of the same type (hence the two different maximum doses for refrigerated and frozen product approved by FDA and proposed in this document by FSIS). Further, the load of pathogens on incoming product can vary widely, due to animal husbandry and sanitation practices, as well as other factors. Regardless, it is apparent that irradiation would be a highly effective antimicrobial treatment for meat food products.

Finally, as mentioned in footnote 1, the pathogen *C. botulinum* is very resistant to irradiation. Spores have D values of approximately 3.45 to 3.6 kGy in refrigerated product and 3.73 to 3.85 kGy in frozen product.[4] However, in its microbiological assessment of irradiation, FDA determined that the probability for significant growth of, and toxin production by, *C. botulinum* in irradiated meat stored under adequate temperature control (properly refrigerated or frozen) is extremely remote for several reasons. First, *C. botulinum* spores occur with extremely low frequency and in extremely low numbers in meat, and these numbers will be further reduced by irradiation at the permitted doses. Second, most strains of *C. botulinum* that have been found in meat do not grow and produce toxin under refrigeration conditions appropriate for transport and storage of

[1] Because *Clostridium botulinum* spores are very resistant to the effects of irradiation and would be more likely to suvive irradiation than other pathogens and most spoilage bacteria, and because the illness associated with botulinal toxin is so severe, FDA, in its evaluation, focused particularly on the effects of irradiation on the probability of significantly increased growth of, and subsequent toxin production by, *C. botulinum*. FDA detrmined that irradiation of meat food products under the conditions set forth in its regulation will not result in any additional health hazard from *C. botulinum* or from other common pathogens.

[2] These approximate D-values are from: "Irradiation of red meat: A compilation of technical data for its authorization and control," International Consultative Group on Food Irradiation, August 1996.

[3] National Advisory Committee on Microbiological Criteria for Foods, Meat and Poultry Subcommittee Report, November 20, 1997.

[4] "Irradiation of red meat: A compilation of technical data for its authorization and control," International Consultative Group on Food Irradiation August 1996.

flesh foods. Third, various species of other microorganisms commonly found on meat, particularly spoilage bacteria (e.g., *Lactobacillus* spp. and others), survive irradiation in sufficient numbers to grow and inhibit growth of, and toxin production by, *C. botulinum* in both refrigerated and temperature-abused irradiated meats. FDA concluded, therefore, that irradiation of meat food products under the conditions set forth in its regulation will not result in any health hazard from *C. botulinum* additional to that which may be found in non-irradiated product.

Irradiation and HACCP

On July 25, 1996, FSIS published a final rule that requires every meat and poultry establishment to develop and implement Hazard Analysis and Critical Control Point (HACCP), a science-based process control system designed to improve the safety of meat and poultry products (FSIS Docket No. 93–016F, "Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems"; 61 FR 38806). Under this final rule, meat and poultry establishments are responsible for developing and implementing HACCP plans incorporating the controls determined by the establishment to be necessary and appropriate to produce safe products. HACCP is a flexible system that enables establishments to tailor their control systems to the needs of their particular plants and processes. In the paragraphs that follow, FSIS outlines how irradiation could be used within a HACCP system by poultry establishments and, if FSIS finalizes this rule, by meat establishments.

To meet the HACCP requirements, establishments must first conduct a hazard analysis to identify and list the food safety hazards reasonably likely to occur in a production process, as well as the preventive measures necessary to control the hazards. A food safety hazard is any biological, chemical, or physical property that may cause a food to be unsafe for human consumption. Establishments that identify microbial pathogens as hazards within their processes could choose irradiation as a method to reduce or even eliminate such pathogens.

Next, establishments must establish critical control points (CCP's). A CCP is a point, step, or procedure at which control can be applied so that a food safety hazard can be prevented, eliminated, or reduced to an acceptable level. Meat and poultry establishments choosing to irradiate product would integrate irradiation into their HACCP systems as a CCP.

Establishments then must establish critical limits for their CCP's. Critical limits are most often based on process parameters such as temperature, time, physical dimensions, humidity, moisture level, water activity, pH, and survival of target pathogens. Establishments that irradiate product probably would have as some of their critical limits radiation dosage, product temperature, and ambient oxygen level. By ensuring that specific limits for each of these parameters were met, establishments could be reasonably sure that a predetermined reduction in pathogens had been achieved within the irradiated product. Establishments would be free to establish any critical limits appropriate for their HACCP systems, as long as they remain in compliance with the FSIS and FDA regulations governing irradiation, such as the regulatory limits on maximum dosage.

The remaining HACCP requirements include monitoring of CCP's, plans for corrective action in the event of processing deviations, record keeping, and HACCP plan verification. It is likely that establishments that irradiate product would meet these requirements no differently than other official establishments. Establishments that irradiate meat or poultry product should keep in mind, however, that their HACCP plans must address all processing, from receiving to shipment. Therefore, an establishment that ships product to a separate facility for irradiation would need to address the conditions of shipment (handling, packaging, refrigeration, etc.) within its HACCP plan. Similarly, the irradiation facility would need to address shipment and receiving of the product, as well as the irradiation treatment itself, in its HACCP plan. Controlling the conditions of product from initial processing through irradiation and packaging will be necessary to ensure and preserve the intended antimicrobial effects of irradiation.

There are numerous possible scenarios involving the use of irradiation within a HACCP system and FSIS could not enumerate them all in this document. There is available from FSIS, however, a generic HACCP model for irradiation developed by the International Meat and Poultry HACCP Alliance. The model, entitled "Generic HACCP Model for Irradiation," is available from the FSIS Docket Room (see **ADDRESSES** above) and from the Texas A&M University World Wide Web site at http://ifse.tamu.edu/alliance/haccpmodels.html.

To account for the numerous possible processing situations and to allow for maximum flexibility and innovation in developing HACCP systems incorporating irradiation, FSIS is proposing only those requirements necessary to ensure product safety. For example, FSIS is proposing no minimum dose for the irradiation of meat products. FDA did not establish a minimum irradiation dose for meat food products in its final rule, although they stated that FSIS could establish a minimum dose without petitioning FDA. FDA concluded that different doses could be appropriate, in different circumstances, for achieving a desired technical effect and that its regulation should allow for flexibility in this regard. FSIS agrees. FSIS also is proposing to eliminate the minimum dose that it currently requires for poultry. The minimum dosage for poultry was intended to ensure a certain reduction of pathogens. Under the HACCP requirements, FSIS wants to allow poultry establishments, like meat establishments, to determine what level of irradiation (subject to a maximum level) and consequent reduction of pathogens is appropriate within their HACCP systems.

Furthermore, FSIS is proposing no specific handling or packaging requirements for the irradiation of meat food products. Under this proposal, establishments will be responsible for determining, within their HACCP systems, what sort of handling and packaging is appropriate for ensuring that irradiated product is not adulterated. FSIS also is proposing to revise the packaging requirements for irradiated poultry to maximize processing flexibility and innovation. The proposed revisions are explained in detail below under "Revision of the Requirements for Irradiated Poultry."

Finally, FSIS is proposing no restrictions on the specific function of irradiation as a CCP within a HACCP system. If this proposal is finalized, some establishments may choose to irradiate packaged ground product at high dosages to achieve maximal pathogen reduction throughout the product. Other establishments may choose to irradiate only a few millimeters into whole muscle products to control pathogenic bacterial contamination on the surface. These types of pathogen reduction treatments and others will be allowed under the proposed regulations.

FDA did approve irradiation of meat food products as a means to extend product shelf-life, as well as a means to reduce pathogens. FSIS is proposing to allow irradiation for this purpose too. Were an establishment to irradiate meat food products solely for the purpose of

extending shelf-life, it is conceivable, although highly unlikely, that the establishment could disregard any amount of pathogen reduction achieved by the irradiation and therefore not list irradiation as a CCP in it HACCP plan. However, such an establishment still would have to meet the other requirements for irradiation facilities promulgated by FSIS and other Federal and State agencies, such as requirements for dosimetry and documentation. FSIS does not anticipate that any establishment will irradiate product solely to extend shelf life and not account for the antimicrobial effects of irradiation in its HACCP plan.

Products Affected by the Proposed Rule

FSIS worked with FDA during its review of the Isomedix petition, primarily to identify the various types of meat food products suitable for irradiation, in light of the petitioner's request and FDA restrictions concerning the irradiation of ingredients (e.g. water, brine, spices) contained in certain meat products. FSIS also consulted with FDA regarding which forms of comminuted meats (e.g. low-temperature rendered meat, advanced meat recovery system meat, finely textured meat) would be suitable for irradiation. As a result of those consultations, FDA approved ionizing irradiation as an additive for the following types of uncooked, refrigerated or frozen meat food products:

- Meat, as defined in 9 CFR 301.2(rr):

(1) The part of the muscle of any cattle, sheep, swine, or goats, which is skeletal or which is found in the tongue, or in the diaphragm, or in the heart, or in the esophagus, with or without the accompanying and overlying fat, and the portions of bone, skin, sinew, nerve, and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing. It does not include the muscle found in the lips, snout, or ears. This term, as applied to products of equines, shall have a meaning comparable to that provided in this paragraph with respect to cattle, sheep, swine, and goats.

(2) The product derived from the mechanical separation of the skeletal muscle tissue from the bones of livestock using the advances in mechanical meat/bone separation machinery and meat recovery systems that do not crush, grind, or pulverize bones, and from which the bones emerge comparable to those resulting from hand-deboning (i.e., essentially intact and in natural physical conformation such that they are recognizable, such as loin and rib bones, when they emerge from the machinery) which meets the criteria of no more than 0.15 percent or 150 mg/100 gm of product for calcium (as a measure of bone solids content) within a tolerance of 0.03 percent or 30 mg.

- Meat byproducts, as defined in 9 CFR 301.2(tt):

Any part capable of use as human food, other than meat, which has been derived from one or more cattle, sheep, swine, or goats. This term, as applied to products of equines, shall have a meaning comparable to that provided in this paragraph with respect to cattle, sheep, swine, and goats. (This category of byproducts would include blood and blood plasma.)

- Meat food products within the meaning of 9 CFR 301.2(uu), with or without nonfluid seasoning, that are otherwise composed solely of intact or ground meat and/or meat byproducts (e.g., ground beef as in 9 CFR 319.15(a); hamburger as in 9 CFR 319.15(b); certain defatted beef or pork products as in 9 CFR 319.15(e) and 9 CFR 319.29(a), respectively; mechanically separated (species) as in 9 CFR 319.5).

FSIS's proposed irradiation requirements would be applicable to these same meat food products.

It has come to the attention of the Agency that several establishments may wish to irradiate "hot-boned" meat. Hot-boned meat is meat carcasses or parts that are deboned immediately following slaughter and then chilled. It is likely that an establishment wishing to irradiate hot-boned meat would irradiate between the deboning and the chilling of the carcasses or parts. The meat, therefore, would not have been refrigerated prior to irradiation and FDA has listed ionizing irradiation as an additive only for refrigerated or frozen, uncooked meat products.

FSIS believes that the irradiation of hot-boned meat poses no unique risks and further, that the assessment conducted by FDA regarding the safety of irradiating refrigerated meat is completely applicable to hot-boned meat. In the proposed regulatory text, FSIS has specified only refrigerated and frozen meat food products as products that may be irradiated in § 318.7(c)(4). However, FSIS currently is consulting with FDA to determine what action is necessary and appropriate in regard to the possible irradiation of hot-boned meat. FSIS requests public comment on this issue as well. Depending upon these consultations with FDA and other information submitted by the public, FSIS may specifically provide for the irradiation of hot-boned meat in the final rule that succeeds this document.

Addition of Irradiation to the Table of Substances Approved for Use in the Preparation of Meat Food Products

FSIS is proposing to amend the table in § 318.7(c)(4) of its meat inspection regulations by adding ionizing radiation as a substance suitable for controlling food borne pathogens in the meat, meat byproducts, and other meat food products described above. In accordance with the FDA final rule, FSIS is proposing a maximum absorbed dosage of 4.5 kGy for refrigerated products and 7 kGy for frozen products. As explained above, FSIS is proposing no minimum dosage.

This addition to the table would supercede the current entry allowing the use of ionizing radiation from gamma rays for the control of *Trichinella spiralis* in pork. Current FSIS regulations permit the use of ionizing irradiation from cobalt-60 and cesium-137 for control of *Trichinella spiralis* in specified pork products. Additionally, the regulation specifies minimum and maximum dosages. Under this proposal, establishments could continue to irradiate pork for the control of trichinae, but could employ higher doses, as well as ionizing radiation from machine sources. In its recent final rule, FDA did not remove the entry allowing the use of ionizing radiation for the control of *Trichinella spiralis* in pork from the table in 21 CFR 179.26(b). However, FDA's addition of sources of radiation as a treatment for meat food products seems to supercede the entry for *Trichinella spiralis*. FSIS will consult with FDA to clarify the intent of its new rule on this issue.

Processing Requirements for the Irradiation of Meat Food Products

FSIS is proposing to amend § 318.11 (currently reserved) by establishing processing requirements specific to the irradiation of specified meat food products. Of primary importance is that the irradiation of meat food products be conducted only in accordance with written procedures. Absorbed radiation dosage cannot be measured in treated product. Only through adherence to written procedures can establishments ensure that product receives doses of radiation within the regulatory limits.

To this end, FSIS is proposing to require that establishments conduct irradiation of meat and meat products only in accordance with either a HACCP plan, as defined in Part 417 of the FSIS meat and poultry inspection regulations, or a process schedule validated for efficacy by a processing authority (proposed § 318.11(a)). Written irradiation procedures must describe the specific, sequential operations employed by the establishment in the irradiation and associated processing of meat food products, including the control, validation, monitoring, and corrective action activities.

Because the smallest meat and poultry establishments will not be required to implement HACCP until January 25, 2000, it is possible that there will be establishments ready to irradiate meat food products before they have

implemented HACCP. FSIS would prefer that establishments develop and implement HACCP plans sooner than required. The Agency is proposing however, that establishments desiring to irradiate meat food products before they have implemented HACCP, have on file a written process schedule describing the specific operations employed by the establishment to accomplish the objectives of irradiation. FSIS is proposing to require that this process schedule contain the control, validation, monitoring, and corrective action activities associated with the establishment's irradiation procedures (proposed § 318.11(a)(2)). These activities are the safety, sanitation, and basic good manufacturing practices generally regarded as essential prerequisites for the production of safe food. Further, these activities are likely to be similar, if not identical, to the control, monitoring, validation, and corrective action activities developed by the establishment as part of its HACCP plan.

Under this proposal, the process schedule will have to be evaluated and approved for safety and efficacy by a process authority. A "process authority" is defined in § 301.2 of the regulations as "A person or organization with expert knowledge in meat production process control and relevant regulations." The process authority will evaluate the establishment's prospective irradiation and related processing procedures using appropriate validation methods such as laboratory challenge studies or comparison to peer-reviewed and -accepted procedures. The process authority must approve in writing the safety and efficacy of the irradiation procedures. The process authority must have access to the establishment in order to evaluate the safety of that establishment's planned production processes.

FSIS is proposing to sunset these proposed process schedule requirements after all establishments have been required to develop and implement HACCP plans. These requirements will be duplicative of what is required by HACCP and an establishment would not need both an approved process schedule and a validated HACCP plan for the same process. FSIS anticipates that if an establishment develops a process schedule for irradiating meat food products prior to implementing HACCP, it would incorporate elements of that process schedule into its HACCP plan.

Dosimetry

FSIS also is proposing to require in § 318.11(b) that any establishment irradiating meat food products have in place a dosimetry system. Dosimetry is the process of measuring an absorbed dose of radiation. FSIS is proposing to require establishments to implement a dosimetry system to ensure that each lot of treated product has received the dose defined in the process schedule or HACCP plan.

FSIS is proposing dosimetry requirements for the irradiation of meat food products that are almost identical to the dosimetry requirements currently in place for the irradiation of poultry food products. Under current and proposed requirements, establishments that irradiate poultry or meat food products must have in place: procedures for determining the absorbed radiation dose value from the dosimeter(s); procedures for calibrating dosimeters and other means of measurement (e.g., time clocks and weight scales); procedures for ensuring specific absorbed dosages of irradiation by product unit and product lot; and procedures for verifying the integrity of the radiation source and the processing procedure. The current and proposed dosimetry requirements are based upon standards promulgated by the American Society for Testing and Materials (ASTM).

It is likely that establishments will incorporate many dosimetry procedures into their HACCP plans. For example, procedures for verifying routine dosimetry (i.e., ensuring each product lot receives the total absorbed dose) could be incorporated into an HACCP plan as critical limits for the irradiation process. Also, calibration of dosimeters and other instruments could be incorporated as ongoing verification activities.

Documentation Requirements

Finally, FSIS is proposing to require that any establishment irradiating meat food products have on file, along with its validated process schedule or HACCP plan, the following documents that relate to its compliance with other Federal requirements concerning irradiation. These are almost identical to the documentation requirements currently in place for the irradiation of poultry products.

- Documentation that the irradiation facility is licensed and possesses gamma radiation sources registered with the Nuclear Regulatory Commission (NRC) or the appropriate State government acting under authority granted by the NRC (proposed § 318.11(c)(2)).
- Documentation that the machine radiation source irradiation facility is registered with the Occupational Safety and Health Administration (OSHA) or the appropriate State government acting under authority granted by OSHA, and that a worker safety program addressing OSHA regulations is in place (proposed § 318.11(c)(3)).
- Citations or other documents that relate to the instances in which the establishment was found not to comply with Federal or State agency requirements for irradiation facilities (proposed § 318.11(c)(4)).
- Certification by the operator that the irradiation facility personnel are operating under supervision of a person who has successfully completed a course of instruction for operators of food irradiation facilities (proposed § 318.11(c)(5)).
- Certification by the operator that the key irradiation personnel have been trained in food technology, irradiation processing, and radiation health and safety (proposed § 318.11(c)(6)).
- Guarantees from the suppliers of all food-contact packaging materials that may be subject to irradiation, that those materials comply with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and with regulations in 21 CFR 179.45 for food irradiation processing (proposed § 318.11(c)(7)).

Labeling Requirements for Irradiated Meat Food Products

FSIS is proposing to amend § 317.14 by establishing requirements for the labels and labeling of irradiated meat and meat products. For meat and meat products irradiated in their entirety (as opposed to a multi-ingredient product that merely contains an irradiated ingredient), FSIS is proposing to require that package labels contain the radura symbol and a statement indicating that the product was treated with irradiation. The symbol must be placed prominently and conspicuously in conjunction with the required statement. The statement must appear as a qualifier contiguous to the product name. Further, FSIS is proposing to require that for unpackaged meat food products irradiated in their entirety, the required logo and a statement must be prominently and conspicuously displayed to purchasers either through labeling on a bulk container or some other appropriate device. These proposed requirements are consistent with those promulgated by FSIS for poultry and by FDA for meat and poultry.

Under this proposal, establishments could use irradiated meat food products as ingredients in multi-ingredient meat food products. FSIS is proposing to require that the ingredient statement on such products reflect the inclusion of irradiated meat food product ingredients. For example, an ingredient statement for a sausage product containing irradiated pork would be required to include an entry such as, "irradiated pork" or "pork, treated by

irradiation." Consumers and consumer advocacy groups have requested that such information be disclosed in the labeling of multi-ingredient food products.

Further, disclosure of processing is consistent with current FSIS labeling policy. For example, § 317.2(e) of the meat inspection regulations requires that "Product which has been prepared by salting, smoking, drying, cooking, chopping, or otherwise shall be so described on the label unless the name of the product implies, or the manner of packaging shows that the product was subjected to such preparation." Unlike the effects of these other forms of processing, the effects of irradiation processing upon meat usually would not be detectable by the consumer. However, some of the effects brought about by irradiation, such as antimicrobial effects and certain changes to product quality, are similar to the effects of other forms of processing, especially cooking. Furthermore, the use of treatments has been considered part of the common or usual name for various ingredients in meat food products, such as "dehydrated onions" and "reconstituted potatoes."

Because FDA has not promulgated a similar requirement, and because FSIS anticipates opposition from certain sectors of the meat industry, FSIS specifically requests comment on this proposed labeling requirement. Notably, in a recently published Advance Notice of Public Rulemaking, FDA has requested public comment on this same issue and other issues related to the labeling of irradiated food products. FDA's labeling requirements and this recent notice are further discussed below under "Other Labeling Issues."

Incentive Labeling for Irradiated Meat Food Products

FSIS would consider for approval labeling statements for meat food products indicating the elimination or reduction of certain pathogens. Under 9 CFR 381.135(c), FSIS already allows qualifiers on labels of irradiated poultry, e.g., "Treated by irradiation to reduce *Salmonella* and other pathogens." The prerequisite for such labeling statements on meat and poultry products would be a HACCP plan or process schedule validated as achieving, through irradiation, the specific elimination or reduction in pathogens indicated by the labeling. FSIS is proposing to require that such labeling meet all other applicable labeling requirements contained in § 317.

Several representatives of the meat and poultry industries have stated to FSIS that they would like to label product as being free of certain pathogens as a result of irradiation, e.g., "Free of *E. coli* O157:H7." It may be possible for an establishment to determine the pathogen load on incoming product, irradiate the product to completely eliminate those pathogens with an appropriate margin of safety, and ensure that the product remains free of that pathogen until it reaches the consumer. FSIS requests comment on whether to allow this type of incentive labeling. Specifically, FSIS is interested in whether it should establish performance standards for labeling statements that reflect a specific reduction of pathogens. For example, FSIS could require that to use such labeling, establishments must achieve, through a validated HACCP system incorporating irradiation, a specific reduction of a pathogen of concern (e.g., an x-$\log_{10}$ reduction of *E. coli* O157:H7). FSIS requests comment on this regulatory option, as well as any others, concerning the truthful labeling of irradiated meat and poultry products.

Currently, FSIS does not have the scientific data necessary to propose regulations that specifically address the necessary preconditions for an "*E. coli* O157:H7 free" label or similar labels indicating the elimination of other pathogens. Based upon comments and other data FSIS receives, FSIS would consider a modified version of the proposed labeling requirements in § 317.2(c) that would allow the labeling of meat products as being free of *E. coli* O157:H7 or other pathogens. Following an evaluation of submitted comments and data, FSIS will determine whether to provide for such labeling.

Other Labeling Issues

On November 21, 1997, President Clinton signed into law the FDA Modernization Act (FDAMA) of 1997 (Pub. L. 105–115). Section 306 (Disclosure of Irradiation) of FDAMA amends the Federal Food, Drug, and Cosmetic Act (FFDCA) by adding a new section 403C, as follows:

> (a) No provision of section 201(n), 403(a), or 409 shall be construed to require on the label or labeling of a food a separate radiation disclosure statement that is more prominent than the declaration of ingredients required by section 403(i)(2).
>
> (b) In this section, the term "radiation disclosure statement" means a written statement that discloses that a food has been intentionally subject to irradiation.

FDA's regulations currently do not specify how prominent a radiation disclosure statement must be. However, FDA believed that there was merit to amending 21 CFR 179.26 to include the prominence specification of the new statutory provision. Accordingly, FDA has amended its labeling provisions for irradiated foods in 21 CFR 179.26 to reflect that a radiation disclosure statement is not required to be any more prominent than the declaration of ingredients required under the applicable regulation promulgated under section 403(i)(2) of the FFDCA. The labeling requirements proposed in this document for irradiated meat and poultry products are consistent with these FDA provisions.

Also, the Joint Explanatory Statement of the Committee of Conference that accompanied the FDAMA directed FDA to publish for public comment proposed changes to current regulations relating to the labeling of foods treated with ionizing radiation. In response, on February 17, 1997, FDA published an Advance Notice of Proposed Rulemaking concerning possible revisions to the labeling requirements for irradiated food (64 FR 7834). In keeping with the FDAMA joint statement, FDA is specifically requesting comments on two issues: (1) Whether the wording of the current radiation disclosure statement should be revised and (2) whether such labeling requirements should expire at a specified date in the future. FDA also is requesting comments on other possible revisions to other labeling requirements for irradiated food, including the possibility of requiring disclosure of irradiated ingredients in multi-ingredient food products. FSIS will continue to consult with FDA on their labeling requirements and will also review the comments submitted in response to their notice. As is necessary and appropriate, FSIS will make any final labeling requirements for irradiated meat and poultry products that are consistent with the labeling requirements promulgated by FDA.

Finally, in the course of developing this proposal, FSIS received a petition from the National Food Processors Association (NFPA) regarding labeling requirements for irradiated food. Specifically, NFPA requested that FSIS address whether labeling requirements concerning the disclosure of irradiation are warranted for meat and poultry, and how such labeling affects consumer acceptance of irradiation. FSIS is reviewing this petition and will respond following its review of comments on this proposed rule.

Other Requirements

Establishments that irradiate meat food products are "official establishments," as defined by § 301.2(zz) of the regulations. Consequently, irradiation facilities will have to comply with all of the applicable regulatory requirements governing the processing of meat food products, including requirements concerning grants of inspection, sanitation, and the development and implementation of Sanitation Standard Operating Procedures and HACCP plans.

Revision of the Requirements for Irradiated Poultry

FSIS's regulations governing the irradiation of meat and poultry products must be based upon FDA's requirements for the use of ionizing radiation as an additive in those products. FDA's requirements for the use of ionizing radiation as an additive in poultry are far more restrictive than their recently issued requirements for the use of ionizing radiation as an additive in meat food products. Therefore, until FDA changes certain requirements concerning ionizing radiation as an additive in poultry, FSIS will be unable to make its requirements for irradiated poultry entirely consistent with those for irradiated meat. For example, FSIS cannot propose to change the restrictions on the maximum irradiation dose for poultry, the types of poultry products allowed to be irradiated, and certain packaging requirements. However, FSIS is proposing other permissible changes to the poultry regulations to make them as consistent as possible with the meat regulations and with HACCP.

First, FSIS is proposing to eliminate the requirements in §§ 381.19 and 381.149 that establishments irradiate poultry only in accordance with Partial Quality Control programs (PQC's). Instead, FSIS is proposing to require that, like meat establishments, poultry establishments irradiating product develop and implement process schedules or HACCP plans that account for the irradiation treatment. PQC's contain all or most of the elements required in a process schedule or HACCP plan, and all poultry establishments eventually will be required to implement HACCP. Consequently, FSIS anticipates that this conversion, if this proposal is finalized, will be relatively simple and pose no significant burden.

FSIS also is proposing to eliminate the requirement that only packaged poultry may be treated with irradiation. FSIS adopted this requirement to ensure that the antimicrobial effects of irradiation would be maintained throughout the processing and distribution of the poultry:

> To best ensure a reduction of the microbial load on poultry product, FSIS believes that all irradiated poultry would be packaged, in compliance with 21 CFR 179.25 and 179.26, prior to irradiation and remain in the same package through the distribution in commerce to the point of purchase.
>
> (57 FR 19463; May 6, 1992)

Because FSIS is requiring all poultry establishments to develop and implement HACCP plans, this prescriptive packaging requirement is no longer necessary. Under the HACCP requirements, poultry establishments have both the responsibility and the flexibility to determine the best means for reducing hazards within a specific processing environment. A poultry establishment with irradiation as a CCP within its HACCP plan may choose whatever means is appropriate to preserve the antimicrobial effects of irradiation throughout processing and distribution. One result of this proposed revision will be that, as with irradiated meat food products, irradiated poultry products can be used as ingredients in further processed products.

FSIS cannot, however, propose to rescind the FDA requirement in 21 CFR 179.26(b)(6) which mandates that if packaged poultry product is irradiated, that packaging be air permeable: "* * * any packaging used shall not exclude oxygen." FSIS originally requested that FDA establish this requirement for control of the pathogen *C. botulinum*. FDA agreed, noting that "use of air-permeable packaging materials provides an extra margin of safety from *C. botulinum* toxin production and spoilage in chicken incubated both aerobically (with oxygen) and anaerobically (without oxygen)" (57 FR 19463; May 6, 1992). In light of the new HACCP requirements, FSIS believes that this prescriptive requirement is no longer necessary. Under HACCP, poultry establishments have both the responsibility and the flexibility to determine the best means for controlling any hazards resulting from the irradiation of product in anaerobic packaging. FSIS plans to petition FDA to eliminate this packaging requirement.

FSIS is proposing to eliminate the minimum dose requirement for irradiated poultry contained in § 381.147(f)(4). FSIS adopted this requirement to ensure that the irradiation of poultry, which may occur only after the product is packaged for retail sale, does in fact achieve a specific reduction in pathogens. However, as stated above, FDA and FSIS have concluded that different doses of ionizing radiation can be appropriate, in different circumstances, for achieving different technical effects and, therefore, that to continue to require a minimum dose of irradiation for poultry would limit the flexibility needed for the successful implementation of HACCP. FSIS considers irradiation to be just one of many treatments that could be used within a HACCP system to achieve a compounded reduction in pathogens.

The optional labeling statements currently allowed for irradiated poultry in § 381.135(c) are premised upon an establishment employing the minimum dose. As with meat food products, FSIS is proposing instead to approve qualifiers based upon whether a poultry establishment has in place a HACCP plan or process schedule validated as achieving, through irradiation, the elimination or reduction of pathogens indicated on the label (proposed § 381.135(c)).

FSIS cannot propose to revise the FDA limits on the maximum absorbed radiation dose for poultry. However, it is possible that poultry may be safely treated with higher doses of radiation than that which are currently allowed. Higher doses could achieve greater reductions in pathogens. FSIS intends to petition FDA to reconsider and raise the limit on the maximum absorbed dose of radiation in poultry.

FSIS is proposing to eliminate two of the labeling requirements in § 381.135(a): the requirement that the radura logo on irradiated poultry labels must be colored green and the requirement that "letters used for the qualifying statement shall be no less than one-third the size of the largest letter in the product name." The elimination of these requirements will make FSIS requirements consistent with FDA requirements and provide more flexibility for labeling irradiated meat and poultry products, without affecting the information content of such labels.

Because FSIS is proposing to allow irradiated poultry products to be used as ingredients in further processed products, FSIS also is proposing to require that the ingredient statement on such products reflect the inclusion of irradiated poultry products (§ 381.135(b)). For example, an ingredient statement for a sausage product containing irradiated poultry would be required to include an entry such as, "irradiated poultry" or "poultry, treated by irradiation." Consumers and consumer advocacy groups have requested that such information be disclosed in the labeling

of multi-ingredient food products. This proposed disclosure requirement is identical to the requirement proposed in this document for irradiated meat used as an ingredient. Because FDA has not promulgated a similar requirement for irradiated meat or poultry, and because FSIS anticipates strong opposition from certain sectors of the meat and poultry industries, FSIS specifically requests comment on this proposed labeling requirement.

Further, because FSIS is proposing to allow unpackaged poultry product to be irradiated, it is proposing labeling requirements for unpackaged, irradiated poultry product sold at the retail level (proposed § 318.135(b)). The proposed labeling requirements are consistent with those proposed for unpackaged, irradiated meat food products and with FDA labeling requirements for irradiated products sold in bulk (21 CFR 179.26(c)(2)).

Finally, to further streamline and clarify the regulations governing the irradiation of poultry, FSIS is proposing to remove the "Definitions" section from those regulations (current § 381.149(a)). These definitions serve as general references for the PQC requirements that FSIS is proposing to remove from the regulations. Further, these definitions are already acknowledged and understood by irradiation facilities, as they are a paraphrase of those provided by ASTM.

Combination Meat and Poultry Products

Under the proposed requirements, FSIS will allow products composed of both meat and poultry to be irradiated. Such products would have to meet the requirements in proposed § 318.7(c)(4) and in existing § 381.147(f)(4) concerning the types of meat and poultry products that may be irradiated. Furthermore, establishments that irradiate combination product in its entirety will be required to meet the more restrictive requirements of the FSIS poultry irradiation regulations, namely the maximum radiation dose requirement in 9 CFR 381.147(f)(4) and the air-permeable packaging requirement in 9 CFR 381.149(c)(7). FSIS anticipates that establishments producing low-fat products, such as pepperoni or salami composed of both meat and poultry, will be especially interested in irradiation as an antimicrobial treatment.

Risk Analysis

Section 304 of the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (P.L. 103–354) requires any regulation published by USDA concerning human health, safety, or the environment, and having an annual economic impact of at least $100 million in 1994 dollars, contain a risk assessment and cost-benefit analysis. The risk assessment and cost-benefit analysis must be "performed consistently and use reasonably obtainable and sound scientific, technical, economic, and other data." The USDA Office of Risk Assessment and Cost-Benefit Analysis (ORACBA), also established by the 1994 Act, must ensure that major rules include such analyses.

ORACBA and FSIS have agreed that FDA has already conducted a definitive risk analysis concerning the safety of meat food products treated with ionizing radiation in developing their final rule, "Irradiation in the Production, Processing and Handling of Food" (62 FR 64107; December 3, 1997). Therefore, FSIS and ORACBA are adopting the FDA finding as their risk assessment. Further, FSIS and ORACBA also have agreed that the cost-benefit and economic impact analyses that FSIS has performed for this proposed rule, as required by E.O. 12866 and the Regulatory Flexibility Act, satisfy the cost-benefit analysis requirements of the Reorganization Act. Consequently, FSIS, with assistance from ORACBA, has produced only an analytical literature review addressing existing research and risk assessments on the safety of food irradiation for consumers and the related risks posed by irradiation, including worker safety and environmental concerns. This literature review is available from the FSIS Docket Clerk's Office (see **ADDRESSES** above).

In this document, FSIS is proposing revisions to the current regulations governing the irradiation of poultry to make them more consistent with the proposed regulations for meat and with HACCP. These proposed revisions to the poultry regulations would pose no new risks to human health, the environment, or worker safety. Therefore, FSIS has not addressed these changes in a separate risk assessment or in the above mentioned literature review.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. States and local jurisdictions are preempted by the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected meat and poultry products that are in addition to, or different than, those imposed under the FMIA and PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat products that are outside official establishments for the purpose of preventing the distribution of meat and poultry products that are misbranded or adulterated under the FMIA and PPIA, or, in the case of imported articles, that are not at such an establishment, after their entry into the United States.

This proposed rule is not intended to have retroactive effect.

If this proposed rule is adopted, administrative proceedings will not be required before parties may file suit in court challenging this rule. However, the administrative procedures specified in 9 CFR 306.5 and 381.35 must be exhausted prior to any judicial challenge of the application of the provisions of this proposed rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the FMIA or PPIA.

Compliance With Executive Order 12866—Preliminary Analysis

This action has been reviewed for compliance with Executive Order 12866. As this action is determined to be economically significant for purposes of Executive Order 12866, the Office of Management and Budget has reviewed it.

On December 3, 1997, FDA granted a petition from Isomedix, Inc. requesting that FDA permit the use of ionizing radiation to treat the fresh or frozen raw edible tissue of domesticated mammalian human food sources for purposes of reduction of parasites and microbial pathogens and extension of product shelf-life. Accordingly, in this document, FSIS is proposing to amend its meat inspection regulations to allow for the safe use of ionizing radiation for the treatment of meat, meat byproducts, and certain other meat food products. FSIS also is proposing to revise the existing regulations governing the irradiation of poultry so as to render them more consistent with the proposed regulations for meat.

FSIS has endeavored to propose regulations for the irradiation of meat food products that set forth performance objectives, rather than prescribe specific processing methods. For the irradiation of meat food products, and where possible for the irradiation of poultry products, FSIS has proposed requirements that allow for significant flexibility in integrating irradiation into the processing environment. It is possible that FSIS will be able to provide for even greater flexibility based upon the comments received in response to this proposal.

If this proposal is made final, the use of ionizing irradiation as a treatment for meat food products will be voluntary. Although FSIS recognizes the capability of irradiation treatment to reduce pathogens below current performance standards for pathogen reduction, the proposed rule does not change the performance standards. With standards unchanged, the primary benefit of the proposed rule to establishments is the increased flexibility they are allowed with this rule.

Alternatives

Executive Order 12866 requires that FSIS identify and assess alternative forms of regulation. FSIS considered two alternatives to this proposed regulation: (1) not proposing to allow for the irradiation of meat food products and (2) proposing to allow the irradiation of meat food products only under very limited conditions, similar to those currently prescribed for the irradiation of poultry products. FSIS rejected these two alternatives for reasons explained below.

No Action

Central to the FSIS food safety strategy are efforts to reduce the level of microbiological pathogens in raw meat and poultry products. Irradiation has been shown to be a highly effective method for reducing the levels of microbiological pathogens in raw meat food products. Further, FDA has concluded that irradiation of meat food products, under the conditions requested by Isomedix, Inc. and granted by FDA, would not present toxicological or microbiological hazards and would not adversely affect the nutritional adequacy of these products. FSIS, therefore, sees compelling reasons to propose regulations providing for the irradiation of meat food products and has rejected the option of disallowing irradiation.

Notably, the irradiation of meat food products would be voluntary. Although it is an effective antimicrobial treatment, irradiation may not be appropriate, feasible, or affordable in certain processing environments. Also, in certain situations, other antimicrobial treatments may be more effective. FSIS, therefore, is not requiring that raw meat food products be irradiated.

Irradiation of Meat Food Products Under Limited Conditions

The existing requirement for the irradiation of poultry are fairly prescriptive in that they mandate a minimum dosage and require that only packaged product be irradiated. FSIS could have proposed similar requirements for the irradiation of meat food products. However, as explained above, FSIS believes that the minimum dosage and packaging requirements for irradiated product, intended to ensure that the effects of irradiation are maintained, are no longer necessary in light of the new HACCP requirements. Therefore, FSIS is proposing no minimum irradiation dose and no specific packaging requirements for meat food products and is proposing to rescind the minimum dose requirements for irradiated poultry and to revise the packaging requirements, where possible.

Furthermore, such an action would not meet FSIS' goal to propose regulations for the irradiation of meat food products that set forth performance objectives, rather than prescribe specific processing methods. For the irradiation of meat food products, and where possible for the irradiation of poultry products, FSIS has proposed requirements that allow for significant flexibility in integrating irradiation into the processing environment. It is possible that FSIS will be able to provide for even greater flexibility based upon the comments received in response to this proposal.

Benefits

An establishment's decision to irradiate will be based on whether the net return on an investment in irradiation is positive. If an official establishment chooses to irradiate its meat food products, it can be assumed from the establishment's decision to incur the expense of irradiation that it expects the economic benefits of the investment in irradiation to exceed the costs of that investment. In that sense, the rule could have favorable economic consequences for firms that choose to irradiate.

The meat industry may accrue numerous qualitative benefits from the use of irradiation. For example, slaughter establishments will gain added flexibility in treating products so as to meet pathogen reduction performance standards. Similarly, processors may use irradiated meat in further processed products. Product shelf life could be increased, the market for meat products could expand, and exports of irradiated products could increase. These benefits and others are discussed more fully under the section "Net Benefits."

In its final rule requiring that official meat and poultry establishments to develop and implement HACCP, the Agency estimated a range of public health benefits that could result from the consequent reduction of food borne microbial pathogens (61 FR 38858). Society may realize further benefits from this proposal if the use of irradiation results in a reduction of illnesses beyond what could be achieved by the implementation of HACCP alone. Several types of microbial pathogens can be present in meat food products, including *E. coli* O157:H7, *Salmonella, Clostridium perfringens,* and the protozoan parasite *Toxoplasma gondii.* Irradiation at the dose levels proposed in this action can reduce the levels of these pathogens substantially. The economic benefits associated with these reductions would be decreases in the diseases associated with these pathogens, as well as productivity losses associated with them that would not have occurred with the implementation of HACCP. The reductions in the disease rates would translate into a reduction in the number of visits to physicians and hospitals.

This analysis focuses on the irradiation of ground beef. FSIS believes that ground beef is likely to be the first meat product irradiated in great quantity. Furthermore, ground beef constitutes a significant proportion of beef consumption. For example, according to an industry source, of the per capita consumption of beef at 68 pounds (in 1998), ground beef comprised of 40 percent and another 5 to 10 percent was consumed as hamburger or other ground products. FSIS is aware, however, of industry plans to irradiate other types of raw meat and poultry products, including vacuum-packed primal cuts of meat, steaks, prime ribs, and bulk poultry. If, during the comment period, FSIS receives data concerning the types and volumes of meat and poultry products to be irradiated under the proposed regulations, FSIS will be able to develop an expanded cost-benefit analysis for inclusion in a final rule.

Following a 1993 outbreak of food borne illness associated with *E. coli* O157:H7 in hamburger, FSIS implemented a policy under which it considers raw ground beef containing *E. coli* O157:H7 to be adulterated. Currently, establishments can distribute ground beef containing *E. coli* O157:H7 only after they have thoroughly cooked it, so as to eliminate the pathogen. If irradiation is permitted, establishments will have a means to effectively eliminate *E. coli* O157:H7 from raw ground beef without cooking it. Establishments, therefore, would likely benefit from the availability of irradiation as an additional treatment for rendering adulterated raw ground beef product safe.

To give some sense of the potential benefit from the reduction of illnesses

that may occur as a result of the irradiation of ground beef, an USDA Economic Research Service (ERS) study on the use of irradiation to reduce *E. coli* O157:H7 and *Salmonella* in ground beef, conducted before the implementation of HACCP, is instructive. Morrison, et al. (1997), of ERS estimated the annual pre-HACCP economic value of the health costs and productivity losses attributable to *E. coli* O157:H7 to be between $196 million and $441 million.[5] These figures are also reported in Table 1 (row 1). ERS calculated the annual, pre-HACCP medical costs and productivity losses associated with salmonellosis to range from $30 million to $111 million (Table 1, row 2).

Irradiation of ground beef is unlikely to completely eliminate the diseases associated with consumption of ground beef because not all ground beef is likely to be irradiated; initially acceptance of irradiated ground beef may be slow. After consumers are informed about the safety of irradiated ground beef, however, acceptance is likely to increase. Morrison, et al., 1997 assumed that market acceptance, the associated reductions in pathogens, and the decrease in the incidence of associated diseases would be 25% over the next 20 years. It was also assumed that the reduction in the incidence of the number of illnesses would be directly proportional to the acceptance of irradiated ground beef, i.e., 25%. Based on these assumptions, Table 1 (row 3 and 4) reports the extent of pre-HACCP health and economic benefits associated with reductions of *E. coli* O157:H7 and salmonellosis. (The higher number of cases of salmonellosis, but lower economic benefits of their reduction relative to that of *E. coli* O157:H7, is due to the fact that the former is less severe compared to the latter.) The last row of Table 1 shows that the total pre-HACCP economic benefits of reduction in these two diseases would range from $56.5 million to $138 million.

TABLE 1.—HEALTH AND ECONOMIC BENEFITS OF IRRADIATING GROUND BEEF PRE-HACCP

	Low estimate of annual illnesses	High estimate of annual illnesses	Low estimate of health costs in col. (1) in 1995$ million	High estimate of health costs in col. (2) in 1995$ million
Total Annual Incidence of *E. coli* O157:H7 due to consumption of ground beef	4,900	9,800	$196.0	$441.00
Total Annual Salmonellosis cases due to consumption of ground beef	24,000	120,000	30.0	111.00
Estimated benefits of 25% reduction in *E. coli* O157:H7 cases due to irradiation	1,225	2,450	49.0	110.25
Estimated benefits of 25% reduction in Salmonellosis cases due to irradiation	6,000	30,000	7.5	27.75
Total benefits from reductions in *E-coli* and Salmonellosis	7,225	32,450	56.5	138.00

Because these estimates were developed prior to the implementation of the HACCP requirements, and due to the lack of data on benefits resulting from HACCP implementation so far, these estimated benefits are most likely higher than the benefits that would actually occur in the current HACCP environment.

FSIS, like Morrison, et al., (1997), is assuming that 25% of consumers will accept irradiated ground beef products. This assumption is conservative in light of a 1993 survey, conducted by the American Meat Institute Foundation, which reported that 54 percent of respondents said that they would buy irradiated beef rather than non-irradiated beef after being told that irradiation can kill pathogens in raw meat.[6] This survey also reported that 60 percent of respondents said that they were willing to pay ten cents more per pound for hamburger sold at $2/lb. if bacteria levels were "greatly reduced by irradiating the meat."

The experience with poultry irradiation also indicates that the benefits from poultry irradiation have been slow in being realized because only about 1% of poultry production has been irradiated since the final rule was published. One reason that only a small percentage of poultry has been irradiated is that poultry primarily is sold through product differentiation, that is, brand names of major producers (Perdue, Holly Farms, etc.), and most of these major producers have not irradiated their products. In the case of beef in general and ground beef in particular, there are hardly any brand names, so that lack of brand loyalty is likely to accelerate acceptance of irradiated beef.

Furthermore, it is likely that the current restrictions governing the irradiation of poultry (packaging and minimum dosage requirements) have limited the cost-effectiveness of irradiation. FSIS is proposing to repeal these restrictive requirements, where possible, in this document. FSIS anticipates that numerous establishments, if granted the processing flexibility proposed in this rule, will choose to employ irradiation as an antimicrobial treatment for their raw poultry products.

Incremental Costs

As explained above, if an official establishment chooses to irradiate its meat food products, it can be assumed from the establishment's decision to incur the expense of irradiation that it expects the economic benefits of the investment in irradiation to exceed the costs of that investment. Irradiation of meat food products will be voluntary. The meat industry will not be required to have their products irradiated, nor will consumers be forced to purchase irradiated meat and products.

This analysis assumes that meat and poultry plants would contract out their irradiation requirements to centralized plants. Therefore, the costs would include fees or prices charged by these facilities. Since irradiation of meat food products is not currently permitted, information on prices of irradiating meat food products is not available. If prices of irradiation were available, one would add other incidental costs to meat establishments such as the costs of marketing, labeling, and transportation to and from irradiation facilities to estimate comprehensive costs of irradiation. In the absence of prices for irradiation, one has to estimate annualized costs (in cents per pound of meat or poultry) of irradiation to the irradiating facility.

The annualized cost of irradiation depends on fixed costs, such as the cost

[5] Morrison, R.M., et al., "Irradiating Ground Beef to Enhance Food Safety," *Food Review*, January-April 1997, pp. 33–37.

[6] American Meat Institute Foundation, "Consumer Awareness, Knowledge, and Acceptance of Food Irradiation," November, 1993.

of Cobalt-60 irradiators and variable costs of electricity to power the electron accelerators. The latter costs vary by throughput rate (quantity of meat to be irradiated), the dose (kilograys or kGy), the amount of the beam power actually absorbed by the product or the net utilization efficiency, and the number of workers employed in a plant. The number of workers employed in these plants is small because the processes are highly automated.

Assuming a dosage of 2.5 kGy, Morrison (1989) estimated the annualized per pound cost of irradiating poultry and ground beef (the annual average of fixed and operating costs) to range from 1.2 cents/lb. for a plant having the capacity to irradiate 52 million pounds annually to 0.51 cents/lb. for a plant that irradiates 416 million pounds annually.[7] Morrison, et al. (1997), updated these annualized cost estimates and concluded that the annualized costs for a plant that irradiates 52 million pounds would be 1.6 cents/lb. in 1995 dollars. This estimate assumes an annualized, constant charge after initial costs are incurred.[8] The 1.6 cents/lb. estimate does not include costs of marketing the irradiated products such as labels or the costs of transporting the product from the slaughter houses/processing establishments to an irradiating facility.

To estimate the cost of labels, FSIS assumes that about 50 beef plants would participate in the irradiation program with about 10 labels each. The cost of making the initial labeling plate would be $800 per label, if the label were without any color, and printing costs in the out years. Therefore, the initial cost of these labels would amount to $400,000 ($50 \times 10 \times \$800 = \$400,000$). If FSIS were to continue to require that the labels be green, the cost of making the initial labeling plate would be $1,500, and the estimated total cost would be $750,000 ($50 \times 10 \times \$1500 = \$750,000$). These costs would be distributed over 1.7 billion pounds of ground beef (7 billion pounds of ground beef were sold in 1995; twenty-five per cent would be 1.7 billion pounds). FSIS assumed that the labeling costs would add about 0.2 cents/lb. to the irradiation costs. Such an addition would increase the irradiation cost from 1.6 to 1.8 cents/lb. (in 1995 dollars).

FSIS is proposing to require that single ingredient meat or poultry products irradiated in their entirety be labeled with a radura and a statement indicating that the product was irradiated. FSIS also is proposing to require disclosure, in the ingredients statements, that multi-ingredient products contain irradiated meat or poultry ingredients. FSIS also is considering the possibility of allowing irradiated meat or poultry products to be labeled as being free of certain pathogens, under certain circumstances. FSIS requests comments on these estimated labeling costs, as well as comments on the economic effects of changes to the proposed labeling requirements and the possible use of incentive labeling for irradiated meat and poultry products.

FSIS conservatively assumes the costs of transporting ground beef from slaughter houses/processing plants to and from irradiating facilities at 0.2 cents/lb. Therefore, the incremental cost of irradiation would amount to 2.0 cents/lb. (1.6 + 0.2 + 0.2). These costs are shown in Table 2. The last column of Table 2 reveals that the cost of irradiating 1.7 billion pounds of ground beef at 2 cents/lb. would amount to $35 million. It must be noted that these costs refer to a dose of 2.5 kGy and hence are underestimated compared to the costs of irradiating at 4.5 or 7 kGy as permitted under the proposed rule. Information on extrapolating costs for irradiation at these levels is not available. FSIS requests comments on the costs of transporting meat to and from irradiation facilities.

A second estimate of the cost of irradiating meat was available from an engineering consulting firm. This estimate was developed as a conceptual design by this firm for one of their meat processing clients. The assumptions included an average dose of 3 kGy, a production rate of 2.4 million lbs./week, a product configuration of boxed frozen ground beef patties, employment of 20 workers and 4 supervisors, capital cost of $14.2 million, and operating cost of $1.9 million/year. The resulting cost estimate, determined by estimating discounted present value of future costs, amounted to 2.2 cents/lb. An addition of 0.2 cents/lb. for labeling and another 0.2 cents/lb. for transportation would increase this cost to 2.6 cents/lb. It must be noted that the plant size assumption of 2.4 million lbs./week translates to a plant size of 124.8 million lbs./year. This plant is more than double the size assumed by Morrison et al., (1997) at 52 million lbs./year. The cost estimates in Table 2, therefore, relate to different plant sizes with different levels of utilization of capacity. It also must be noted that these costs refer to a dose of 3kGy and hence are lower than the costs of irradiating at 4.5 or 7 kGy, as permitted under the rule. Information on extrapolating costs for irradiation at these levels is not available.

A third estimate of cost can be developed from the current approximate cost of irradiating poultry, obtained from an industry source. For this estimate, it is assumed that the cost of irradiating meat food products would be the same as the cost of irradiating poultry, since the irradiation method is the same. The current cost of irradiating poultry, for an establishment operating at only 5% of capacity, is approximately 6 cents/lb. Any increase in utilization of capacity would spread the costs over a larger volume of production and hence tend to reduce irradiation costs. This high cost scenario, reported in Table 2, suggests that the incremental cost of irradiating 1.7 billion pounds of ground beef would amount to $105 million (in 1995 dollars).

The preceding cost estimate is higher than the costs FSIS originally estimated for irradiating poultry—about a penny a pound. In estimating the cost of irradiating poultry, ERS had assumed that 10% of all poultry products would be irradiated. The current costs are higher because only around one percent of poultry is being irradiated. The lower volume of irradiation results in higher costs. Since FSIS is proposing to remove many of the restrictions governing the irradiation of poultry and is not proposing any similar restrictions on the irradiation of meat, and because the demand for irradiated meat and poultry may increase, it is very unlikely that such high costs will continue to be incurred by the industry. FSIS anticipates that the lower cost estimates are more likely to reflect the true future costs.

[7] Morrison, R.M., "An Economic Analysis of electron accelerators and Cobalt-60 for Irradiating Food," ERS Publication No. 1762, June 1989.

[8] Morrison, et al., (1989) p. 28.

TABLE 2.—ESTIMATED COSTS OF IRRADIATING GROUND BEEF

Cost scenario	Irradiation cost cents/lb	Quantity of ground beef irradiated (25% of total sales) billion pounds	Irradiation costs $ million (1995$)
Low cost	2.0	1.75	$35
Midrange cost	2.6	1.75	$46
High cost	6.0	1.75	$105

Net Benefits

Executive Order 12866 requires the proposed action maximize net benefits to society, including potential economic, environmental, public health and safety benefits, distributional impacts and equity. FSIS believes that the net benefits of the proposed action are positive. However, the current lack of quantification of both benefits and costs would make comparison meaningless at this time. As discussed above, the benefit estimates are incomplete. First, several indirect benefits have been excluded. As mentioned above, the meat industry may accrue qualitative benefits from the use of irradiation. Slaughter establishments will gain added flexibility in treating products so as to meet pathogen reduction performance standards. Similarly, processors may use irradiated meat in further processed products. Non-quantified industry benefits would also include a decrease in the number of potential court cases for product liability from avoidance of illnesses associated with pathogens in their products. Also, the market for meat products could expand; consumers desiring meat products with reduced numbers of pathogens could increase the demand for irradiated products. Market expansion could also take place via increased exports, especially to numerous European and Asian countries, where irradiation of poultry products already is permitted and practiced. The potential increase in exports cannot be estimated for a lack of data. Only one of the meat products, ground beef accounting for about one-half of the beef industry, is analyzed. Inclusion of other meat products would tend to increase the estimated benefits. The analysis also does not account for the indirect benefits to consumers that include the avoidance of costs of pain and suffering associated with the diseases. These costs are generally greater than the direct costs of treatment of illnesses and productivity losses. Second, FSIS has not calculated the benefits from the reduction in illness that might occur with the use of ionizing irradiation in meat products within the context of HACCP implementation. Though the ground beef example discussed above is informative, FSIS expects that substantial reductions in these pathogens will be made with HACCP without the use of irradiation. Therefore, any analysis of benefits from this action must account for those reductions in illnesses and the associated costs that would have occurred without this action.

Finally, another important economic benefit to industry, as well as to consumers, is the extended shelf life of irradiated products. Andrews, et al. (1998), reviewed five studies encompassing shelf lives of different types of red meat products.[9] Their results suggest that shelf life of products treated with irradiation increase considerably (d log extension) compared to untreated products These results are reported in Table 4.

TABLE 4.—SHELF LIFE EXTENSION OF IRRADIATED RED MEAT

Meat product	Dose (kGy)	Untreated shelf life (d)	Irradiated Shelf life (d)
Beef	2.5	2–3	9
Beef top round	2.0	8–11	28
Beef burgers	1.54	8–10	26–28
Beef cuts	2.0	1X	2X
Beef cuts irradiated under vacuum	2.0	NA	70
Corned beef	4.0	14–21	35
Lamb, whole and minced	2.5	7	28–35

Source: Andrews et al., (1998), p. 26.

As with the estimates of benefits, the cost estimates also are incomplete. The costs estimated in this analysis of the potential irradiation of ground beef are likely to be overestimated for three reasons. First, the cost estimates are based on the assumption that irradiation of ground beef would take place in the smallest, and hence the least efficient, plant having the capacity to irradiate only 52 million pounds per year. An increase in capacity to, for instance, 416 million pounds per year would reduce annualized operating costs to less than half the estimated costs (from 1.2 cents for 52 million pounds size to 0.51 cents for 416 million pounds). Second, the cost estimation assumes that all beef

[9] Andrews, L.S., et al. "Food Preservaton Using Ionizing Radiation," *Review of Environmental Contaminant Toxicology*, Vol. 154, 1998, pp. 1–53.

slaughtering/processing plants would ship their products to an independent irradiating facility. To save the shipping costs, it is possible that large slaughter/processing plants might set up their own on-line irradiating facilities, using electron accelerators instead of Cobalt 60. These on-line irradiation facilities are likely to have lower operating costs. For example Morrison (1989) notes that electron accelerators or machine irradiators have significantly declining unit costs at annual throughput between 50 and 100 million pounds, and even between 100 and 200 million pounds. Third, this analysis assumes that only 25 percent of ground beef would be irradiated. Any increase in the irradiation quantity would tend to reduce costs considerably.

Furthermore, because this proposal will allow for the irradiation of numerous meat food products other than ground beef and numerous poultry products which previously could not be irradiated, it is possible that the social and economic benefits of the proposed regulations have been underestimated in this analysis. As stated above, FSIS is aware of industry plans to irradiate several other types of raw meat and poultry products. Again, FSIS requests comments specific to this analysis, as well as any additional relevant data. Using such data, FSIS will develop an expanded cost-benefit analysis for inclusion in a final rule.

Compliance With Regulatory Flexibility Act of 1996

The Administrator has determined that, for the purposes of the Regulatory Flexibility Act (5 U.S.C. 601–612), this proposed rule would not have a significant economic impact on a substantial number of small entities.

Data from the U.S. Bureau of Census, Survey of Industries, 1994, indicate that the beef industry is predominated by small firms and establishments. For example, based on the U.S. Small Business Administration definition of small business by the number of employees (fewer than 500), 96% of 1,226 firms comprising this industry are small. Similarly, 90% of individual meat establishments or plants in this industry are small. In 1994, these small businesses accounted for 19% of total employment in the industry. Their share of payroll was 18% of the total payroll of $2.8 billion and their revenues were 16% of the total revenues of $55.8 billion. FSIS believes that these small businesses would not be affected adversely by the proposed irradiation requirements since the use of irradiation would be voluntary; no meat establishments, large or small, would be required to irradiate their product under this rule.

In the long term, however, these small establishments may start irradiating their products to keep their market shares. In so doing, they may be affected relative to large size establishments because of economies of scale in irradiation. For example, bulk discounts provided by irradiating facilities would be realized mainly by the large size establishments. FSIS requests comment and data regarding the impact of the proposed regulations on small businesses.

Purchase of irradiated ground beef also is voluntary for consumers. Moreover, the estimated impact of the incremental cost of 2 to 6 cents per pound of irradiated ground beef is an insignificant proportion of the approximate price of ground beef, $2 per pound. Above all, the industry would be able to pass through the cost of irradiation to consumers without losing its market share significantly because demand for beef products is very inelastic. Huang (1993) analyzed a group of meats and other animal proteins consisting of products including beef and veal, pork, other meats, chicken, turkey, fresh and frozen fish, canned and cured fish, eggs and cheese. He concluded that price elasticity of demand for this group of products was (−0.3611), i.e., a one percent increase in price for one of these products would reduce demand by only 0.3611 percent.[10]

Review of about a dozen recent studies annotated by William Hahn of the Economic Research Service reveals that estimates of price elasticity of demand for most beef products (ground beef, steak, chuck roast, etc.) is less than one.[11] This implies that demand for beef products is price-insensitive because an increase in price of any one of these products by one percent would result in a decrease in its demand by less than one percent. In short, consumers are unlikely to reduce their demand for beef significantly when beef price is increased by a few pennies a pound. In fact, some consumers may demand irradiated product, even at higher prices per pound. Therefore, the small businesses in this industry are unlikely to be impacted adversely by an increase in price associated with irradiation.

The supply of beef products also is likely to be very price elastic. The high elasticity of supply is attributable to the presence of over 1,200 firms in this industry, 96 percent of whom are small businesses. Any single producer cannot raise prices of its products without losing its market share significantly.

The proposed action would have a negligible economic impact on other small organizations or entities that are not engaged in the business of processing meat and meat products. To the extent that these entities purchase irradiated meat products, they could be impacted somewhat by an increase in price.

Finally, FSIS is proposing to revise the regulatory requirements concerning the irradiation of poultry for consistency with HACCP and with the requirements proposed for meat food products. Significantly, FSIS is proposing to eliminate the minimum dosage requirements, certain packaging requirements, and the requirement that poultry establishments develop and implement PQC's addressing irradiation. All poultry establishments are required to develop and implement HACCP; the costs of HACCP will probably offset any benefits from the elimination of the PQC requirements. However, FSIS assumes that large and small poultry establishments will realize benefits from the reduction in the cost of compliance with some of the packaging requirements and the minimum dosage for irradiated poultry. In addition, the industry will also benefit from the expansion in its market for other poultry products that could be irradiated under this proposal. Consumers also could benefit from the availability of a wider variety of irradiated poultry products.

Executive Order 12898

Pursuant to Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," FSIS has considered potential impacts of this proposed rule on environmental and health conditions in low-income and minority communities.

This proposed rule would allow the use of ionizing radiation for treating fresh or frozen uncooked meat, meat byproducts, and certain meat food products to reduce levels of pathogens. As explained in the economic impact analysis above, the proposed regulations should generally benefit FSIS, the regulated industry, and consumers. The proposed regulations would not require or compel meat or poultry establishments to relocate or alter their

[10] Huang, Kao S., *A Complete System of U.S. Demand for Food*, ERS Technical Bulletin No. 1821, 1993, p. 24.

[11] Hahn, William F., *An Annotated Bibliography of Recent Elasticity and Flexibility Estimates for Meat and Livestock*, Staff Paper, Commercial Agriculture Division, Economic Research Service, July 1996, pp. 1–19.

operations in ways that could adversely affect the public health or environment in low-income and minority communities. Further, this proposed rule would not exclude any persons or populations from participation in FSIS programs, deny any persons or populations the benefits of FSIS programs, or subject any persons or populations to discrimination because of their race, color, or national origin.

Establishments choosing to irradiate meat or meat products would be required to comply not only with FSIS and FDA requirements regarding the safety of irradiated product, but also with NRC, EPA, OSHA, DOT, and State and local government requirements governing the operation of irradiation facilities. Compliance with these requirements would ensure the maintenance of appropriate environmental, worker safety, and public health protections, thus further reducing the probability that this rule would have any disparate impact on low-income or minority communities. FSIS currently is investigating the possibility of developing stronger partnerships with these Federal, State, and local agencies so as to better ensure the maintenance of environmental, worker safety, and public health protections.

Paperwork Requirements

Title: Irradiation of Meat and Poultry Products

Type of Collection: New

Abstract: FSIS has reviewed the paperwork and record keeping requirements in this proposed rule in accordance with the Paperwork Reduction Act. Under this proposed rule, FSIS is requiring several information collection and record keeping activities. FSIS is proposing to require that establishments conduct irradiation of meat and meat products only in accordance with either an HACCP plan, as defined in Part 417 of the FSIS meat and poultry inspection regulations, or a process schedule validated for efficacy by a processing authority (proposed § 318.11(a)). Written irradiation procedures must describe the specific, sequential operations employed by the establishment in the irradiation and associated processing of meat food products, including the control, validation, monitoring, and corrective action activities. FSIS also is proposing to require that establishments implement a dosimetry system to measure the dosage of radiation absorbed by product. FSIS also is requiring that any establishment irradiating meat food products have on file a number of documents as identified in the section "Documentation Requirements." Finally, products irradiated by establishments would need to be properly labeled.

FSIS inspection personnel would initially, and periodically as required, review the records from the process schedule or HACCP plan, the required documentation, and the product labels. FSIS personnel would not evaluate the procedures for efficacy.

Estimate of Burden: FSIS estimates that the development of a HACCP plan or process schedule would take an average of 2 days (16 hours) and 5 minutes to file. FSIS estimates that an establishment will spend about 5 minutes a day developing an average of 8 monitoring records, per HACCP plan or process schedule, and 2 minutes a day filing each record. These monitoring records are highly likely to include records of dosimetry measurements, since establishments that irradiate product will probably select dosimetry as the monitoring step for an irradiation CCP. FSIS estimates that it would take an establishment 30 minutes for the preparation of each of the necessary documents discussed in the "Required Documentation" section of this preamble and about 5 minutes to file each document. FSIS estimates that an establishment would develop about 10 new product labels and each label would be developed in about 2 hours. Because of the elimination of the partial quality control requirements for poultry irradiation, FSIS would request OMB to delete the 60 hours of burden approved for poultry irradiation under the OMB approval number 0583–0090.

Respondents: Meat and poultry product establishments and irradiation facilities.

Estimated Number of Respondents: 10 (this number represents the current number of facilities with the capability to irradiate meat and poultry products).

Estimated Number of Responses per Respondent: 4009.

Estimated Total Annual Burden on Respondents: 2,730 hours.

Copies of this information collection assessment can be obtained from Lee Puricelli, Paperwork Specialist, Food Safety and Inspection Service, USDA, 112 Annex, 300 12th St., SW, Washington DC 20250.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used: (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Lee Puricelli, see address above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Comments are requested by April 26, 1999. To be most effective, comments should be sent to OMB within 30 days of the publication date.

List of Subjects

9 CFR Part 317

Food labeling, Food packaging, Meat inspection, Reporting and recordkeeping requirements.

9 CFR Part 318

Food additives, Food packaging, Meat inspection, Reporting and recordkeeping requirements, Signs and symbols.

9 CFR Part 381

Food labeling, Poultry and poultry products, Reporting and recordkeeping requirements, Signs and symbols.

Accordingly, title 9, chapter III, of the Code of Federal Regulations is proposed to be amended as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

1. The authority citation for part 317 would continue to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

2. Section 317.14 would be added to read as follows:

§ 317.14 Irradiated meat food products.

(a) The labels on packages of meat food products irradiated in their entirety, in conformance with § 318.7(c)(4) of this chapter, must bear the following logo along with a statement such as "Treated with radiation" or "Treated by irradiation." The logo must be placed prominently and conspicuously in conjunction with the required statement. The statement must appear as a qualifier contiguous to the product name. Any label bearing the logo and any wording of explanation with respect to this logo must be approved as required by § 317.4. This

requirement applies only to meat food products irradiated in their entirety, not to multi-ingredient products that merely contain an irradiated ingredient. The logo is as follows:

(b) For meat food products irradiated in their entirety, but not in package form, the required logo and a statement such as "Treated with radiation" or "Treated by irradiation" shall be displayed to the purchaser with either the labeling of the bulk container plainly in view or a counter sign, card, or other appropriate device bearing the information that the product has been treated with radiation. In either case, the information must be prominently and conspicuously displayed to purchasers. This requirement applies only to meat food products irradiated in their entirety, not to multi-ingredient products that merely contain an irradiated ingredient.

(c) The inclusion of an irradiated meat food product ingredient in any multi-ingredient meat food product must be indicated in the ingredient statement on the finished product labeling.

(d) Optional labeling statements about the purpose for radiation processing may be included on the product label in addition to the stated requirements elsewhere in this section. Such statements must not be false or misleading. Statements indicating a specific reduction in microbial pathogens must be substantiated by processing documentation.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCT

3. The authority citation for part 318 would continue to read as follows:

Authority: 7 U.S.C. 138f, 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

4. Section 318.7(c)(4) would be amended by removing the entry for "Sources of radiation" in the chart of substances and adding an entry for "Radiation sources" in alphabetical order, to read as follows:

§ 318.7 Approval of substances for use in the preparation of products.

* * * * *

(c) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amount
*	*	*	*	*
Radiation sources.	Ionizing radiation sources approved in 21 CFR 179.26(a).	For control of food borne pathogens and the extension of shelf-life..	Refrigerated or frozen, uncooked meat, as defined in 9 CFR 301.2(rr); meat byproducts, as defined in 9 CFR 301.2(tt); and other meat food products within the meaning of 9 CFR 301.2(uu), with or without nonfluid seasoning, that are otherwise composed solely of intact or gound meat and/or meat byproducts.	No more than 4.5 kiloGrays (450 kilorads) for refrigerated products and no more than 7 kiloGrays (700 kilorads) for frozen product.
*	*	*	*	*

* * * * *

5. Section 318.11 would be added to read as follows:

§ 318.11 Irradiation of meat food products.

(a) *General requirements.* (1) Meat food products may be treated to reduce food borne pathogens by the use of ionizing radiation as identified in § 318.7(c)(4). Official establishments may irradiate meat food products for food uses only in accordance with § 318.7(c)(4) and the Hazard Analysis and Critical Control Point (HACCP) system requirements in part 417 of this chapter or, if not yet operating under HACCP, in accordance with a process schedule, as defined in § 301.2 of this chapter.

(2) Each process schedule must be approved in writing by a process authority for safety and efficacy. A process authority must have access to the establishment in order to evaluate and approve the safety and efficacy of each process schedule. Under the auspices of a processing authority, an establishment must validate new or altered process schedules by scientifically supportable means, such as information gleaned from the literature or by challenge studies conducted outside the plant.

(b) *Dosimetry.* Official establishments that irradiate meat food products must have the following procedures in place:

(1) Laboratory operation procedures for determining the absorbed dose value from the dosimeter.

(2) Calibration criteria for verifying the accuracy and consistency of any means of measurement (e.g., time clocks and weight scales).

(3) Calibration and accountability criteria for verifying the traceability and accuracy of dosimeters for the intended purpose, and the verification of calibration at least every 12 months. To confirm traceablility, establishments must relate, through documentation, the end point measurement of a dosimeter to recognized standards.

(4) Procedures for ensuring that the product unit is dose mapped to identify the regions of minimum and maximum absorbed dose and such regions are consistent from one product unit to another of like product.

(5) Procedures for accounting for the total absorbed dose received by the product unit (e.g., partial applications of the absorbed dose within one production lot).

(6) Procedures for verifying routine dosimetry (i.e., assuring each production lot receives the total absorbed dose). Each production lot must have at least one dosimeter positioned at the regions of minimum and maximum absorbed dose (or at one region verified to represent such) on at least the first, middle, and last product unit.

(7) Procedures for verifying the relationship of absorbed dose as measured by the dosimeter to time exposure of the product unit to the radiation source.

(8) Procedures for verifying the integrity of the radiation source and processing procedure. Aside from expected and verified radiation source activity decay for radionuclide sources, the radiation source or processing procedure must not be altered, modified, replenished, or adjusted without repeating dose mapping of

product units to redefine the regions of minimum and maximum absorbed dose.

(c) *Documentation.* Official establishments that irradiate meat products must have the following documentation on premises, available to FSIS:

(1) The validated process schedule, if the establishment is not operating under HACCP.

(2) Documentation that the irradiation facility is licensed or possesses gamma radiation sources registered with the Nuclear Regulatory Commission (NRC) or the appropriate State government acting under authority granted by the NRC.

(3) Documentation that the machine radiation source irradiation facility is registered with the Occupational Safety and Health Administration (OSHA) or the appropriate State government acting under authority granted by OSHA, and that a worker safety program addressing OSHA regulations (29 CFR chapter XVII) is in place.

(4) Citations or other documents that relate to incidences in which the establishment was found not to comply with Federal or State agency requirements for irradiation facilities.

(5) A certification by the operator that the irradiation facility personnel would operate under supervision of a person who has successfully completed a course of instruction for operators of food irradiation facilities.

(6) A certification by the operator that the key irradiation personnel have been trained in food technology, irradiation processing, and radiation health and safety.

(7) Guarantees from the suppliers of all food-contact packaging materials that may be subject to irradiation that those materials comply with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*) and with regulations in 21 CFR 179.45 for food irradiation processing.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

6. The authority citation for part 381 would continue to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.18, 2.53.

§ 381.19 [Removed and Reserved]

7. Section 381.19 would be removed and reserved.

8. Section 381.135 would be revised to read as follows:

§ 381.135 Irradiated poultry product.

(a) The labels on packages of poultry food products irradiated in their entirety, in conformance with § 381.147(f)(4), must bear the following logo along with a statement such as "Treated with radiation" or "Treated by irradiation." The logo must be placed prominently and conspicuously in conjunction with the required statement. The statement must appear as a qualifier contiguous to the product name. Any label bearing the logo and any wording of explanation with respect to this logo must be approved as required by subparts M and N of this part. This requirement applies only to meat food products irradiated in their entirety, not to multi-ingredient products that merely contain an irradiated ingredient. The logo is as follows:

(b) For poultry food products irradiated in their entirety, but not in package form, the required logo and a statement such as "Treated with radiation" or "Treated by irradiation" shall be displayed to the purchaser with either the labeling of the bulk container plainly in view or a counter sign, card, or other appropriate device bearing the information that the product has been treated with radiation. In either case, the information must be prominently and conspicuously displayed to purchasers. This requirement applies only to poultry food products irradiated in their entirety, not to multi-ingredient products that merely contain an irradiated ingredient.

(c) The inclusion of an irradiated poultry food product ingredient in any multi-ingredient poultry food product must be indicated in the ingredient statement on the finished product labeling.

(d) Optional labeling statements about the purpose for radiation processing may be included on the product label in addition to the stated requirements elsewhere in this section. Such statements must not be false or misleading. Statements indicating a specific reduction in microbial pathogens must be substantiated by processing documentation.

§ 381.147 [Amended]

9. In § 381.147(f)(4), the entry for "Radiation Sources" in Table 1 would be amended by removing the phrase ", packaged" from the sentence under the "Products" column; and, by revising the sentence under the "Amount" column to read "A maximum absorbed dose of 3.0 kiloGray (300 kilorads).".

10. Section 381.149 would be revised to read as follows:

§ 381.149 Irradiation of poultry products.

(a) *General requirements.* (1) Poultry products may be treated to reduce food borne pathogens by the use of ionizing radiation as identified in § 381.147(f)(4). Official establishments may irradiate poultry product for food uses only in accordance with § 381.147(f)(4) and the Hazard Analysis and Critical Control Point (HACCP) system requirements in part 417 of this chapter, or if not yet operating under HACCP, in accordance with a process schedule, as defined in § 381.1(b).

(2) Each process schedule must be approved in writing by a process authority for safety and efficacy. A process authority must have access to the establishment in order to evaluate and approve the safety and efficacy of each process schedule. Under the auspices of a processing authority, an establishment must validate new or altered process schedules by scientifically supportable means, such as information gleaned from the literature or by challenge studies conducted outside the plant.

(b) *Dosimetry.* Official establishments that irradiate poultry products must have the following procedures in place:

(1) Laboratory operation procedures for determining the absorbed dose value from the dosimeter.

(2) Calibration criteria for verifying the accuracy and consistency of any means of measurement (e.g., time clocks and weight scales).

(3) Calibration and accountability criteria for verifying the traceability and accuracy of dosimeters for the intended purpose, and the verification of calibration at least every 12 months. To confirm traceability, establishments must relate, through documentation, the end point measurement of a dosimeter to recognized standards.

(4) Procedures for ensuring that the product unit is dose mapped to identify the regions of minimum and maximum absorbed dose and such regions are consistent from one product unit to another of like product.

(5) Procedures for accounting for the total absorbed dose received by the product unit (e.g., partial applications of the absorbed dose within one production lot).

(6) Procedures for verifying routine dosimetry (i.e., assuring each production lot receives the total

absorbed dose). Each production lot must have at least one dosimeter positioned at the regions of minimum and maximum absorbed dose (or at one region verified to represent such) on at least the first, middle, and last product unit.

(7) Procedures for verifying the relationship of absorbed dose as measured by the dosimeter to time exposure of the product unit to the radiation source.

(8) Procedures for verifying the integrity of the radiation source and processing procedure. Aside from expected and verified radiation source activity decay for radionuclide sources, the radiation source or processing procedure must not be altered, modified, replenished, or adjusted without repeating dose mapping of product units to redefine the regions of minimum and maximum absorbed dose.

(c) *Documentation.* Official establishments that irradiate poultry products must have the following documentation on premises, available to FSIS:

(1) The validated process schedule, if the establishment is not operating under HACCP.

(2) Documentation showing that the irradiation facility is licensed and/or possesses gamma radiation sources registered with the Nuclear Regulatory Commission (NRC) or the appropriate State government acting under authority granted by the NRC.

(3) Documentation showing that the machine radiation source irradiation facility is registered with the Occupational Safety and Health Administration (OSHA) or the appropriate State government acting under authority granted by OSHA, and that a worker safety program addressing OSHA regulations (29 CFR chapter XVII) is in place.

(4) Citations or other documents that relate to incidences in which the establishment was found not to comply with Federal or State agency requirements for irradiation facilities.

(5) A certification by the operator that the irradiation facility personnel would operate under supervision of a person who has successfully completed a course of instruction for operators of food irradiation facilities.

(6) A certification by the operator that the key irradiation personnel have been trained in food technology, irradiation processing, and radiation health and safety.

(7) Guarantees from the suppliers of all food-contact packaging materials that may be subject to irradiation that those materials comply with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*) and with regulations in 21 CFR 179.45 for food irradiation processing and that the food-contact packaging material is air-permeable, but does exclude moisture and microorganisms from penetrating the package barrier.

Done in Washington, DC on: February 18, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 99–4401 Filed 2–18–99; 3:37 pm]

BILLING CODE 3410–DM–P

FEDERAL RESERVE SYSTEM

12 CFR Part 229

[Regulation CC; Docket No. R–1034]

Availability of Funds and Collection of Checks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is requesting comment on options for amending Subpart C of Regulation CC, which contains rules governing the collection and return of checks. The proposed options would amend Subpart C's provisions on sending notices in lieu of returning the original checks. The proposal is intended to provide more flexibility to depository institutions to experiment with methods to return checks electronically.

DATES: Comments must be submitted on or before April 30, 1999.

ADDRESSES: Comments, which should refer to Docket No. R–1034, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, D.C. 20551. Comments addressed to Ms. Johnson also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP–500 between 9:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Oliver I. Ireland, Associate General Counsel (202/452–3625), Stephanie Martin, Senior Counsel (202/452–3198), Legal Division. For the hearing impaired *only*, contact Diane Jenkins, Telecommunications Device for the Deaf (TDD) (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Background

Subpart C of the Board's Regulation CC (12 CFR Part 229) contains rules governing the collection and return of checks. These rules are intended to expedite the check collection and return process, thereby reducing risk to banks [1] and their customers. Regulation CC was designed to work in accord with the state law check-collection rules in Articles 3 and 4 of the Uniform Commercial Code (U.C.C.), although in some areas the regulation preempts the U.C.C.

When a paying bank decides to return a check, the U.C.C. and Regulation CC require it to send the check or a notice within certain deadlines.[2] If a check is unavailable for return, U.C.C. 4–301(a) allows a paying bank to charge back the check by revoking provisional settlement based on a "notice of dishonor" (or a "notice of nonpayment" where the check is returned for reasons other than dishonor). The U.C.C. would appear to allow a paying bank to return a notice when a check has been truncated. The Official Comment to U.C.C. 4–301 states that an item may be considered unavailable for return if it is retained by the collecting bank in accordance with a bank check retention plan.

Regulation CC (§§ 229.30(f) and 229.31(f)) establishes a "notice in lieu of return," which substitutes for the original check and carries value. The "notice-in-lieu" provisions of Regulation CC provide that the paying (or returning) bank must return the original check unless the check is unavailable, in which case the bank may return a copy of the front and back of the check, or, if no such copy is available, a written notice containing specified information about the check. The Commentary to §§ 229.30(f) and 229.31(f) states that notice in lieu of return is permitted only when a bank does not have and cannot obtain possession of the check or must retain possession of the check for protest. The Commentary explains that a check is not unavailable for return if it is merely difficult to retrieve from a filing system or from storage by a keeper of checks in a truncation system.

[1] In Regulation CC and its Commentary, as well as in this docket, the term "bank" refers to all depository institutions, including commercial banks, savings institutions, and credit unions.

[2] The paying bank must initiate the return by midnight of the banking day following the day the check was presented (U.C.C. 4–301). The paying bank must return the check so that it reaches the depositary bank expeditiously, in accordance with § 229.30(a) of Regulation CC.

Regulation CC (§ 229.37) permits the parties to a check to vary the notice-in-lieu provisions; however, an agreement under Regulation CC cannot affect banks or customers that are not party to the agreement or otherwise bound by it. The Regulation CC variation-by-agreement provision differs from the corresponding language in U.C.C. 4–103 in that the U.C.C. allows Federal Reserve regulations and operating circulars, clearinghouse rules, and the like to be effective as agreements whether or not specifically assented to by all interested parties.[3] Regulation CC does not incorporate the U.C.C.'s special treatment for Federal Reserve rules and operating circulars and clearinghouse rules but does not affect the status of such rules and circulars under the U.C.C.

Private-sector payments system participants have requested that the Board clarify the interrelationship of Regulation CC and the U.C.C. They have questioned whether Regulation CC limits a clearinghouse's ability to bind non-assenting third parties to a check truncation system under which the depositary bank would receive a notice, such as in the form of an electronically-produced check image, in lieu of the return of the original check. These payments system participants stated that resolving uncertainty in this area could lead to greater experimentation and innovation in the provision of payments services.

The Board wishes to support development of new payments services and to take steps to remove any federal regulatory impediments to innovation in the payments area where appropriate. The Board is, therefore, requesting comment on options for amending Regulation CC and/or its Commentary to clarify the permissibility of notices in a check truncation environment instead of return of the actual check. The Board will consider the proposed regulatory changes in light of its statutory authority and responsibilities under section 609 of the Expedited Funds Availability Act (12 U.S.C. 4008(c)) to regulate any aspect of the payment system, including the check collection and return system, in order to carry out the provisions of the Act. The Board will consider the associated benefits and burdens of a regulatory change to the payment system as a whole as well as the implications for each party to a payment transaction affected by the rule. The Board also requests comment on whether there are other options that would be more appropriate than the two discussed below.

[3] The Official Comment to U.C.C. 4–103 (note 3) indicates, however, that there are limitations on the scope of clearinghouse rules' ability to bind non-assenting parties.

Options for Notices in Lieu of Return

The Board is considering two options for amending the Regulation CC provisions on notices in lieu of return. The Board requests comment on the feasibility of these options, whether either of the options would remove impediments to the development of a more efficient payments mechanism, and the advantages and disadvantages of each option to the various participants in the check system, including depositary banks, intermediary banks, paying banks, drawers, depositors, and non-depositor payees.

Option One. One of the purposes of subpart C of Regulation CC was to speed up the check return system that existed under the U.C.C. The U.C.C. contemplates that the paying bank will return a check to the presenting bank, which in turn will charge back the check against the prior collecting bank, and so on back up the forward collection chain until the check reaches the depositary bank. Regulation CC eliminated the requirement that returned checks follow the forward collection chain. Under Regulation CC, the paying bank may send the returned check directly to the depositary bank or to any returning bank, even if that bank did not handle the check for forward collection.

Regulation CC did not prohibit the return of checks back through the forward collection chain, but rather authorized banks to use a more efficient and direct route. Accordingly, one interpretation of Regulation CC is that banks may continue to return checks in accordance with the U.C.C. charge-back rules and the corresponding rules governing when notice may be sent instead of the original check, subject to Regulation CC's expeditious return requirements. Under this interpretation, banks would need to follow the notice-in-lieu provisions of Regulation CC only if they wished to return the check through a route other than the forward collection chain. As noted above, the U.C.C. Official Comment indicates that the U.C.C. would allow return of a notice rather than the physical check in the event the check is being stored in accordance with a check retention system.

The Board could amend the Commentary to reflect this interpretation of the interplay of Regulation CC and the U.C.C. by stating that banks could send a notice of dishonor or nonpayment under the provisions of U.C.C. 4–301 when they return the notice through the forward collection chain, as contemplated in the U.C.C. The U.C.C. notices would be subject to the Regulation CC expeditious return rules. This proposal would clarify that banks can avail themselves of the U.C.C. rules regarding return of notices to the same extent they could before Regulation CC was adopted. This interpretation, however, may not provide relief for check truncation or image systems if returns do not follow the forward collection chain.

This option could also have consequences for the depositors or payees of the checks in that they would receive notices of returns rather than the original checks on a more frequent basis. They may have difficulty recovering from the drawers if they cannot obtain the original checks. Furthermore, despite the fact that the depositary bank could charge back its customer's account based on the notice in accordance with U.C.C. 4–214(a), the customer may, as owner of the check, ultimately have the right to possession of the check.

Option Two. Another approach would be for the Board to delete the Regulation CC Commentary language that explains when a check is unavailable for return. Specifically, the Board could remove the following provisions in the Commentary to §§ 229.30(f) and 229.31(f):

> Notice in lieu of return is permitted only when a bank does not have and cannot obtain possession of the check or must retain possession of the check for protest. A check is not unavailable for return if it is merely difficult to retrieve from a filing system or from storage by a keeper of checks in a truncation system.

Instead of this language, the Commentary to those sections could indicate that notices in lieu of return are permissible whenever they would be permissible under the U.C.C.

The advantage of this option is that it would liberalize the circumstances under which banks could use notices in lieu of return and potentially make it easier for banks to establish electronic check return mechanisms that feature check truncation. The disadvantage of this option is that it would force depositary banks to accept notices from banks with whom they may have no established relationship. Under the U.C.C. charge-back system, banks receive returned checks or notices only from those banks to whom they sent the check for forward collection. Under Regulation CC, a return could come directly from the paying bank or from an unfamiliar returning bank. Banks in the past have expressed concern about the quality of some notices of nonpayment.

Some have stated that they are reluctant to charge back their customers' accounts on the basis of notices of nonpayment but prefer to wait for the return of the original check. Under this option, the return of a notice in lieu of an original check could become more prevalent, and the depositary bank would have to charge back based on that notice, as the original check might never be returned. Notices in the form of an electronically-produced check image, however, may be more reliable than other types of notices that describe the check, depending on the quality of the image. This option could also have consequences for the depositors or payees of the checks as discussed above under option one.

Amendment Regarding Electronic Check Presentment Agreements

The Board is also proposing to delete § 229.36(c) of Regulation CC and its associated Commentary, which states that a bank may present a check electronically under an agreement with the paying bank and that the agreement may not extend return times or otherwise vary the provisions of Regulation CC with respect to persons not party to the agreement. This provision of the regulation is subsumed by the variation-by-agreement provisions in § 229.37, and the Board believes it is unnecessary and potentially confusing to retain special provisions regarding a particular type of variation by agreement. The Board proposes to add an example to the Commentary to § 229.37 listing an electronic check presentment agreement as a permissible variation by agreement under Regulation CC. Eliminating § 229.36(c) and its Commentary would result in no substantive change to the regulation regarding the validity of electronic presentment agreements.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 603) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis, a description of the reasons why action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule, are contained in the supplementary material above. The proposed rules require no additional reporting, recordkeeping, or other compliance requirements and do not overlap with other federal rules. The proposed rule would apply to all depository institutions and other entities who participate in the check collection system, regardless of size. The Board believes that the proposed rule could result in depositary banks (of all sizes) being required to accept more notices in lieu of returned original checks and has requested comment on the burdens associated with that aspect of the proposal. The Board believes, however, that it would not be feasible to create different check return rules for large and small banks, and therefore no alternatives for small banks were considered.

List of Subjects in 12 CFR Part 229

Banks, banking, Federal Reserve System, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 12 CFR Part 229 is proposed to be amended as set forth below:

PART 229—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (REGULATION CC)

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

Authority: 12 U.S.C. 4001 *et seq.*

2. In § 229.36, paragraph (c) is removed and reserved.

Option one

3a. In Appendix E, under section XVI, paragraph F.2. is revised to read as follows:

Appendix E to Part 229—Commentary

* * * * *

XVI. Section 229.30 Paying Bank's Responsibility for Return of Checks

* * * * *

F. * * *

2. Sending a notice in lieu of return in accordance with this section satisfies the requirements of U.C.C. 4–301(a) to send a notice of dishonor or nonpayment. A paying bank could also send a notice in accordance with U.C.C. 4–301(a) (which requires returned checks and return notices to flow back through the forward collection chain) if it did not wish to avail itself of the provisions of this section, provided that the notice met the expeditious return requirements of this section. Reference in the regulation and this commentary to a returned check includes a notice in lieu of return under this section or a notice of dishonor or nonpayment under U.C.C. 4–301(a) unless the context indicates otherwise.

* * * * *

End of Option one

Option two

3b. In Appendix E to part 229, under section XVI, paragraph F. 1. is amended by removing the fifth and sixth sentences and by adding a new sentence after the fourth sentence to read as follows:

XVI. Section 229.30 Paying Bank's Responsibility for Return of Checks

* * * * *

F. * * *

1. * * * This paragraph adopts the standards of U.C.C. 4–301(a) as to when a check is unavailable for return. * * *

* * * * *

3c. In Appendix E, under section XVII, the second and third sentences of paragraph F.1. are removed.

End of Option Two

4. In Appendix E, under section XXII, paragraph C. is removed and reserved.

5. In Appendix E, under section XXIII, a new paragraph C.9. is added to read as follows:

XXIII. Section 229.37 Variations by Agreement

* * * * *

C. * * *

9. A presenting bank and a paying bank may agree that presentment takes place when the paying bank receives an electronic transmission of information describing the check rather than upon delivery of the physical check. (See § 229.36(b).)

* * * * *

By order of the Board of Governors of the Federal Reserve System, February 19, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–4600 Filed 2–23–99; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–98–170]

RIN 2121–AA97

Safety Zone: Port of New York/New Jersey Fleet Week

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish five safety zones in New York Harbor's Upper Bay and the Hudson River that will be activated annually for the Fleet Week Parade of Ships, for Air and Sea demonstrations, and for the arrival or departure of the participating U.S. Navy Aircraft or Helicopter Carrier. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic on a portion of New York Harbor's Upper Bay and the Hudson River.

DATES: Comments must be received on or before April 26, 1999.

ADDRESSES: Comments may be mailed to the Waterways Oversight Branch (CGD01–98–170), Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305, or delivered to room 205 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room 205, Coast Guard Activities New York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant J. Lopez, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4193.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD01–98–170) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, on larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Waterways Oversight Branch at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Intrepid Sea, Air and Space Museum, Manhattan, NY, sponsors the annual Fleet Week Parade of Ships, as well as associated Sea and Air demonstrations. These events take place annually from the Wednesday before Memorial Day to the Wednesday following Memorial Day on the waters of New York Harbor's Upper Bay and the Hudson River. The Coast Guard expects no more than 500 spectator craft for these events.

Parade of Ships

The Coast Guard proposes to establish three safety zones for the actual parade of ships on the Wednesday before Memorial Day. The first proposed zone is a moving safety zone for the Parade of Ships to include all waters 500 yards ahead and astern, and 200 yards on each side of the designed column of parade vessels as the column transits the Port of New York and New Jersey from the Verranzano Narrows Bridge to Riverside State Park on the Hudson River between West 137th and West 144th Streets, Manhattan.

The second zone established for the parade of ships expands from the column of parade vessels east to the Manhattan shoreline between Piers 84 and 90. This expansion gives the public an unobstructed view of the parade of ships from the pierside reviewing stand.

The third zone activates as each vessel leaves the parade of ships and proceeds to its berthing area. The moving safety zone will expand to include all waters within a 200-yard radius of each vessel until it is safely berthed.

These three safety zones are effective annually from 8 a.m. until 5 p.m. on the Wednesday before Memorial Day. They are needed to protect the maritime public from possible hazards to navigation associated with a parade of naval vessels transiting the waters of New York Harbor and the Hudson River in close proximity. These vessels have limited maneuverability and require a clear traffic lane to safely navigate.

Air and Sea Demonstration

The Coast Guard also proposes to establish a safety zone for the Fleet Week Sea and Air demonstrations held on and over the Hudson River between Piers 83 and 90. This proposed safety zone includes all waters of the Hudson River bound by the following points: from the southeast corner of Pier 90, Manhattan, where it intersects the seawall, west to approximate position 40°46′10″N 074°00′13″W (NAD 1983), south to approximate position 40°45′54″N 074°00′25″W (NAD 1983), then east to the northeast corner of Pier 83 where it intersects the seawall. This safety zone is effective annually from 10 a.m. until 5 p.m., Friday through Monday, Memorial Day weekend. It is needed to protect boaters and demonstration participants from the hazards associated with military personnel demonstrating the capabilities of aircraft and watercraft in a confined area of the Hudson River. This safety zone prevents vessels from transiting only a portion of the Hudson River. Marine traffic will still be able to transit through the western 600 yards of the 950-yard-wide Hudson River during the Sea and Air demonstrations. Vessels moored at piers within the safety zone, however, will not be allowed to transit from their moorings without permission from the Captain of the Port, New York, during the effective periods of the safety zone. The Captain of the Port does not anticipate any negative impact on recreational or commercial vessel traffic due to this safety zone.

U.S. Navy Vessel Departure

Finally, the Coast Guard proposes to establish a moving safety zone for the departure of the participating U.S. Navy Aircraft or Helicopter carrier in this annual event. This proposed safety zone includes all waters 500 yards ahead and astern, and 200 yards on each side of the vessel as it transits the Port of New York and New Jersey from its mooring at the Intrepid Sea, Air and Space Museum, Manhattan, to the COLREGS Demarcation line at Ambrose Channel Entrance Lighted Bell Buoy 2 (LLNR 34805). The proposed regulation is effective annually, on the Wednesday following Memorial Day. Departure time is dependent on tide, weather, and granting of authority for departure by the Captain of the Port, New York. The proposed safety zone is needed to protect the maritime public from possible hazards to navigation associated with a large naval vessel transiting the Port of New York and New Jersey with limited maneuverability in restricted waters. It provides a clear traffic lane for the U.S. Navy ship to safely navigate from its berth. The specific ship which this moving safety zone applies to will be published in the Local Notice to Mariners and broadcast via marine information broadcasts and facsimile before the start of Fleet Week events.

Discussion of Proposed Rule

The new safety zones are being proposed to provide for the safety of life on navigable waters during the event, to give the marine community the opportunity to comment on the exclusion areas, and to decrease the amount of annual paperwork required for this event.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of

Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Although this regulation prevents traffic from transiting a portion of New York Harbor's Upper Bay and the Hudson River during the event, the effect of this regulation will not be significant for the following reasons: the regulations will be in effect for barely a week a year; the maritime community will receive extensive advance notice through Local Notices to Mariners, facsimile, and marine information broadcasts; Fleet Week is an annual event with local support; at no time will any of the affected waterways be entirely closed to marine traffic; alternative routes are available for commercial and recreational vessels that can safely navigate the Harlem and East Rivers, Kill Van Kull, Arthur Kill, and Buttermilk Channel; and similar safety zones have been established for several past Fleet Week parades and Sea and Air demonstrations with minimal or no disruption to vessel traffic or other interests in the port. These safety zones have been narrowly tailored to impose the least impact on maritime interests yet provide the level of safety deemed necessary.

Small Entities

Under the regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For the reasons stated in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in the aggregate of $100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that, from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected. No state, local, or tribal government entities will be affected by this rule, so this rule will not result in annual or aggregate costs of $100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

Proposed Regulation

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Add § 165.163 to read as follows:

§ 165.163 Safety Zones; Port of New York/ New Jersey Fleet Week.

(a) The following areas are established as safety zones:

(1) Safety Zone A:

(i) *Location.* A moving safety zone for the Parade of Ships including all waters 500 yards ahead and astern, and 200 yards on each side of the designated column of parade vessels at it transits the Port of New York and New Jersey from the Verrazano Narrows Bridge to Riverside State Park on the Hudson River between West 137th and West 144th Streets, Manhattan.

(ii) *Enforcement period.* Paragraph (a)(1)(i) of this section is enforced annually from 8 a.m. until 5 p.m. on the Wednesday before Memorial Day.

(2) Safety Zone B:

(i) *Location.* A safety zone including all waters of the Hudson River between Piers 84 and 90, Manhattan, from the parade column east to the Manhattan shoreline.

(ii) *Enforcement period.* Paragraph (a)(2)(i) of this section enforced annually from 8 a.m. until 5 p.m. on the Wednesday before Memorial Day.

(3) Safety Zone C:

(i) *Location:* A moving safety zone including all waters of the Hudson River within a 200-yard radius of each parade vessel upon its leaving the parade of ships until it is safely berthed.

(ii) *Enforcement period.* Paragraph (a)(3)(i) of this section enforced annually from 8 a.m. until 5 p.m. on the Wednesday before Memorial Day.

(4) Safety Zone D:

(i) *Location.* A safety zone including all waters of the Hudson River bound by the following points: from the southeast corner of Pier 90, Manhattan, where it intersects the seawall, west to approximate position 40°46′10″ N 074°00′13″ W (NAD 1983), south to approximate position 40°45′54″ N 074°00′25″ W (NAD 1983), then east to the northeast corner of Pier 83 where it intersects the seawall.

(ii) *Enforcement period.* Paragraph (a)(4)(i) of this section is enforced annually from 10 a.m. until 5 p.m., from Friday through Monday, Memorial Day weekend.

(5) Safety Zone E:

(i) *Location.* A moving safety zone including all waters 500 yards ahead and astern, and 200 yards on each side

of the departing U.S. Navy aircraft or Helicopter Carrier as it transits the Port of New York and New Jersey from its mooring at the Intrepid Sea, Air and Space Museum, Manhattan, to the COLREGS Demarcation line at Ambrose Channel Entrance Lighted Bell Buoy 2 (LLNR 34805).

(ii) *Endorcement period.* Paragraph (a)(5)(i) of this section enforced annually on the Wednesday following Memorial Day. Departure time is dependent on tide, weather, and granting of authority for departure by the Captain of the Port, New York.

(b) *Effective period.* This section is effective annually from 8 a.m. on the Wednesday before Memorial Day until 4 p.m. on the Wednesday following Memorial Day.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: February 11, 1999.

R.E. Bennis,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 99–4590 Filed 2–23–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6303–9]

Massachusetts: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to grant final authorization to the Commonwealth of Massachusetts for revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Massachusetts' program revisions address two rules promulgated by the Environmental Protection Agency: the Toxicity Characteristics (TC) Rule of March 29, 1990 (55 FR 11748) which was promulgated under the authority of the Hazardous and Solid Waste Amendments (HSWA) to RCRA and subsequent revisions to that rule which are contained in HSWA Cluster II, RCRA Cluster I and RCRA Cluster III; and the Universal Waste Rule (UWR) of May 11, 1995 (60 FR 25492) which is contained in RCRA Cluster V. The EPA has reviewed The Commonwealth of Massachusetts' application and has made a decision, subject to public review and comment. The Agency finds that the State's hazardous waste program revisions, except for a provision which relates to the Toxicity Rule and exempts intact Cathode Ray Tubes (CRTs) from hazardous waste regulation, satisfy all of the requirements necessary to qualify for final authorization. Thus, the EPA is proposing to approve the authorization of Massachusetts for the TC Rule for all wastes other than CRTs, and disapprove the rule as it applies to or gives the state federally delegated authority over CRTs. The EPA also is proposing to approve the authorization of Massachusetts for the UWR. The rationale and specific provisions for which EPA is recommending Massachusetts be authorized are provided in Section B of this notice. Massachusetts' application for program revision is available for public review. EPA will respond to public comments in a later final rule based upon this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action should do so at this time. The proposal approvals (and partial disapproval) of Massachusetts' program revisions shall become effective as specified when the Regional Administrator's final decisions are published in the **Federal Register**.

DATES: Written comments must be received by March 26, 1999.

ADDRESSES: Copies of the Commonwealth of Massachusetts' revision application and the materials which EPA used in evaluating the revision (the "Administrative Record") are available for inspection and copying during normal business hours at the following addresses: Massachusetts Department of Environmental Protection Library, One Winter Street—2nd Floor, Boston, MA 02108, business hours: 9:00 a.m. to 5:00 p.m., Telephone: (617) 292–5802 and EPA Region I Library, One Congress Street—11th Floor, Boston, MA 02114–2023, business hours: 8:30 a.m. to 5:00 p.m., Telephone: (617) 918–1990. Send written comments to Robin Biscaia at the address below.

FOR FURTHER INFORMATION CONTACT: Robin Biscaia, EPA Region I, One Congress Street, Suite 1100 (CHW), Boston, MA 02114–2023; Telephone: (617) 918–1642.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) Parts 124, 260 through 266, 268, 270, 273 and 279.

B. Massachusetts

The Commonwealth of Massachusetts initially received Final Authorization on January 24, 1985, effective February 7, 1985 (50 FR 3344) to implement its base hazardous waste management program. On January 8, 1998, Massachusetts submitted a final program revision application relating to the Satellite Accumulation Rule, UWR and TC Rule seeking authorization of its program revision in accordance with 40 CFR 271.21. The EPA reviewed Massachusetts' application, and on September 30, 1998 authorized Massachusetts to implement the Satellite Accumulation Rule as part of its hazardous waste management program, effective November 30, 1998 (63 FR 52180). In that notice, EPA noted that it was deferring a decision on the TC Rule and the UWR pending resolution of an issue. The issue relates to EPA's concerns regarding the way in which CRTs are presently regulated by Massachusetts as a result of a recent amendment to its hazardous waste regulations. Although EPA and the State have not agreed upon a mutually satisfactory regulatory approach to CRTs, the EPA is now proposing to authorize the State for the UWR and for the TC Rule except as it relates to CRTs.

The TC Rule was promulgated on March 29, 1990 (55 FR 11748) and refines and expands EPA's Extraction Procedure (EP) Toxicity Characteristics Rule promulgated on May 19, 1980 (49 FR 33084). On May 11, 1995 (60 FR 25492) EPA promulgated the UWR which contains new streamlined hazardous waste management regulations governing the collection and

management of certain widely generated wastes (batteries, pesticides and thermostats) known as universal wastes. In addition, the regulation contains a provision for a petition process through which additional wastes can be added.

Upon initial review of Massachusetts' regulations submitted in this revision application regarding the TC Rule and UWR on January 8, 1998 (see "Analogous State Authority" in the table below), EPA had determined that the State's regulations analogous to the TC Rule and UWR were equivalent to, no less stringent than and consistent with the Federal program. The reasons for these determinations are set forth in the EPA's Administrative Record, which is available for public review. However, the State later proposed and adopted a rule which amends the way in which it regulates CRTs. See 310 CMR 30.104(21). For the reasons also set forth in EPA's Administrative Record and summarized later below, the EPA has determined that this provision is not equivalent to, and is less stringent than, the Federal program.

The specific RCRA program revisions for which EPA intends to authorize the Commonwealth of Massachusetts are listed in the table below. The Federal requirements in the table are identified by their checklist numbers and rule descriptions. The following abbreviations are used in defining analogous state authority: MGL = Massachusetts General Laws; CMR = Code of Massachusetts Regulations.

Description of Federal requirement and checklist reference No.	Analogous State authority [1]
Consolidated Checklist for the Toxicity Characteristic Revisions as of June 30, 1994 (74) Toxicity Characteristic Revisions: 55 FR 11798, 3/29/90 as amended on 6/29/90 55 FR 26986; (80) Hydrocarbon Recovery Operations: 55 FR 40834, 10/5/90 as amended on 2/1/91, 56 FR 3978 as amended on 4/2/91, 56 FR 13406, optional rule (MA is not seeking authorization for this provision); (84) Chlorofluoro Refrigerants: 56 FR 5910, 2/13/91, optional rule, (MA is not seeking authorization for this provision); (108) Toxicity Characteristics Revision; Technical Correction: 57 FR 30657, 7/10/92; (117B) Toxicity Characteristic Revision: 57 FR 23062, 6/1/92, (correction not applicable; MA is not seeking authorization for this provision); (119) Toxicity Characteristic Revision, TCLP: 57 FR 55114, 11/24/92, optional rule (MA is not seeking authorization for this provision).	MGL c 21C §§ 4 and 6, enacted 11/9/79; 310 CMR 30.099(25) adopted 11/9/90, 30.104(13) adopted 10/17/97, 30.105 adopted 11/17/95, 30.125B adopted 11/9/90, 30.130 adopted 11/9/90, and 30.155B adopted 11/9/90 and amended 10/17/97. (The Massachusetts regulatory citations above are proposed for approval except as they relate to CRTs.)
Universal Waste Rule Checklists 142 A–E (142A) Universal Waste Rule: General Provisions, 60 FR 25492–25551, 5/11/95; (142B) Universal Waste Rule: Specific Provisions for Batteries, 60 FR 25492–25551, 5/11/95; (142C) Universal Waste Rule: Specific Provisions for Pesticides, 60 FR 25492–25551, 5/11/95; (142D) Universal Waste Rule: Specific Provisions for Thermostats, 60 FR 25492–25551, 5/11/95; (143E) Universal Waste Rule: Petition Provisions to Add a New Universal Waste, 60 FR 25492 25492–25551, 5/11/95;	MGL c 21C §§ 4 and 6, enacted 11/9/79 and MGL c 21E § 6, enacted July 20, 1992; 310 CMR 30.010, 30.130, 30.143(2), 30.340(1), 30.351(2)(b)6 and 30.351(3), 30.353(2)(b)5 and 30.353(3), 30.392(8), 30.393(6), 30.501(2)(e), 30.601(2)(e), 30.801(14), and 30.1000 adopted on 10/17/97.

[1] The Commonwealth of Massachusetts' provisions are from the Code of Massachusetts Regulations, 310 CMR 30.000, Hazardous Waste Regulations, adopted October 17, 1997.

The specific State regulation for which EPA intends *not* to authorize the Commonwealth of Massachusetts falls under 310 CMR 30.104, "Wastes Not Subject 310 CMR 30.000." Specifically, EPA is proposing to disapprove 310 CMR 30.104(21) which identifies intact CRTs as a waste not subject to Massachusetts' hazardous waste regulations. EPA is also proposing to limit its approval of the State's TC Rule regulations to all wastes except CRTs.

There are aspects of Massachusetts' program which are more stringent or broader in scope than the federal program as noted below.

With regard to the TCLP test under the TC Rule (40 CFR Part 261, Appendix II, 8.2, 8.4 and 8.5), the quality assurance/quality control procedures in the State's TCLP test are more stringent than the analogous federal procedures (310 CMR 30.155B(10)(b), (d) and (e)).

With regard to the UWR, under the provisions of the State's UWR program, there are several differences related to the way in which universal wastes are regulated. First, as allowed by EPA's UWR (40 CFR part 273, Subpart G), the State program includes additional waste streams; i.e., mercury-containing devices and mercury containing lamps are included as universal wastes (310 CMR 30.1081). The inclusion of these additional wastes, however, is viewed as equivalent to the federal rule rather than broader in scope (or less stringent) as the federal rule allows a petition process by which additional wastes may be added. Massachusetts has adopted a rulemaking process rather than a petition process to include additional wastes under its universal waste program, a provision the EPA also considers equivalent.

Another difference between the federal and State UWR programs is the state closure requirement (310 CMR 30.1033(4), 30.1043(5) and 30.1061). The state includes a provision which specifies that handlers who cease operations shall comply with state closure requirements at 310 CMR 30.689, which require removal of waste and site decontamination. This provision covers all of the State's universal wastes (including batteries).

Related to the coverage of batteries under the UWR, Massachusetts, as required by The Mercury-Containing and Rechargeable Battery Management Act of May 13, 1996 ("The Battery Act"), (Pub L. 104–142), has implemented state requirements governing the collection, storage and transportation of batteries which are identical to EPA's UWR requirements. There are differences from the federal requirements regarding how Massachusetts regulates batteries, but the EPA has determined that they do not

concern the "collection, storage or transportation" of batteries, where the State is required to be identical. For example, the EPA has determined that the State's requirement regarding site closure (described above) is not within what is preempted by the Battery Act. The differences, and the reasons why the EPA has determined that there is no preemption, are set forth in the EPA's Administrative Record, which is available for public review.

For universal wastes other than batteries, the State has adopted requirements more stringent than the federal program. For example, 310 CMR 30.1043(a) (b) requires large quantity handlers of universal waste to notify the State of their universal waste activity even though they may have previously provided notification for hazardous waste activity; the federal requirement does not require such re-notification. Also, 310 CMR 30.1033(3) requires small quantity generators to submit a change of status request in anticipation of accumulating 5,000 kg or more of universal waste; there is no such federal requirement. Also, Massachusetts regulations do not allow transfer facilities (except for batteries) as defined in 40 CFR 273.6. Also, under the federal UWR program, ampules removed from thermostats are subject to the less restrictive UWR management standards unless they are leaking and exhibit a characteristic of hazardous waste, in which case they must be managed in accordance with EPA's hazardous waste requirements (40 CFR Part 273, §§ 273.13(c)(3) and 273.33(c)(3)). Massachusetts requires that ampules, once removed from thermostats be fully regulated as a hazardous waste (310 CMR 30.1034(3)(b)(7)).

There are also aspects of Massachusetts' UWR program which are considered broader in scope when compared to the federal program, such as the State provision which requires dismantling/crushing operations of small and large quantity generators who recycle crushed fluorescent bulbs to obtain a State recycling permit (310 CMR 30.1034(5)(c)(2) and 30.1044(5)). There is no federal permitting requirement for recycling activities per se, although storage prior to recycling could trigger the federal Part B permit requirements of 40 CFR Part 264.

The State UWR program also has a provision regarding the household hazardous waste collection events in which universal wastes may be collected (310 CMR 30.392(8) and 30.393(6)). The regulation of this event is a broader-in-scope provision as there is no analogous federal component. However, the EPA also has determined that these State provisions (insofar as they cover universal wastes) do not result in the State program being non-equivalent to the federal program under RCRA or non-identical under The Battery Act.

Cathode Ray Tubes (CRTs)

As noted above, the EPA is proposing to disapprove 310 CMR 30.104(21), which excludes intact Cathode Ray Tubes (CRTs) from all hazardous waste regulation under the Massachusetts RCRA program. Pursuant to 40 CFR 271.1(g), Massachusetts is required to operate a state RCRA program that "at all times [is] conducted in accordance with the requirements of this subpart." As Massachusetts has adopted a regulation which does not meet the requirements of 40 CFR part 271, subpart A, the EPA is proposing to disapprove that regulation. In addition, the EPA is proposing to limit its approval of the State's TC Rule to all wastes other than CRTs. The TC Rule is the rule which gives States regulatory authority over "TC wastes" (i.e., wastes which passed the earlier EP Toxicity hazardous waste test but which now fail the TC Rule's TCLP test), such as many CRTs. *See* 55 FR 11793 (March 29, 1990). By limiting its approval of the Massachusetts TC rule to all wastes other than CRTs, the EPA will make clear that it is not granting Massachusetts any federal regulatory authority with respect to CRTs that are "TC" wastes. By also disapproving the State CRT regulation itself, the EPA will make clear that the Massachusetts' approach is not federally authorized for any CRTs (whether they are considered a "TC" waste or a waste that was hazardous even prior to the "TC" Rule).

The reasons for the proposed disapprovals are that the Massachusetts regulation is not equivalent to or as stringent as the corresponding federal requirements. That is, under 310 CMR 30.104(21), intact CRTs are not considered a hazardous waste and are not subject to any hazardous waste requirements even if they fail the TCLP test. CRTs which have become wastes (e.g., by being discarded or by being sent for recycling) and which fail the TCLP test are federal hazardous wastes under 40 CFR part 261. Thus, the Massachusetts regulation violates the requirement of 40 CFR 271.9(a) that "[t]he State program must control all the hazardous wastes controlled under 40 CFR part 261. * * *" EPA's further legal analysis including responses to arguments advanced by the State as to how its regulation is "equivalent" are set forth in the Administrative Record, which is available for public review.

The EPA also has identified environmental problems raised by the Massachusetts regulation, which are further discussed in the Administrative Record. In particular, the EPA is concerned that Massachusetts has exempted intact CRTs from all hazardous waste requirements whether or not they are sent for recycling. EPA approval of the Massachusetts regulation could create loopholes, eliminating any federal RCRA enforcement authority regarding intact CRTs, even if an entity engaged in activities such as unauthorized shipments to third world countries or midnight dumping.

The effect of the proposed disapprovals will be that full federal RCRA requirements will remain in effect in Massachusetts with respect to CRTs (intact or otherwise) which are hazardous wastes under the federal TC Rule. The federal requirements will be federally enforceable notwithstanding the existence under State law of less stringent State requirements. The proposed disapproval is unfortunate in that the EPA agrees that partial deregulation of CRTs being sent for bona-fide recycling may well be appropriate under RCRA. The EPA stands ready to consider partial deregulation approaches in Massachusetts such as a conditional exemption of CRTs being sent for recycling or inclusion of CRTs under the State's Universal Waste Rule. Given the current choice of either full RCRA regulation or total deregulation of intact CRTs, however, disapproval of the State's approach is the EPA's only legal option.

Finally, the EPA has determined that it may at this time limit its disapproval to only the State CRT requirements and nevertheless approve the Universal Waste Rule and the rest of the TC Rule. The State meets the federal requirements with respect to wastes other than CRTs, and there are significant environmental advantages in updating the State's program. In particular, the State's Universal Waste Rule contains important measures which will encourage the recycling of other "TC" wastes such as fluorescent bulbs. The EPA recognizes that "[p]artial State programs are not allowed for [State] programs operating under RCRA final authorization." 40 CFR 271.1(h). However, the EPA does not interpret its regulation as ruling out approvals of some parts of a State program before others. At this time, the EPA believes the best course of action is to approve the parts of the Massachusetts program not affected by the CRT issue while continuing to work

with the State to achieve a State approach equivalent to federal requirements with respect to CRTs.

Status of Federal Permits

EPA will suspend the further issuance of RCRA and HSWA permits in the Commonwealth of Massachusetts for those provisions for which the State receives final authorization on the effective date of this authorization.

EPA will retain lead responsibility for the issuance, administration, and enforcement of HSWA provisions in the Commonwealth of Massachusetts for which the State has not received authorization. In addition, EPA will continue to administer and enforce any RCRA and HSWA permits, or portions of permits, it has issued in Massachusetts until the State, after receiving authorization for those provisions, issues permits for these facilities which are equivalent to the federal permits, or until the State incorporates the terms and conditions of the federal permits into the State RCRA permits in accordance with its authorized program.

Massachusetts has not sought the authority to operate the RCRA program in any Indian country and is not authorized by the Federal government to operate the RCRA program in Indian country.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. 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, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, 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, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local or tribal governments and the private sector already exist under the Commonwealth of Massachusetts' program (or with respect to regulation of CRTs, under the federal program), and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not cover duties arising from voluntary participation in a federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and already are subject to direct federal regulation of CRTs, thus, they will not be subject to any additional significant or unique requirements by virtue of this action.

Certification Under the Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), when an agency is required to publish a notice of rulemaking for any proposed or final rule, it generally must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator (or her delegee) certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this action will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA (and to the federal laws with respect to CRTs). The EPA's action does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866.

Compliance With Executive Order 12875

Under Executive Order 12875, EPA must follow certain procedures before issuing a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of

regulatory proposals containing significant unfunded mandates."

This rule does not create any mandate on State, local or tribal governments beyond those required by the RCRA and Battery Act statutes. The State administers its hazardous waste program voluntarily, and any duties on other State, local or tribal governmental entities arise from that program, not from today's action. Accordingly, the requirements of Executive Order 12875 do not apply to this rule.

Compliance With Executive Order 13045

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," applies to any rule that: (1) the Office of Management and Budget determines is "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not concern environmental health or safety risks that the EPA has reason to believe may have a disproportionate effect on children. Rather, this rule simply applies previously established health and safety requirements with respect to the Massachusetts state RCRA program.

Compliance With Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This rule is not subject to E.O. 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community beyond what is already required under Massachusetts or federal law.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub L. No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards covered by voluntary consensus standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 272

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: February 2, 1999.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 99–3995 Filed 2–23–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 107, 171, 172, 173, 177, 178 and 180

[Docket No. RSPA–98–3684(HM–220)]

RIN 2137–AA92

Hazardous Materials: Requirements for DOT Specification Cylinders; Announcement of Public Working Meetings

AGENCY: Research and Special Programs Administration (RSPA) DOT.

ACTION: Proposed rule; notice of meetings.

SUMMARY: RSPA wishes to advise the interested public that a series of meetings will be held to discuss proposals contained in a notice of proposed rulemaking (NPRM) to revise the cylinder requirements contained in the Hazardous Materials Regulations (HRM). The NPRM was published in the **Federal Register** of October 30, 1998, under RSPA Docket No. 3684 (HM–220).

DATES: The dates for these meetings are April 13, 14 and 15. The meetings will be held from 9:00 a.m. to 4:00 p.m. but may end earlier.

ADDRESSES: All meetings will be held in Room 3200–3204 at the U.S. Department of Transportation's Nassif Building, 400 7th Street SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Cheryl Freeman, telephone number (202) 366–4545, Office of Hazardous Materials Technology, or Hattie Mitchell, telephone number (202) 366–8553, Office of Hazardous Materials Standards, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: On October 30, 1998 (63 FR 58460), RSPA published an NPRM in the **Federal Register** under RSPA Docket No. 3684 (HM–220). RSPA proposes in the NPRM to amend the HMR (49 CFR Parts 171–180) to establish four new DOT cylinder specifications and to revise the requirements for maintenance, requalification, and repair of all DOT specification cylinders. In addition, RSPA proposes to revise the

requirements for approval of cylinder requalifiers, independent inspection agencies, and nondomestic chemical analysis and tests; to revise the cylinder requalification, maintenance and repair requirements in Part 173 and to transfer these requirements to new subpart C of Part 180; and to revise the commodity authorization requirements in Part 173.

RSPA held public meetings to discuss the proposals on December 8, 1998 (63 FR 58460, October 30, 1998), and January 28, 1999 (63 FR 72224, December 31, 1998), in Washington, DC. Because of the broad scope and technical complexity of the proposals, RSPA is holding three additional public meetings to discuss certain proposals contained in the NPRM. These meeting will not be recorded.

The topics for discussion at the meetings are as follows:

A. April 13, 1999:

1 Applicability and design criteria for all metric-marked DOT specification cylinders (§ 178.69).

2. Welded cylinder specification (§ 178.81; DOT 4M).

B. April 14, 1999:

1. Seamless cylinder specifications (§§ 178.70–178.73; DOT 3M, 3FM, 3ALM).

C. April 15, 1999:

1. Requalification (Part 180, Subpart C).

2. Pressure relief devices.

3. Commodity authorizations and usage requirements (§§ 173.301–173.304(b)).

The meetings' agenda will be available on the Internet at the website: *http://hazmat.dot.gov/rulemake.htm#nprm* at least two weeks prior to the meetings.

Issued in Washington DC on February 18, 1999.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 99–4515 Filed 2–23–99; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 177, 178, 180

[Docket No. RSPA–97–2718 (HM–225A)]

RIN 2137–AD07

Hazardous Materials: Safety Standards for Preventing and Mitigating Unintentional Releases During the Unloading of Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Negotiated rulemaking committee meeting; cancellation.

SUMMARY: This document announces cancellation of a negotiated rulemaking advisory committee meeting scheduled for March 2–3, 1999. The meeting would have dealt with recommendations for alternative safety standards for preventing and mitigating unintentional releases of hazardous materials during the unloading of cargo tank motor vehicles in liquefied compressed gas service. This document is issued in accordance with the provisions of the Federal Advisory Committee Act. Scheduling of any future committee meetings will be announced in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jennifer Karim or Susan Gorsky, (202) 366–8553, Office of Hazardous Materials Standards, Research and Special Programs Administration, Department of Transportation. Facilitator: Philip J. Harter, The Mediation Consortium, (202) 887–1033.

SUPPLEMENTARY INFORMATION: On January 4, 1999 (64 FR 70), RSPA published in the **Federal Register** a document announcing the cancellation of a January 6–7, 1999 meeting and the addition of meetings on February 2–4, 1999 and March 2–3, 1999. However, during the February 2–4, 1999 meeting, the Committee agreed to cancel the March 2–3, 1999 meeting to give RSPA an opportunity to publish a notice of proposed rulemaking (NPRM) and to receive comments on the proposals. The purpose of this document is to announce the cancellation of the March 2–3, 1999 meeting.

This Committee has been established to develop recommendations for alternative safety standards for preventing and mitigating unintentional releases of hazardous materials during the unloading of cargo tank motor vehicles in liquefied compressed gas service. Meeting summaries and other relevant materials are placed in the public docket and can be accessed through (http://dms.dot.gov).

Issued in Washington, D.C., on February 19, 1999, under authority delegated in 49 CFR Part 1.

Edward T. Mazzullo,

Director, Office of Hazardous Materials Standards, Research and Special Programs Administration.

[FR Doc. 99–4518 Filed 2–23–99; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–99–5114]

RIN 2127–AH31

Federal Motor Vehicle Safety Standards: Light Vehicle Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Termination of rulemaking.

SUMMARY: This action terminates rulemaking initiated by the agency's granting of a petition for rulemaking submitted by the American Automobile Manufacturers Association (AAMA) concerning the Federal motor vehicle safety standard on light vehicle brake systems. The standard currently uses data from the cold effectiveness tests to establish performance levels for the "hot performance" and "recovery performance" test requirements. AAMA requested use of a different procedure for establishing these performance levels, which would be based on three new constant deceleration stops.

The agency has decided to terminate this action because the procedures AAMA requested would not assess the effect of heat on light vehicle braking systems any more accurately or repeatably than the procedures currently specified in the standard. In addition, the procedures currently specified in the standard are presently harmonized with the procedures in the counterpart standard established by the United Nation's Economic Commission for Europe (ECE) for light vehicle brake systems. Absent sufficient safety reason to change the existing procedure, and considering that such a change would move NHTSA's standards away from harmony with the ECE standards, the agency has decided to terminate its consideration of the requested change.

FOR FURTHER INFORMATION CONTACT:
For technical issues: Mr. Samuel Daniel, Jr., Safety Standards Engineer, Office of Crash Avoidance Standards, Vehicle Dynamics Division, 400 Seventh Street, SW, room 5307, Washington, DC 20590; telephone (202) 366–2720; fax (202) 493–2739.
For legal issues: Mr. Walter Myers, Attorney-Advisor, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW, room 5219, Washington, DC 20590; telephone (202) 366–2992; fax (202) 366–3820.

SUPPLEMENTARY INFORMATION:

A. Background

1. Regulatory History

On February 2, 1995, NHTSA published in the **Federal Register** (60 FR 6411) a final rule establishing Federal Motor Vehicle Safety Standard No. 135, *Passenger car brake systems.* This new standard replaced Standard No. 105, *Hydraulic and electric brake systems,* insofar as it applied to passenger cars.

On September 30, 1997, the agency published in the **Federal Register** (62 FR 51064) a final rule extending the new standard to trucks, buses and multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of 3,500 kilograms (7,719 pounds) or less. The name of the standard is now Standard No. 135, *Light vehicle brake systems.*

Standard No. 135 resulted from the agency's efforts to harmonize its hydraulic brake standard with ECE standards. The agency believed that the new standard would promote the goal of international harmonization while remaining consistent with the statutory mandate to ensure motor vehicle safety.

Among other requirements, the new standard specifies a "cold effectiveness" test which is intended to test the vehicle's ability to come to a quick, controlled stop with all braking systems functional, simulating emergency stopping in real-world driving. In this test, the vehicle is required to stop within 70 meters from a speed of 100 km/h with a brake pedal force that does not exceed 500 Newtons. Six "best-effort" stops are performed for this test; in at least one of the six stops, the vehicle must meet the 70-meter stopping distance requirement.

The standard also requires a "hot performance" and a "recovery performance" test sequence. The purpose of these tests is to ensure adequate braking capability during and after exposure to the high brake temperatures caused by prolonged or severe use. Examples of such severe use include mountain descents and severe stop-and-go driving. Heat affects the performance of the foundation brake system components, often resulting in longer stopping distances.

The hot performance test specifies a percentage limit on degradation from the performance achieved in the cold effectiveness test. This controls the amount of reduction in performance that a vehicle experiences when the brakes are heated.

The recovery performance test places both lower and upper limits on the difference between the stopping distance achieved after several normal brake applications immediately following the hot performance test and the distance achieved in the cold effectiveness test. The lower limit controls the amount of degradation, while the upper limit ensures that brakes do not become too sensitive when heated and "over-recover."

As noted above, the stopping performance for both the hot stop and recovery performance tests is based on the performance achieved in the cold effectiveness test. The average pedal force used during the cold effectiveness test establishes the allowable average pedal force (and thus the stringency) for the hot performance test and the recovery performance test. S7.14 of Standard No. 135, *Hot Performance,* requires a vehicle with heated brakes to be capable of achieving at least 60 percent of the deceleration obtained during the best cold effectiveness stop, with an average pedal force that does not exceed the average pedal force recorded during that cold effectiveness stop. S7.16, *Recovery Performance,* requires the vehicle to be capable of achieving between 70 percent and 150 percent of the deceleration obtained during the best cold effectiveness stop, with an average pedal force that does not exceed the average pedal force used during that cold effectiveness stop.

2. AAMA Petition

The AAMA submitted a petition for rulemaking requesting that NHTSA amend Standard No. 135 to add 3 constant deceleration stops at the beginning of the thermal test sequence to establish baseline performance for the hot and recovery tests, rather than using the results of the current cold effectiveness test to establish such baseline performance.

In its petition, AAMA noted that General Motors (GM) had previously requested an interpretation from the agency concerning "the pedal force that may or must be used during cold effectiveness testing of ABS [antilock brake systems] equipped vehicles for purposes of establishing allowable pedal force for thermal testing." In its May 16, 1996 response, NHTSA stated:

> We anticipate that test drivers will utilize a variety of pedal forces during the six cold effectiveness stops in an effort to achieve the shortest possible stopping distance consistent with the test procedures. The average pedal force that resulted in the shortest stopping distance of these six tests would be used to ascertain compliance with the thermal and recovery performance requirements under S7.14 and S7.16. If, as you suggest, the shortest distance can be achieved at more than one average pedal force level (e.g., if the ABS cycles at a variety of pedal forces below 500 Newtons, or the test driver is able to modulate braking forces to avoid wheel lock while matching the stopping performance of the ABS system), the vehicle must be capable of satisfying the thermal and recovery performance requirements at all such average pedal force levels.

In a subsequent meeting with the agency, GM indicated that it believed it is impractical for test drivers to determine both the minimum achievable stopping distance and the minimum pedal force that can provide that stopping distance within the six stops prescribed for cold effectiveness testing. It argued that this "practicability" problem is most acute for vehicles fitted with ABS. GM stated that the best resolution would be an amendment to Standard No. 135 adding constant deceleration stops at the beginning of the thermal test sequence in order to establish performance requirements for the subsequent hot and recovery tests.

B. Discussion

The concerns identified by GM ultimately led AAMA to submit its petition for rulemaking. AAMA's arguments and the agency's responses can be summarized as follows:

a. The requested amendments would promote international harmonization by more closely aligning Standard No. 135 with its European counterpart, ECE Regulation R13–H. The European approach is to use constant pedal force applications to determine braking performance, including cold effectiveness capability. This contrasts with the U.S. approach of using an initial pedal force spike during cold effectiveness tests in order to minimize the response time of the system, thereby minimizing stopping distance. These requested amendments would reduce that disparity.

NHTSA: The agency disagrees with the AAMA statement. A review of R13–H test procedures indicates that a constant pedal force application is not specified in European Type-O tests,

which specify test procedures nearly identical to the cold effectiveness test procedures of Standard No. 135. Although test drivers in Europe may use different techniques than those in the U.S., those techniques are within the test parameters to achieve the best stop with a pedal force of 500 Newtons or less. Thus, they should not be considered disparate. The agency believes that all other hot and recovery test procedures and performance requirements in R13–H are sufficiently harmonized with Standard No. 135.

In addition, the harmonization of Standard No. 135 and ECE R13–H would be adversely affected because the ECE brake standard group, the Meeting of Experts on Brakes and Running Gear (GRRF), has shown no interest in modifying R13–H to be consistent with the AAMA proposal. A review of test data generated by the GRRF during the development and coordination of ECE R13–H and FMVSS No. 135 indicated that constant deceleration stop tests similar to the tests proposed by AAMA were difficult to execute. There was also considerable disagreement among European researchers on the appropriate deceleration rate for the tests and the number of test runs to require in the regulation.

b1. *AAMA:* The requested amendment would resolve a practicability problem presented by the current test provisions of Standard No. 135. The standard currently bases hot and recovery deceleration performance requirements and pedal force constraints to the best cold effectiveness stop. It is not possible for test drivers to determine with certainty that they have achieved both the shortest possible stopping distance and the minimum pedal force that will provide the specified stopping distance within the 6 cold effectiveness stops, especially for vehicles equipped with ABS.

NHTSA: The stopping distance procedure specified in S6.5.3.2 requires that the test vehicle be stopped in the shortest distance achievable on all stops. There is no requirement for the test driver to use the minimum pedal force to achieve the best stop.

The agency adheres to its previous position that if the shortest stopping distance can be achieved at more than one average pedal force, the vehicle must be capable of satisfying the hot and recovery performance test requirements at all such average pedal force levels.

The agency conducted most of the cold effectiveness tests during the development of FMVSS No. 135 using a constant 500 N pedal force. Recent compliance tests indicate that, as AAMA stated in its petition, the average pedal force can vary considerably for the six (6) cold effectiveness stopping tests with small variations in stopping distance. However, all tested vehicles complied with the hot and recovery performance requirements based on cold effectiveness test results, as follows:

Average pedal force (Newtons)	Stopping distance (Meters)
Vehicle A:	
307	60
302	57
319	58
364	57
388	59
412	54
Vehicle B:	
130	65
297	52
346	52
316	53
402	51
372	52
Vehicle C:	
197	51
424	48
350	46
330	48
453	47
361	47
Vehicle D:	
301	57
328	51
376	54
386	54
407	53
Vehicle E:	
379	53
234	55
314	52
340	52
368	50
Vehicle F:	
366	46
337	47
388	47
298	49
313	50
280	48

Note: The agency does not have a reading for the 6th stop on Vehicles D and E.)

b2. *AAMA:* The current language of the standard almost guarantees that the cold effectiveness deceleration and pedal force combination results obtained by a manufacturer will be different from the results obtained by NHTSA in an enforcement test of the same vehicle model. This disparity will be magnified in subsequent hot and recovery results since the manufacturer and NHTSA will be operating with different pedal force constraints and performance requirements.

NHTSA: The test procedures require best effort on all runs (S6.5.3.2) with only six (6) runs to achieve the shortest stopping distance in the cold effectiveness test. Thus, NHTSA believes that there will be little variation in the stopping techniques used by test drivers. The degradation of the brake system as a function of heat, as well as the allowable pedal force value, is a key factor in determining compliance with the hot and recovery performance requirements. As stated above, the agency believes that the hot and recovery performance should comply with the requirements at any pedal force that produces the shortest stopping distance in the cold effectiveness test. The cold effectiveness compliance test data provided above indicate that there can be considerable variation in the average pedal force required to produce similar stopping distances. Nevertheless, the test results indicate that all the vehicles tested complied with the hot and recovery requirements of the standard. Accordingly, NHTSA believes that the testing problems suggested by AAMA will not develop into compliance issues unless the vehicle's brake performance is substantially degraded by heating.

c. *AAMA:* The requested amendments would not reduce the stringency of the standard's requirements and would therefore have no adverse effect on safety. If anything, the requested amendments would increase the stringency of the standard. For example, AAMA members have conducted Standard No. 135 testing using the allowable pedal force of 500 Newtons. This affords maximum flexibility for using a pedal force of up to 500 Newtons in the hot and recovery tests. Applying the full 500 Newton pedal force during cold effectiveness tests would be practical, objective, and repeatable and would provide a well-defined pedal force constraint for the thermal tests. The one shortcoming of such a force is that it fails to assure the "apples-to-apples" comparison intended for the hot and recovery tests since it allows artificially inflated pedal forces to be used during the hot and recovery stops. The requested amendments would resolve this problem, however. Further, the petition does not seek any change to the relevant performance requirements of the standard, namely that hot brakes be capable of achieving at least 60 percent of cold deceleration capability and that recovered brakes be capable of achieving between 70 percent and 150 percent of cold deceleration capability.

NHTSA: The agency disagrees with AAMA on this point. NHTSA believes that the proposed procedure would reduce the stringency and severity of the hot and recovery performance tests. The

constant deceleration rate proposed by AAMA for the baseline tests (5.5 m/s^2) is lower than the current deceleration rate (6.43 m/s^2) the vehicle must achieve in order to meet the 70-meter cold effectiveness stopping distance performance requirement. The average minimum stopping distance for the cold effectiveness stopping tests shown above is about 50 meters. That results from an average deceleration rate of approximately 7.7 m/s^2, or about 30 percent higher than the average deceleration rate of AAMA's proposed baseline tests. Thus, AAMA's proposal to use a lower deceleration rate would result in the allowance of a longer stopping distance for the hot and recovery performance tests. Additionally, the agency has not used the allowable 500 N pedal force in the FMVSS No. 135 compliance tests conducted to date, so the allowable pedal forces for the hot and recovery performance tests conducted to date are not inflated.

d. *AAMA:* The adoption of baseline stops at the beginning of the thermal sequence would avoid the effects of intervening tire and brake conditioning inherent in the current procedure. As currently written, high speed effectiveness, stops with the engine off, failed antilock, failed proportioning valve, hydraulic circuit failure, and parking brake tests, some under both gross and lightly-loaded vehicle conditions, are performed between the cold effectiveness test and the thermal tests. This sequence can confound the comparison between the hot, cold, and recovery tests. Adding the requested baseline stops at the outset of the thermal sequence would facilitate a more direct comparison of cold versus thermally affected braking capability.

NHTSA: The agency agrees that baseline stopping runs at the beginning of the thermal sequence would avoid the effects of tire and brake conditioning that occur between the cold effectiveness testing and the thermal test sequence. NHTSA believes, however, that such effects are negligible when compared to the total brake and tire usage that occurs during conduct of the entire Standard No. 135 test series. In addition, the AAMA did not demonstrate any performance or safety benefits that would result from the requested change in test sequence. Accordingly, NHTSA sees no need to amend the testing procedures of Standard No. 135 to specify AAMA's proposed baseline testing for the purpose of eliminating the effects of tire wear or brake conditioning that might occur during testing.

C. Agency Determination

The agency's declination to amend Standard No. 135 as suggested by AAMA includes the fact that the test procedures in Standard No. 135 and ECE R13–H are now harmonized. The AAMA proposals would move Standard No. 135 away from harmonization with its European counterpart. Absent sufficient safety reasons to change the existing test procedures in Standard No. 135, NHTSA finds no justification for adopting the manufacturers' request to move NHTSA's standards away from harmony with the European standards.

The agency believes that the testing practicability problems asserted by AAMA in its petition for rulemaking will not result in vehicle noncompliance. As determined by NHTSA's compliance test results discussed above, the considerable range of pedal forces that result in similar stopping distances in the cold effectiveness testing has not resulted in any noncompliances with the hot and recovery requirements. Thus, NHTSA believes that it is more appropriate to compare hot and recovery brake performance to peak cold effectiveness performance than to compare non-peak cold brake performance against the hot and recovery performance. The agency also believes that the amendments to Standard No. 135 suggested by AAMA would reduce the stringency and severity of the hot and recovery performance tests specified in the standard, and thus would be inconsistent with motor vehicle safety.

Finally, the proposed amendments would add complexity to the compliance test procedures in Standard No. 135 without demonstrated safety or testing benefits.

For the reasons stated above, the agency terminates rulemaking initiated by the petition for rulemaking submitted by the AAMA.

Authority: 49 U.S.C. §§ 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: February 18, 1999.

Ricardo Martinez,

Administrator.

[FR Doc. 99–4522 Filed 2–23–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 99–5094]

Federal Motor Vehicle Safety Standards

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

ACTION: Denial of petition for rulemaking.

SUMMARY: The agency denies a petition for rulemaking from Mr. Les Boyd requesting that NHTSA initiate rulemaking to consider requiring motor vehicle manufacturers to equip new vehicles with instrumentation sufficient to alert nearby police whenever the vehicles are being operated with an unbelted occupant. Mr. Boyd suggested that implementation of the requested amendment would lead to increases in the rate of safety belt use.

The agency is denying the petition for the following reasons. First, implementation of the requested amendment would be costly since it would necessitate the installation of seat belt use sensors and a transmitter in each vehicle. Second, the requested amendment would have limited effect on safety belt use rates in the majority of states that have mandatory safety belt use laws. These states permit officers to stop a vehicle or issue a citation for an occupant's failure to use a safety belt only if the officers also observe a separate concurrent violation. Third, even in those states whose mandatory safety belt use laws permit officers to enforce those laws without the necessity of observing a separate concurrent violation, the requested amendment might not lead to increased safety belt use. In order for officers to readily identify the vehicle emitting the signal, the instrumentation would have to identify such things as the make, model, model year and perhaps even color and vehicle identification number of that vehicle. The transmission of such information would raise privacy concerns.

FOR FURTHER INFORMATION CONTACT: Mr. Clarke Harper, Office of Crashworthiness Standards, NRM–11, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–4916.

SUPPLEMENTARY INFORMATION: On February 5, 1998, Mr. Les Boyd submitted a petition for rulemaking requesting that NHTSA consider

requiring motor vehicle manufacturers to equip new vehicles with instrumentation sufficient to alert nearby police whenever the vehicles are being operated while one or more occupants are unbelted. Mr. Boyd argued that automobile crashes are increasing and that more effort must be made to insure that "all occupants are wearing seat belts and/or wiring harness." The petitioner did not provide any data or other information relating to the cost of such devices, their effectiveness or the feasibility of such a system.

NHTSA agrees that the failure of many vehicle occupants to use safety belts is a significant concern. The agency has expended considerable effort and resources to improve the rate of safety belt use in the United States. NHTSA has prepared and distributed numerous legislative fact sheets, position papers, success stories, model laws for both seat belts and child passenger safety, and other materials on the benefits of mandatory seat belt and child passenger safety laws. Agency employees have testified, when invited by the state, at state legislative hearings for states when they were in the process of enacting the belt use laws. More recently, NHTSA employees have testified in support of attempts within various states to change secondary enforcement laws, under which police officers must observe a separate and distinct violation before stopping a vehicle where occupants are not using belts, to primary enforcement laws. Primary enforcement laws allow police officers to make stops and issue citations on the basis of observing only a seat belt violation. NHTSA has also established Cooperative Agreements with numerous states to demonstrate that publicized enforcement of a mandatory seat belt law can increase seat belt use in the state and formed formal partnerships with many national organizations for the purpose of mobilizing their membership to promote traffic safety in general, and seat belt and child safety seat use in particular. The agency has produced brochures, posters, videos, print ads, bill boards, public service announcements, and a host of other media resource materials to educate the public on the safety benefits of seat belts. Other activities pursued by the agency to improve belt use include programs to improve the training of law enforcement officers, the use of child safety seat checkpoints and other measures designed to improve belt use and enforcement of mandatory belt use laws.

Even though the benefits of increased safety belt use would be considerable, the agency believes that requiring all vehicles to be equipped with a transmitter would, under present conditions, be unlikely to improve enforcement of mandatory safety belt laws in the majority of jurisdictions. Mandatory safety belt use laws are now in effect in 49 states, the District of Columbia, Puerto Rico and the Virgin Islands. Of these, 35 states and the District of Columbia have secondary laws. Equipping vehicles with a device which alerted police officers to a safety belt violation would be of little use in these jurisdictions. The officers would be prohibited from taking any action unless they observed a separate and distinct violation at the same time. Under those conditions, the agency believes that it is extremely unlikely that state and local governments would invest in the police car equipment necessary to implement the scheme suggested by the petitioner.

Even in those jurisdictions with primary enforcement laws, the requested amendment might not lead to increased safety belt use. In order for the transmitting device to work successfully in areas where there are large concentrations of vehicles, the device would have to do more than simply alert police officers that a safety belt violation was occurring in the vicinity. In order to allow identification of the vehicle in which an operator or occupant was not wearing a belt, the transmitting device would have to transmit sufficient specific information about the vehicle to enable police to distinguish it from other vehicles. These identifying data would, at the very least, have to include information regarding the color, manufacturer and configuration of the transmitting vehicle. The agency believes that the presence of such a device, particularly if it were to transmit such information constantly as a result of a malfunction or other circumstance, would raise potentially troublesome privacy concerns.

The agency notes that it issued a final rule in February 1972 (37 FR 3911) modifying Standard No. 208, Occupant Crash Protection, to provide manufacturers choosing not to install passive (i.e., automatic) restraints with the option to equip vehicles with a seat belt interlock device. The interlock prevented drivers from starting their car unless all front seat occupants of the vehicle had fastened their safety belts. Although the interlock device had a more direct impact on the operation of the vehicle than the device suggested by the petitioner, public reaction against this measure was strong. The interlock device option was subsequently rescinded after Congress directed the agency to eliminate it. While the device suggested by the petitioner would not directly affect the operation of the vehicle as the interlock device did, NHTSA believes that a device having the capability to transmit the location of a vehicle to governmental entities any time a seat belt was not fastened would arouse similar public concerns.

The agency observes that installation and successful use of such a device would require installation of additional equipment beyond that which the petitioner may have envisioned. The transmitting device would have to be coupled with belt use sensors at all seating positions. The belt use sensors, in order to be effective, would have to have features that would make it difficult to circumvent the system as in the instance in which an occupant would sit on a fastened belt instead of wearing it. The transmitting device would similarly have to be designed so that it could not be readily disabled and would have to work reliably and without emitting false signals. Police vehicles would need to have a reliable receiving device equipped with a display or other means to provide specific identifying information about the vehicle emitting the signal. The cost of this additional equipment, when added to that of the transmitter, would be considerable.

For the reasons stated above, NHTSA concludes that it is unlikely that a rulemaking proceeding to require the transmitter suggested by the petitioner would result in the issuance of a rule requiring such a device. Accordingly, the petition is denied.

Authority: 49 U.S.C. 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on February 5, 1999.

Stephen P. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 99–4582 Filed 2–23–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants

AGENCY: Fish and Wildlife Services, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that the public

comment period on the proposed list or the Pecos pupfish (*Cyprinodon pecosensis*) as an endangered species is reopened. The Service, in cooperation with the New Mexico Department of Game and Fish, New Mexico Divison of State Parks, Texas Parks and Wildlife Department, and Bureau of Land Management, has formulated a Conservation Agreement that may provide significant new information concerning the threats to the survival of the species. The comment period was reopened from December 28, 1998, to January 27, 1999, to allow all interested parties to submit comments on the proposal and the draft Conservation Agreement. Comments were received on the last day of the public comment period from the Office of the Lieutenant Governor of New Mexico that would add a signatory entity to the agreement, the New Mexico Department of Agriculture. Reopening the public comment period will allow sufficient time for all entities involved with the Conservation Agreement to sign the document.

DATES: The comment period for this proposal and the Conversation Agreement will be reopened February 24, 1999 and will close on March 26, 1999.

ADDRESSES: Written comments and materials should be sent to the Field Supervisor. New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, New Mexico 87113. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: Jennifer Fowler-Propst, Field Supervisor, New Mexico Ecological Services Field Office, at the above address (505) 346–2525.

SUPPLEMENTARY INFORMATION:

Background

The Pecos pupfish was proposed for listing as an endangered species on January 30, 1998 (63 FR 4608). A public hearing on the proposal was held in Carlisbad, New Mexico on April 9, 1998. During the extended public comment period (January 30 to November 20, 1998) we contacted state and Federal land and resource management agencies in New Mexico and Texas to determine if adequate protections could be implemented through a Conservation Agreement. The Conservation Agreement was made available for public review from December 28, 1998, to January 27, 1999. This comment period did not allow sufficient time for the signatory entities to fully execute the document.

The Conservation Agreement sets forth the commitments of state and Federal agencies to control nonnative competing species and to protect and manage the Pecos pupfish and its habitat to ensure its survival and promote its conservation. The Agreement addresses the significant threats to the species arising from its small, isolated populations and from the potential for hybridization with the sheepshead minnow (*Cyprinodon variegatus*). The signatory agencies to the Agreement have made commitments protect known extant populations of pure Pecos pupfish, expand the distribution of the species within its native range by establishing new population, and to prohibit the use of sheepshead minnow through revision of baitfish regulations in New Mexico and Texas. If these commitments are adequate in removing the identified threats to the Pecos pupfish, listing of the species may not be required.

Author

The primary author of this document is Jennifer Fowler-Propst, New Mexico Ecological Services Field Office (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1532 *et seq.*).

Dated: February 18, 1999.

Nancy M. Kaufman,

Regional Director, Fish and Wildlife Service.

[FR Doc. 99–4512 Filed 2–23–99; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 64, No. 36
Wednesday, February 24, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. LS–98–010]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension of a currently approved information collection used to compile and generate the Federally Inspected Estimated Daily Slaughter Report for the Livestock and Grain Market News Program.

DATES: Comments must be submitted on or before April 26, 1999.

ADDRESSES: Jimmy A. Beard; Assistant to the Chief; Livestock and Grain Market News Branch, Livestock and Seed Program, AMS–USDA, Room 2619 South Building, P.O. Box 96456, Washington, D.C. 20090.

FOR FURTHER INFORMATION CONTACT: Jimmy A. Beard, (202) 720–1050.

SUPPLEMENTARY INFORMATION:

Title: Plan for Estimating Daily Livestock Slaughter Under Federal Inspection.

OMB Number: 0581–0050.

Expiration Date of Approval: 05–31–99.

Type of Request: Extension of a currently approved information collection.

Abstract: The Agricultural Marketing Act of 1946 (7 U.S.C. 1621, *et seq*) directs and authorizes the collection and dissemination of marketing information including adequate outlook information, on a market area basis, for the purpose of anticipating and meeting consumer requirements aiding in the maintenance of farm income and to bring about a balance between production and utilization.

Under this market news program, USDA issues a market news report estimating daily livestock slaughter under federal inspection. This report is compiled on a voluntary basis, in cooperation with the livestock and meat industry. The information provided by respondents initiates market news reporting, which must be timely, accurate, unbiased, and continuous if it is to be useful to the industry. The daily livestock slaughter estimates are provided at the request of industry and are used to make production and marketing decisions.

The Daily Estimated Livestock Slaughter Under Federal Inspection Report is used by a wide range of industry contacts, including packers, processors, producers, brokers, and retailers of meat and meat products. The livestock and meat industry requested that USDA issue slaughter estimates (daily and weekly), by species, for cattle, calves, hogs, and sheep in order to assist them in making immediate production and marketing decisions and as a guide to the volume of meat in the marketing channel. The information requested from respondents includes their estimation of the current day's slaughter at their plant(s) and the actual slaughter for the previous day.

The industry uses the slaughter information for assistance in making marketing and production decisions. Also, since the Government is a large purchaser of meat, the reporting and use of this data is helpful.

Estimate of Burden: Public reporting burden for this collection of information is estimated at .011 hours per response.

Respondents: Business or other for-profit, individuals or households, farms, Federal Government.

Estimated Number of Respondents: 82.

Estimated Number of Responses per Respondent: 820.

Estimated Total Annual Burden on Respondents: 740 hours.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the methodology and assumptions used; (3) ways to enhance quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Jimmy A. Beard, Assistant to the Chief, Livestock and Grain Market News Branch, Livestock and Seed Program, AMS–USDA, Room 2619 South Building, P.O. Box 96456, Washington, D.C. 20090–6456.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record, and will be made available at the address above, during regular business hours.

Dated: February 17, 1999.

John E. Van Dyke,

Acting Deputy Administrator, Livestock and Seed Program.

[FR Doc. 99–4542 Filed 2–23–99; 8:45 am]

BILLING CODE 3410–02–D

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. LS–98–011]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension of a currently approved information collection used to compile and generate grain related reports for the livestock and grain market news program.

DATES: Comments must be submitted on or before April 26, 1999.

ADDRESSES: Contact Jimmy A. Beard; Assistant to the Chief; Livestock and Grain Market News Branch, Livestock and Seed Program, AMS–USDA, Room 2619, South Building, P.O. Box 96456, Washington, D.C. 20090–6456.

FOR FURTHER INFORMATION CONTACT: Jimmy A. Beard, (202) 720–1050.

SUPPLEMENTARY INFORMATION: *Title:* Grain Market News Reports and Molasses Market News Reports.

OMB Number: 0581–0005.

Expiration Date of Approval: 5–31–99.

Type of Request: Extension of a currently approved information collection.

Abstract: The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) directs and authorizes the collection and dissemination of marketing information including adequate outlook information, on a market area basis, for the purpose of anticipating and meeting consumer requirements aiding in the maintenance of farm income and to bring about a balance between production and utilization.

Under this program, USDA issues market news reports on grain and molasses. These reports are compiled, on a voluntary basis, in cooperation with the grain and feed industry. Market news reporting must be timely, accurate, unbiased and continuous if it is to be useful to producers, processors, and the trade in general. Industry traders can use market news information to make marketing decisions on when and where to buy and sell. For example, a producer could compare prices being paid at local, terminal, or export elevators to determine which location will provide the best return. Some traders might choose to chart prices over a period of time in order to determine the most advantageous day of the week to buy or sell, or to determine the most favorable season. In addition, the reports are used by other Government agencies to evaluate market conditions and calculate price levels used for their programs. Economists at most major agricultural colleges and universities use the grain and feed market news reports to make short and long-term market projections. Also, since the Government is a large purchaser of grain and related products, the reporting and use of this data is helpful.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .014 hours per response.

Respondents: Business or other for profit, individuals or households, farms, Federal Government.

Estimated Number of Respondents: 200.

Estimated Number of Responses per Respondent: 52.

Estimated Total Annual Burden on Respondents: 368 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the methodology and assumptions used; (3) ways to enhance quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Jimmy A. Beard, Assistant to the Chief, Livestock and Grain Market News Branch, Livestock and Seed Program, AMS–USDA, Room 2619, South Building, P.O. Box 96456, Washington, D.C. 20090–6456.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record, and will be made available at the address above during regular business hours.

Dated: February 17, 1999.

John E. Van Dyke,

Acting Deputy Administrator, Livestock and Seed Program.

[FR Doc. 99–4543 Filed 2–23–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[No. LS–99–02]

Beef Promotion and Research: Certification and Nomination for the Cattlemen's Beef Promotion and Research Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) is accepting applications from State cattle producer organizations or associations and general farm organizations, as well as beef importers, who desire to be certified to nominate producers or importers for appointment to vacant positions on the Cattlemen's Beef Promotion and Research Board (Board). Organizations which have not previously been certified that are interested in submitting nominations must complete and submit an official application form to AMS. Previously certified organizations do not need to reapply. Notice is also given that vacancies will occur on the Board and that during a period to be established, nominations will be accepted from eligible organizations and individual importers.

DATES: Applications for certification must be received by close of business March 26, 1999.

ADDRESSES: Certification forms as well as copies of the certification and nomination procedures may be requested from Ralph L. Tapp, Chief; Marketing Programs Branch, LS, AMS, USDA; STOP 0251; 1400 Independence Avenue, SW.; Washington, D.C. 20250–0251.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch on 202/720–1115.

SUPPLEMENTARY INFORMATION: The Beef Promotion and Research Act of 1985 (Act)(7 U.S.C. 2901 *et seq.*), enacted December 23, 1985, authorizes the implementation of a Beef Promotion and Research Order (Order). The Order, as published in the July 18, 1986, **Federal Register** (51 FR 26132), provides for the establishment of a Board. The current Board consists of 104 cattle producers and 7 importers appointed by the Secretary. Due to reapportionment, the 2000 Board will consist of 103 producers and 7 importers. The duties and responsibilities of the Board are specified in the Order.

The Act and the Order provide that the Secretary shall either certify or otherwise determine the eligibility of State or importer organizations or associations to nominate members to the Board to ensure that nominees represent the interests of cattle producers and importers. Nominations for importer representatives may also be made by individuals who import cattle, beef, or beef products. Persons who are individual importers do not need to be certified as eligible to submit nominations. When individual importers submit nominations, they must establish to the satisfaction of the Secretary that they are in fact importers of cattle, beef, or beef products, pursuant to § 1260.143(b)(2) of the Order [7 CFR 1260.143(b)(2)]. Individual importers are encouraged to contact AMS at the above address to obtain further information concerning the nomination process, including the beginning and ending dates of the

established nomination period and required nomination forms and background information sheets. Certification and nomination procedures were promulgated in the final rule, published in the April 4, 1986, **Federal Register** (51 FR 11557) and currently appear at 7 CFR § 1260.500 through § 1260.640. Organizations which have previously been certified to nominate members to the Board do not need to reapply for certification to nominate producers and importers for the existing vacancies.

The Act and the Order provide that the members of the Board shall serve for terms of 3 years. The Order also requires USDA to announce when a Board vacancy does or will exist. The following States have one or more members whose terms will expire in early 2000:

State or unit	Number of vacancies
Alabama	1
Arkansas	1
California	1
Colorado	1
Florida	1
Idaho	1
Illinois	1
Kansas	3
Kentucky	2
Minnesota	1
Missouri	1
Montana	2
Nebraska	3
New York	1
North Dakota	1
Oklahoma	2
Pennsylvania	1
South Dakota	1
Texas	5
Virginia	1
Wisconsin	1
Importer Unit	4

Since there are no anticipated vacancies on the Board for the remaining States' positions, or for the positions of the Northeast, Northwest, and Mid-Atlantic units, nominations will not be solicited from certified organizations or associations in those States or units.

Uncertified eligible producer organizations in all States that are interested in being certified as eligible to nominate cattle producers for appointment to the listed producer positions, must complete and submit an official "Application for Certification of Organization or Association," which must be received by close of business March 26, 1999. Uncertified eligible importer organizations that are interested in being certified as eligible to nominate importers for appointment to the listed importer positions must apply by the same date. Importers should not use the application form but should provide the requested information by letter as provided for in 7 CFR 1260.540(b). Applications from States or units without vacant positions on the Board and other applications not received within the 30-day period after publication of this Notice in the **Federal Register** will be considered for eligibility to nominate producers or importers for subsequent vacancies on the Board.

Only those organizations or associations which meet the criteria for certification of eligibility promulgated at 7 CFR 1260.530 are eligible for certification. Those criteria are:

(a) For State organizations or associations:

(1) Total paid membership must be comprised of at least a majority of cattle producers or represent at least a majority of cattle producers in a State or unit,

(2) Membership must represent a substantial number of producers who produce a substantial number of cattle in such State or unit,

(3) There must be a history of stability and permanency, and

(4) There must be a primary or overriding purpose of promoting the economic welfare of cattle producers.

(b) For organizations or associations representing importers, the determination by the Secretary as to the eligibility of importer organizations or associations to nominate members to the Board shall be based on applications containing the following information:

(1) The number and type of members represented (i.e., beef or cattle importers, etc.),

(2) Annual import volume in pounds of beef and beef products and/or the number of head of cattle,

(3) The stability and permanency of the importer organization or association,

(4) The number of years in existence, and

(5) The names of the countries of origin for cattle, beef, or beef products imported.

All certified organizations and associations, including those which were previously certified in the States or units having vacant positions on the Board, will be notified simultaneously in writing of the beginning and ending dates of the established nomination period and will be provided with required nomination forms and background information sheets.

The names of qualified nominees received by the established due date will be submitted to the Secretary of Agriculture for consideration as appointees to the Board.

The information collection requirements referenced in this notice have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C., Chapter 35 and have been assigned OMB No. 0581–0093, except Board member nominee information sheets are assigned OMB No. 0505–0001.

Authority: 7 U.S.C. 2901 *et seq.*

Dated: February 17, 1999.

Barry L. Carpenter,

Deputy Administrator, Livestock and Seed Program.

[FR Doc. 99–4541 Filed 2–23–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee; Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee will hold a meeting on February 26, 1999, in North Lake Tahoe, California. This Committee, established by the Secretary of Agriculture on December 15, 1998, (64 FR 2876) is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

DATES: The meeting will be held February 26, 1999, beginning at 9:00 a.m. and ending at 4:00 p.m.

ADDRESSES: The meeting will be held at the North Tahoe Conference Center, 8318 North Lake Boulevard, Kings Beach, California.

FOR FURTHER INFORMATION CONTACT: Juan Palma or Sherry Hazelhurst, Lake Tahoe Basin Management Unit, Forest Service, 870 Emerald Bay Road Suite 1, South Lake Tahoe, CA 96150, (530) 573–2642.

SUPPLEMENTARY INFORMATION: The committee will meet jointly with the Tahoe Regional Executives and Lake Tahoe Basin Executives Committees. Items to be covered on the agenda include: (1) Overview of the Environmental Improvement Program (EIP); (2) Review Draft Presidential Commitments Update; (3) Federal Budget Requests; (4) Agency Briefings; (5) Further Refine Role of Committee; (6) Expectations of Committee Members; (7) Recommend a Committee Chair; (8) Schedule Future Meetings; and (9) Open

Public Comment. All Lake Tahoe Basin Federal Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: February 17, 1999.

Roberta A. Moltzen,

Acting Regional Forester, R–5.

[FR Doc. 99–4508 Filed 2–23–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Tonto National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda for a forthcoming open house meeting on the proposed Forest Service withdrawal application for the protection of the Diamond Rim Recreational Mineral Collection Area. The proposed withdrawal area is located in the vicinity of Diamond Point Summer Homes and Diamond Point Lookout Tower on the Payson District of the Tonto National Forest. This public meeting will provide the opportunity for public involvement in this proposed action as required by regulation. All comments will be considered when a final determination is made on whether this land should be withdrawn.

DATES: The meeting will be held on March 30, 1999, from 5:00 p.m. to 8:00 p.m.

ADDRESSES: The meeting will be held at the Payson Town Council Chambers, 303 North Beeline Highway, Payson, Arizona 85541.

All comments should be sent to the Tonto National Forest, Payson Ranger District, 1009 E. Highway 260, Payson, Arizona 85541, Attention Esther Morgan, by April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Esther Morgan, Payson Ranger District, (520) 474–7900.

Dated: February 18, 1999.

Charles R. Bazan,

Forest Supervisor.

[FR Doc. 99–4507 Filed 2–23–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Oklahoma

AGENCY: Natural Resources Conservation Service (NRCS) in Oklahoma, U.S. Department of Agriculture.

ACTION: Notice of availability of a proposed change in Section IV of the FOTG of the NRCS in Oklahoma for review and comment.

SUMMARY: It is the intention of NRCS in Oklahoma to issue a revised conservation practice standard in Section IV of the FOTG. The revised standard is Conservation Crop Rotation (Code 328). This practice may be used in conservation systems that treat highly erodible land.

DATES: Comments will be received on or before March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Keith Vaughan, State Resource Conservationist, Natural Resources Conservation Service (NRCS), 100 USDA, Suite 206 Stillwater, OK 74074–2655. Copies of this standard will be made available upon written request. You may submit electronic requests and comments to Keith.Vaughan@ok.usda.gov

FOR FURTHER INFORMATION CONTACT: Keith Vaughan, 405–742–1240.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law, to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Oklahoma will receive comments relative to the proposed change. Following that period, a determination will be made by the NRCS in Oklahoma regarding disposition of those comments and a final determination of change will be made.

Dated: February 08, 1999.

Ronnie L. Clark,

State Conservationist Stillwater, Oklahoma.

[FR Doc. 99–4492 Filed 2–23–99; 8:45 am]

BILLING CODE 3410–16–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Washington, D.C. on Tuesday and Wednesday, March 9–10, 1999, at the times and location noted below.

DATES: The schedule of events is as follows:

Tuesday, March 9, 1999

1:30 p.m.–4:00 p.m. Technical Programs Committee.

4:00 p.m.–5:30 p.m. Planning and Budget Committee.

Wednesday, March 10, 1999

9:00 a.m.–11:00 a.m. Ad Hoc Committee on Electronic and Information Technology (Closed Meeting).

11:00 a.m.–Noon Committee of the Whole Meeting on Acoustics (Closed Meeting).

1:30 p.m.–3:30 p.m. Board Meeting.

ADDRESS: The meetings will be held at: Marriott at Metro Center, 775 12th Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–5434, ext. 14 (voice) and (202) 272–5449 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items.

Open Meeting

- Executive Director's Report.
- Approval of the Minutes of the January 13, 1999, Board Meeting.
- Planning and Budget Committee Report—Agency Goals, Fiscal Years 1999 and 2000 Status.
- Technical Programs Committee Report—Status Report on Projects.
- Advisory Committee Reports—Passenger Vessels, Electronic and Information Technology, and Outdoor Developed Areas.
- Election of Officers.
- Other Business—Speaker on Exterior Accessible Surfaces Research Project Speaker—Peter Axelson, Director of Research and Development, Beneficial Designs, Inc.

Closed Meeting

- Committee of the Whole Report—Acoustics.
- Rulemaking Report—ADA/ABA Guidelines, Proposed Rule.

All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings.

James J. Raggio,

General Counsel.

[FR Doc. 99–4593 Filed 2–23–99; 8:45 am]

BILLING CODE 8150–01–P

CIVIL RIGHTS COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, March 5, 1999—9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, N.W., Room 540, Washington, DC 20425.

STATUS:

Agenda

I. Approval of Agenda
II. Approval of Minutes of February 12, 1999 Meeting
III. Announcements
IV. Staff Director's Report
V. "Equal Educational Opportunity and Nondiscrimination for Minority Students: Federal Enforcement of Title VI in Ability Grouping Practices" Report
VI. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: David Aronson, Press and Communications (202) 376–8312.

Edward A. Hailes, Jr.,

Acting General Counsel.

[FR Doc. 99–4737 Filed 2–22–99; 3:05 pm]

BILLING CODE 6335–0–M

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Survey of Manufactures

ACTION: Proposed Collection; Comment Request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 26, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Allen Foreman, Acting Chief of Manufactured Nondurables Branch, (301) 457–4810, Bureau of the Census, Room 2212, Building 4, Washington, DC 20233; and Kenneth Hansen, Chief of Manufactured Durables Branch, (301) 457–4755, Bureau of the Census, Room 2207, Building 4, Washington, DC 20233.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau has conducted the Annual Survey of Manufactures (ASM) since 1949 to provide key measures of manufacturing activity during intercensal periods. In census years ending in "2" AND "7", we mail and collect the ASM as part of the census of manufactures. This survey is an integral part of the Government's statistical program. The ASM furnishes up-to-date estimates of employment and payrolls, hours and wages of production workers, value added by manufacture, cost of materials, value of shipments by product class, inventories, and expenditures for both plant and equipment and structures. The survey provides data for most of these items for each of the 474 industries as defined in the North American Industry Classification System (NAICS). It also provides geographic data by state at a more aggregated industry level.

The survey also provides valuable information to private companies, research organizations, and trade associations. Industry makes extensive use of the annual figures on product class shipments at the U.S. level in its market analysis, product planning, and investment planning. The ASM data are used to benchmark and reconcile monthly and quarterly data on manufacturing production and inventories.

This ASM clearance request will be for the years—1999 to 2001. There will be no changes to the information requested from respondents.

II. Method of Collection

The ASM statistics are based on a survey which includes two components, mail and nonmail. The mail portion of the survey is a probability sample of about 55,000 manufacturing establishments selected from a total of about 225,000 establishments. These 225,000 establishments represent all manufacturing establishments of multiunit companies (companies that operate at more than one physical location) and all single-establishment manufacturing companies that were mailed forms in the 1997 Census of Manufactures.

The nonmail portion of the survey is defined as all single-establishment manufacturing companies that we tabulated as administrative records in the 1997 Census of Manufactures.

Although this portion includes approximately 155,000 establishments, it accounted for less than 2 percent of the estimate for total value of shipments at the total manufacturing level for 1997. This administrative information, which includes payroll, total employment, industry classification, and physical location, is obtained under conditions which safeguard the confidentiality of both tax and census records.

III. Data

OMB Number: 0607–0449.
Form Number: MA–1000(L), MA–1000(S).
Type of Review: Regular Review.
Affected Public: Businesses or Other for Profit, Non-profit Institutions, Small Businesses or Organizations, and State or Local Governments.
Estimated Number of Respondents: 55,000.
Estimated Time Per Response: 3.4 hours.
Estimated Total Annual Burden Hours: 187,000.
Estimated Total Annual Cost: The estimated cost to the respondents is $5,048,090.
Respondent's Obligation: Mandatory.
Legal Authority: Title 13, United States Code, Sections 182, 224, and 225.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 18, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–4586 Filed 2–23–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Census Advisory Committees

AGENCY: Economics and Statistics Administration, Department of Commerce.

ACTION: Notice of Public Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, as amended by Pub. L. 94–409, Pub. L. 96–523, and Pub. L. 97–375), we are giving notice of a joint meeting of the Census Advisory Committees (CACs) on the African American Population, on the American Indian and Alaska Native Populations, on the Asian and Pacific Islander Populations, on the Hispanic Population, the CAC of Professional Associations, and the Commerce Secretary's 2000 Census Advisory Committee. The agenda will provide an opportunity for discussing the Census 2000 Partnership Program (for example, how it works and how it is coordinated with other Census 2000 programs) and for discussing model cases of partnerships with governmental and non-governmental organizations. Last-minute changes to the schedule are possible, and they could prevent us from giving advance notice.

DATES: On Monday, March 15, 1999, the meeting will begin at 8:00 a.m. and adjourn at approximately 5:15 p.m.

ADDRESSES: The meeting will take place at the Inn and Conference Center, University of Maryland University College, University Boulevard at Adelphi Road, College Park, MD.

FOR FURTHER INFORMATION CONTACT: Maxine Anderson-Brown, Committee Liaison Officer, Department of Commerce, Bureau of the Census, Room 1647, Federal Building 3, Washington, DC 20233, telephone: 301–457–2308.

SUPPLEMENTARY INFORMATION: The CACs on the African American, American Indian and Alaska Native, and Hispanic Populations are composed of 9 members each, and the CAC on the Asian and Pacific Islander Population is composed of 13 members, appointed by the Secretary of Commerce. The Committees provide an organized and continuing channel of communication between their representative communities and the Bureau of the Census. They assist the Bureau in its efforts to reduce the count differential for Census 2000 and advise on ways that census data can best be disseminated to communities and other users.

The CAC of Professional Associations is composed of 36 members appointed by the Presidents of the American Economic Association, the American Statistical Association, the Population Association of America, and the Chairman of the Board of the American Marketing Association. The Committee advises the Director, Bureau of the Census, on the full range of Census Bureau programs and activities in relation to the areas of expertise.

The Commerce Secretary's 2000 Census Advisory Committee is composed of a Chair, Vice-Chair, and up to 35 member organizations, all appointed by the Secretary of Commerce. The Advisory Committee considers the goals of Census 2000 and user needs for information provided by that census. The Committee provides an outside user perspective about how operational planning and implementation methods proposed for Census 2000 will realize those goals and satisfy those needs. The Advisory Committee considers all aspects of the conduct of the 2000 Census of Population and Housing and makes recommendations to the Secretary of Commerce for improving that census.

A brief period will be set aside at the meeting for public comment. However, individuals with extensive statements for the record must submit them in writing to the Commerce Department official named above at least three working days prior to the meeting.

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Census Bureau Committee Liaison Officer on 301–457–2308, TDD 301–457–2540.

Dated: February 18, 1999.

Robert J. Shapiro,

Under Secretary for Economic Affairs, Economics and Statistics Administration.

[FR Doc. 99–4490 Filed 2–23–99; 8:45 am]

BILLING CODE 3510–07–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 8–99]

Foreign-Trade Zone 26—Atlanta, GA: Request for Manufacturing Authority; Matsushita Communication Industrial Corporation of U.S.A. (Automotive Audio/Electronics and Telecommunications Products)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Georgia Foreign-Trade Zone, Inc., grantee of FTZ 26, pursuant to § 400.28(a)(2) of the Board's regulations (15 CFR Part 400), requesting authority on behalf of Matsushita Communication Industrial Corporation of U.S.A. (MCIC) (a subsidiary of Matsushita Electric Industrial Co., Ltd., Japan) to manufacture automotive audio, electronic and telecommunications products under FTZ procedures within FTZ 26. It was formally filed on February 16, 1999.

The MCIC facility (263,000 sq.ft.) is located at 776 Highway 74 South within a proposed site of FTZ 26 in the Peachtree City Industrial Park, in Peachtree City, Georgia (application pending; Doc. 22–98, 63 FR 23720, 4–30–98), some 25 miles south of Atlanta. The MCIC facility (875 employees) is used to produce: (1) automotive audio products, including electronic tuning AM, AM/FM radios, AM/FM radio/cassette/compact disk units, compact disk players and changers, cassette deck units, power amplifiers, (2) automotive electronic components, including knock sensors and navigation system monitors; and (3) telecommunications products, including digital phone systems (including voice mail, caller ID, intercom), telephone line amplifiers, pagers, cellular/cordless and mobile phones, personal communication systems, wireless local loop systems, subscriber units, and base/scanner stations for the U.S. market and export. Components sourced from abroad (representing up to 75% of total unit material value) include: self-adhesive plastic plates/foil/film, labels, copper and steel fasteners, steel springs, cable, batteries, buzzers, electronic parts (transformers, inductors, regulators, capacitors, resistors, diodes, transistors, LED's, insulators, conductors), liquid crystal displays, microphones, integrated circuits, PC boards and assemblies, electrical switches, varistors (metal oxide), loop cords, relays, jigs, potentiometers, chargers, connector plugs, heat sinks/glue, thermistors, surge suppressors, speakers, arresters,

rectifiers, antenna and terminals, other telecom and audio parts (duty rate range: free=6.2%).

FTZ procedures would exempt MCIC from Customs duty payments on the foreign components used in export production (about 5% of shipments). On its domestic sales, MCIC would be able to choose the duty rates during Customs entry procedures that apply to automotive audio/electronic and telecommunications products (free=5.1%) for the foreign inputs noted above. The motor vehicle duty rate (2.5%) could apply to the finished automotive audio products that are shipped to U.S. motor vehicle assembly plants with subzone status for inclusion into finished motor vehicles under FTZ procedures. The request indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is April 26, 1999. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to May 10, 1999).

A copy of the application and the accompanying exhibits will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230–0002.

Dated: February 16, 1999.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–4588 Filed 2–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 7–99]

Foreign-Trade Zone 106—Oklahoma City, Oklahoma, Area; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Port Authority of the Greater Oklahoma City Area, grantee of FTZ 106, requesting authority to expand its zone in the Oklahoma City, Oklahoma, area, within the Oklahoma City Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 12, 1999.

FTZ 106 was approved on September 14, 1984 (Board Order 271, 49 FR 37133, 9/21/84) and expanded on December 7, 1989 (Board Order 455, 54 F.R. 51441, 12/15/89). The zone project currently consists of the following sites: *Site 1* (876 acres)—within the 6,700-acre Will Rogers World Airport complex; and, *Site 2* (6 acres)—106,000-square foot distribution and storage warehouse, 3501 Melcat Drive in the Lakeside Business Park, less than a mile from the Will Rogers World Airport.

The applicant, in a major revision to its zone plan, now requests authority to expand the general-purpose zone to include 9 new sites (793 acres) in the Oklahoma City area (Proposed Sites 3–11): *Proposed Site 3* (5 acres)—Mid America Business Park 1 (owned by Russell Vaught), 6205 S. Sooner, Oklahoma City; *Proposed Site 4* (50 acres)—Mid America Business Park II, (owned by Russell Vaught), Mid America Blvd., Oklahoma City; *Proposed Site 5* (292 acres)—South River Industrial Park (owned by the City of Oklahoma City), IH–35 and IH 40, Oklahoma City; *Proposed Site 6* (42 acres)—Continental Distribution Park (owned by Clay T. Farha), SW 29th and Council, Oklahoma City; *Proposed Site 7* (110 acres)—industrial park (owned by Western Heights Properties, L.L.C.), south of SW 29th between S. Rockwell & Council, Oklahoma City; *Proposed Site 8* (30 acres)—Airport NE (owned by Oklahoma City Airport Trust)—immediately northeast of Will Rogers World Airport, Oklahoma City; *Proposed Site 9* (200 acres)—Kelley Pointe Industrial Park (owned by Clay T. Farha), 33rd Street and Kelley Ave., Edmond; *Proposed Site 10* (43 acres)—Kelley Avenue International Trade Center (owned by Jackson Financial Services, Inc.), south of 15th between Kelley Ave. and AT&SF Railroad, Edmond; and, *Proposed Site 11* (21 acres) Tower Industrial Park, Tract II (owned by Steve E. Wells), Tower Drive and Woodview, Moore. The application identifies the sites geographically within the Oklahoma City area, as follows: Eastern Quadrant (Sites 3, 4, and 5); Western Quadrant (Sites 6, 7, and 8); Northern Quadrant (Sites 9 and 10); and, Southern Quadrant (Site 11). No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is April 26, 1999. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to May 10, 1999).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 301 Northwest 63rd Street, Room 330, Oklahoma City, Oklahoma 73116

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue NW, Washington, DC 20230

Dated: February 16, 1999.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–4587 Filed 2–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–824]

Certain Corrosion-Resistant Carbon Steel Flat Products from Japan: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for the preliminary results of the review of certain corrosion-resistant carbon steel flat products from Japan. This review covers two Japanese companies, Nippon Steel Corporation and Kawasaki Steel Corporation, and their respective affiliates for the period August 1, 1997 through July 31, 1998.

EFFECTIVE DATE: February 24, 1999.

FOR FURTHER INFORMATION CONTACT: Rick Johnson at (202) 482–3818; Office of AD/CVD Enforcement, Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

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).

Postponement of Preliminary Results

The Department has determined that it is not practicable to issue its preliminary results of the administrative review within the original time limit of May 3, 1999. *See Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III to Robert LaRussa, Assistant Secretary for Import Administration*, February 17, 1999. The Department is extending the time limit for completion of the preliminary results until August 1, 1999 in accordance with Section 751(a)(3)(A) of the Act.

The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

Dated: February 18, 1999.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Enforcement Group III

[FR Doc. 99–4589 Filed 2–23–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Environmental Technologies Trade Advisory Committee (ETTAC)

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of Open Meeting.

SUMMARY: The Environmental Technologies Trade Advisory Committee will hold a plenary meeting from 9:30 to 3:30 on March 3, 1999. Lunch is not included. The ETTAC was created on May 31, 1994, to advise the U.S. government on policies and programs to expand U.S. exports of environmental products and services.

DATE AND PLACE: March 3, 1999. The meeting will take place in Room 6800 of the Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The plenary meeting will welcome new members, include an ethics briefing, guest speaker and discussion with senior government officials.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Sage Chandler, Department of Commerce, Office of Environmental Technologies Exports. Phone: 202–482–1500.

Dated: February 18, 1999.

Jane Claudia Siegel,

Acting Director, Office of Environmental Technologies Exports.

[FR Doc. 99–4446 Filed 2–23–99; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021099A]

Pacific Fishery Management Council; Public Meetings and Hearings

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

ACTION: Notice of availability of reports; notice of public meetings and hearings.

SUMMARY: The Pacific Fishery Management Council (Council) has begun its annual preseason management process for the 1999 ocean salmon fisheries. This document announces the availability of Council documents and the dates and locations of Council meetings and public hearings. These actions comprise the complete schedule of events the Council will follow for determining the annual proposed and final modifications to ocean salmon management measures.

DATES: Written comments on the season options must be received by March 31, 1999, at Noon, Pacific Time.

ADDRESSES: Written comments should be sent to and Council documents are available from Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, Oregon 97201; telephone: (503) 326–6352. See **SUPPLEMENTARY INFORMATION** for dates, times, and locations of public meetings and hearings.

FOR FURTHER INFORMATION CONTACT: John Coon, Salmon Management Coordinator; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION:

March 1, 1999: Council reports that summarize the 1998 salmon season and project the expected salmon stock abundance for 1999 are available to the public from the Council office.

March 8–12, 1999: Council and advisory entities meet at the Doubletree Hotel - Columbia River, 1401 North Hayden Island Drive, Portland, Oregon, to adopt 1999 regulatory options for public review.

March 24, 1999: Report with proposed management options and public hearing schedule is mailed to the public. (The report includes options, rationale, and summary of biological and economic impacts.)

March 29–April 6, 1999: Public hearings are held to receive comments on the proposed ocean salmon fishery regulatory options adopted by the Council. All public hearings begin at 7 p.m. on the dates and at the locations specified here.

March 29, 1999: Westport High School Commons, 2850 S. Montesano Street, Westport, Washington.

March 29, 1999: Pony Village Motor Lodge, Ballroom, Virginia Avenue, North Bend, Oregon.

March 30, 1999: Red Lion Inn, Chinook Room, 400 Industry, Astoria, Oregon.

March 30, 1999: Doubletree Hotel, Evergreen Room, 1929 Fourth Street, Eureka, California.

April 6, 1999: (During the Council meeting) Red Lion's Sacramento Inn, Martinique Room, 1401 Arden Way, Sacramento, California.

April 5–9, 1999: Council and its advisory entities meet at the Red Lion's Sacramento Inn, 1401 Arden Way, Sacramento, California, to adopt final 1999 regulatory measures.

April 16, 1999: Newsletter describing adopted ocean salmon fishing management measures is mailed to the public.

April 10–14, 1999: Salmon Technical Team completes "Preseason Report III Analysis of Council Adopted Regulatory Measures for 1999 Ocean Salmon Fisheries."

May 1, 1999: Federal regulations implemented and Preseason Report III available for distribution to the public.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: February 18, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–4598 Filed 2–23–99; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Proposed Amendments to the Contract Size and Other Provisions of the Chicago Mercantile Exchange Random Lengths Lumber Futures Contract, Submitted Under Fast Track Review Procedures

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of proposed contract market rule amendments.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has proposed amendments to the random lengths lumber futures contract to change the contract size to 110,000 board feet from 80,000 board feet. Under the proposal, the deliverable unit will range from 105,000 to 115,000 board feet. The speculative position limits also would be decreased in proportion to the increased size of the trading unit. The proposals were submitted under the Commission's 45-day fast track procedures. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that the proposals are of major economic significance, and that publication for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.[1]

DATES: Comments must be received on or before March 11, 1999.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by a facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc. gov. Reference should be made to the amendments to the CME random lengths lumber futures contract.

FOR FURTHER INFORMATION CONTACT: Please contact John Forkkio of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581, telephone (202) 418–5281. Facsimile number: (202) 418–5527. Electronic mail: *jforkkio@cftc.gov*

SUPPLEMENTARY INFORMATION: The CME justified the proposal by noting that:

> . . . railcars from 70 feet to 73 feet in length are now the majority (51.7%) of all railcars used in originating shipments of lumber from western areas. These railcars have a loading capacity ranging from 110,000 bf to 115,000 bf. It is reported by the carriers that railcars of this size are the only cars being built because smaller cars are more costly to load and haul on a per-pound basis. The current trading unit of 80,000 bf [board feet] is shipped on the smallest cars of 78,000 –92,000 bf loading capacity. The smallest cars are a declining portion of the railcar fleet in both absolute and relative terms.
>
> Allowing deliveries to be made in a range of 105,000 to 115,000 bf will permit shipments to be made on railcars that are between 67 feet and 73 feet in length. These cars make up an estimated 59% of the railcar population used in hauling lumber. The largest cars (73 feet) are estimated to be 46.5% of this population. The variation allowed in the delivered unit is less than 5% of the total trading unit. Mills will have some flexibility in meeting their transportation needs with this variation.
>
> The speculative position limits have been lowered to account for the increased size of the trading unit. On a total board-foot basis, the position limits are unchanged.

The CME proposes to implement the amendments for application to newly listed contracts only. The first month to be affected is the January 2000 contract month.

The Division requests comment on the extent to which the proposed changes to the random length lumber futures contract reflect current and expected cash market practices.

The proposed amendments were submitted pursuant to the Commission's fast tract procedures for streamlining the review of futures contract rule amendments and new contract approvals (62 FR 10434). Under those procedures, the proposals, absent any contract action by the Commission, may be deemed approved at the close of business on March 25, 1999, 45 days after receipt of the proposals. In view of the limited review period provided under the fast track procedures, the Commission has determined to publish for public comment notice of the availability of the terms and conditions for 15 days, rather than 30 days as provided for proposals submitted under the regular review procedures.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Copies can be obtained through the Office of the Secretariat by mail at the above address, by phone at (202) 418–5100, or via the internet on the CFTC website at *www.cftc.gov* under "What's New & Pending".

Other materials submitted by the CME in support of the proposals 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 (1997)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposals, or with respect to other materials submitted by the CME, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 10581 by the specified date.

Issued in Washington, DC, on February 18, 1999.

John R. Mielke,

Acting Director.

[FR Doc. 99–4548 Filed 2–23–99; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, March 1, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

[1] Section 5a(a)(12) of the Act, which requires the Commission to publish proposed rules of "major economic significance," does not define the meaning of the term. Moreover, section 5a(a)(12) provides that the Commission's determination that proposed exchange rules are of major economic significance under the section if final and not subject to judicial review. The Commission staff has interpreted the meaning of "major economic significance" broadly as proposed rules which may have an effect on the pricing of a contract, on the value of existing contracts, on a contract's hedging or price basing utility, or on deliverable supplies. Section 5a(a)(12) does not define rules of "major economic significance" based upon a specific dollar impact on the economy or other such measures used in other statutes, such as those used in determining whether an agency rule is a "major rule" under 5 U.S.C. section 804(2).

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–4738 Filed 2–22–99; 3:25 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, March 5, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–4739 Filed 2–22–99; 3:25 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, March 8, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–4740 Filed 2–22–99; 3:25 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, March 12, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–4741 Filed 2–22–99; 3:52 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, March 15, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–4742 Filed 2–22–99; 3:26 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, March 19, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–4743 Filed 2–22–99; 3:26 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, March 22, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–4744 Filed 2–22–99; 3:26 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, March 26, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–4745 Filed 2–22–99; 3:26 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, March 29, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–4746 Filed 2–22–99; 3:27 pm]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. Sec. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed. Copies of the proposed information collection request may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

Currently, the Corporation is soliciting comments concerning its proposed request for approval of a proposed new information collection regarding the internal clearance of a series of customer satisfaction surveys and community impact surveys. We are asking for this clearance under the requirements of Presidential Executive Order 12862 "Setting Customer Service Standards" and those of the Government Performance and Results Act of 1993.

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by April 26, 1999.

ADDRESSES: Send comments to Corporation for National and Community Service, Attn. William Ward, Office of Policy Research, 9th Floor, 1201 New York Avenue, N.W., Washington, D.C., 20525.

FOR FURTHER INFORMATION CONTACT: William Ward (202) 606–5000, ext. 375.

SUPPLEMENTARY INFORMATION: The Corporation's annual performance plans for fiscal year 1999 and 2000 set performance goals for AmeriCorps, Learn and Serve America, and the National Senior Service Corps. Included in the plans for each program are two types of customer surveys. One type is the *customer satisfaction survey.* Our Fiscal 2000 Performance Plan provides this description:

> Customer Satisfaction Surveys. The Corporation's programs have many customers: program participants, grantees, community residents receiving services, local and state governments, and others. Gathering their perspectives on how well the Corporation is meeting their needs is an essential part of its commitment to continuous quality improvement. Targeted customer satisfaction surveys will be conducted annually, emphasizing how well the Corporation goes about its business of serving direct customers: the grantees and program participants.

The information from these surveys will be used to refine and improve the management of our programs so that we can better serve our grantees, subgrantees, and the participants in the service programs they operate. Moreover, we will be reporting each year to Congress, the results of these surveys as part of our annual performance report. The Corporation's annual performance plan includes specific measures derived from the proposed customer satisfaction surveys. Here are two examples of performance measures from our Fiscal 2000 Performance Plan:

- Percent of AmeriCorps*State and National members rating program as offering a successful service experience.
- Percent of AmeriCorps*State and National partners, including grantees, subgrantees, and host organizations reporting that the Corporation practices effective government.

The second type of customer survey covered under this request for clearance is the *community impact rating survey.* The Fiscal 2000 Performance Plan provides this description:

> Community Impact Ratings. This method assesses the impact of national service programs on the communities and organizations in which members serve. This assessment, or rating, consists of a survey of important community representatives. These informants should have first-hand knowledge of the quality and impact of the service work performed by members of national service programs. Each local program nominates a small number of community representatives. These representatives are not employees of the grantee or the local program. They could be professionals working in the same setting as national service participants. The local program will have the option of referring to a list of typical community institutions suggested by the Corporation they should try to include in their roster of nominees. The Corporation would build a roster from the list of nominees.

Some examples of performance measures derived from impact ratings included in our Performance Plans are:

- Percent of community representatives with direct and informed knowledge of service activities rating AmeriCorps*VISTA programs as highly successful in meeting critical community needs.
- Percent of community representatives reporting positive perceptions of benefits provided by AmeriCorps programs. These benefits will include increases in community collaboration, mobilization of volunteers, and local service capacity.

Copies of the Corporation's Fiscal 2000 Performance Plan can be obtained in one of two ways. First, it will be available on the Corporation's Internet web page March 1, 1999 at: http://www.nationalservice.org. Second, a copy can be obtained by contacting the office in the **ADDRESSES** section of this notice.

Background

There are two requirements driving this request for generic clearance of customer surveys by the Corporation. First, Executive Order 12862 (9/11/93) "Setting Customer Service Standards" requires agencies to "survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services." Second, our Fiscal 1999 and Fiscal 2000 Performance Plans, under the requirements of the Government Performance and Results Act of 1993, set performance goals in the areas of customer satisfaction and community impact for every program activity we offer.

Current Action

The Corporation is seeking approval to conduct a series of customer surveys under an internal clearance process requiring no more than 10 days. These

surveys are required to fulfill the above stated requirements. Over the course of the next several months, we will be designing and implementing customer satisfaction surveys and community impact rating surveys for each of our program activities. These include: AmeriCorps (State and National, VISTA, and the National Civilian Community Corps), Learn and Serve America (K–12, Higher Education, and Community-based programs) and the National Senior Service Corps (Retired and Senior Volunteer Program, Foster Grandparent Program, and the Senior Companion Program). The results of these surveys will be reported in our annual performance reports to Congress, beginning in March 2000.

Type of Review: New approval.

AGENCY: Corporation for National and Community Service.

Title: Generic Customer Survey Clearance Request.

OMB Number: None.

Agency Number: None.

Affected Public: Current and future grantees and subgrantees of the Corporation, members of the service programs operated by these grantees and subgrantees, and members of the communities receiving services from these service programs.

Total Respondents: Not available.

Frequency: Annually.

Average Time Per Response: 30 min.

Estimated Total Burden Hours: Not available.

Total Burden Cost (capital/startup): Not available.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: February 18, 1999.

Thomas L. Bryant,

Acting General Counsel.

[FR Doc. 99–4513 Filed 2–23–99; 8:45 am]

BILLING CODE 6050–28–U

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0070]

Proposed Collection; Comment Request Entitled Payments

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Payments. The clearance currently expires on May 31, 1999.

DATES: Comments may be submitted on or before April 26, 1999.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0070, Payments, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Jeremy F. Olson, Federal Acquisition Policy Division, GSA (202) 501–3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

Firms performing under Federal contracts must provide adequate documentation to support requests for payment under these contracts. The documentation may range from a simple invoice to detailed cost data. The information is usually submitted once, at the end of the contract period or upon delivery of the supplies, but could be submitted more often depending on the payment schedule established under the contract (see FAR 52.232–1 through 52.232–11). The information is used to determine the proper amount of payments to Federal contractors.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* minute for small purchases and fixed-price contracts, and *30* minutes for T&M and Labor Hour contracts per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *80,000;* responses per respondent, *120;* total annual responses, *9,600,000;* preparation hours per response, *.025;* and total response burden hours, *240,000.*

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0070, Payments, in all correspondence.

Dated: February 19, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

[FR Doc. 99–4530 Filed 2–23–99; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Inventions for Licensing; Government-Owned Inventions

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy.

U.S. Patent Application Serial No. 09/157,297 entitled "Multi-Interface Point-To-Point Switching System (MIPPSS)," filing date: Sept. 18, 1998, Navy Case No. 78,352; U.S. Patent Application Serial No. 09/157,023 entitled "Multi-Interface Point-To-Point Switching System (MIPPSS) Having An Internal Universal Signal Format," filing date: Sept. 18, 1998, Navy Case No. 79,191; U.S. Patent Application No. 09/157,299 entitled "Multi-Interface Point-To-Point Switching System (MIPPSS) Under Unified Control," filing date: Sept. 18, 1998, Navy Case No. 79,192; U.S. Patent Application Serial No. 09/157,002 entitled "Multi-Interface Point-To-Point Switching System (MIPPSS) With Rapid Fault Recovery Capability," filing date: Sept. 18, 1998, Navy Case No. 79,193; U.S. Patent Application Serial No. 09/156,614 entitled "Multi-Interface Point-To-Point Switching System (MIPPSS) With Hot Swappable Boards," filing date: Sept. 18, 1998, Navy Case No. 79,194; U.S. Patent Application Serial No. 09/156,379 entitled "Latency Verification System Within A Multi-Interface Point-To-Point Switching System (MIPPSS)," filing date: September 18, 1998, Navy Case No.

79,195 and U.S. Patent Application Serial No. 09/156,393 entitled "Dynamic Switch Path Verification System Within A Multi-Interface Point-To-Point Switching System (MIPPSS)," filing date: Sept. 18, 1998, Navy Case No. 79,196.

Requests for copies of the patent applications cited should be directed to the Naval Surface Warfare Center, Dahlgren Laboratory, Code CD222, 17320 Dahlgren Road, Building 189, Room 202, Dahlgren, VA 22448–5100, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: James B. Bechtel, Esq., Patent Counsel, Naval Surface Warfare Center, Dahlgren Laboratory, Code CD222, 17320 Dahlgren Road, Building 189, Room 202, Dahlgren, VA 22448–5100, telephone (540) 653–8061.

Authority: 35 U.S.C. 207, 37 CFR Part 404.

Dated: February 19, 1999.

Pamela A. Holden,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–4545 Filed 2–23–99; 8:45 am]

BILLING CODE 3812–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent to Grant Exclusive Patent Licenses; BTG International, Inc.

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of prospective licenses to BTG International, Inc. to the Government-owned inventions described in U.S. Patent Application Serial No. 09/157,297 entitled "HIGH SPEED SWITCHING SYSTEM," filing date: Sept. 18, 1998, Navy Case No. 78,352, U.S. Patent Application Serial No. 09/157,297 entitled "MULTI-INTERFACE POINT-TO-POINT SWITCHING SYSTEM (MIPPSS)," filing date: Sept. 18, 1998, Navy Case No. 79,191; U.S. Patent Application Serial No. 09/157,299 entitled "MULTI-INTERFACE POINT-TO-POINT SWITCHING SYSTEM (MIPPSS) UNDER UNIFIED CONTROL," filing date: Sept. 18, 1998, Navy Case No. 79,192; U.S. Patent Application Serial No. 09/157,002 entitled "MULTI-INTERFACE POINT-TO-POINT SWITCHING SYSTEM (MIPPSS) WITH RAPID FAULT RECOVERY CAPABILITY," filing date: Sept. 18, 1998, Navy Case No. 79,193; U.S. Patent Application Serial No. 09/156,614 entitled "MULTI-INTERFACE POINT-TO-POINT SWITCHING SYSTEM (MIPPSS) WITH HOT SWAPPABLE BOARDS," filing date: Sept. 18, 1998, Navy Case No. 79,194; U.S. Patent Application Serial No. 09/156,379 entitled "LATENCY VERIFICATION SYSTEM WITHIN A MULTI-INTERFACE POINT-TO-POINT SWITCHING SYSTEM (MIPPSS)," filing date: Sept. 18, 1998, Navy Case No. 79,195; U.S. Patent Application Serial No. 09/156,393 entitled "DYNAMIC SWITCH PATH VERIFICATION SYSTEM WITHIN A MULTI-INTERFACE POINT-TO-POINT SWITCHING SYSTEM (MIPPSS)," filing date: Sept. 18, 1998, Navy Case No. 79,196; U.S. Patent Application Serial No. 09/137,083 entitled, "ELECTRONIC DEVICES WITH BARRIER FILM AND PROCESS FOR MAKING SAME," filing date: Aug. 20, 1998, Navy Case No. 79,137; U.S. Patent Application Serial No. 09/137,084 entitled "ELECTRONIC DEVICES WITH BARIUM BARRIER FILM AND PROCESS FOR MAKING SAME," filing date: Aug. 20, 1998, Navy Case No. 79,329; U.S. Patent Application Serial No. 09/137,085 entitled "ELECTRONIC DEVICES WITH STRONTIUM BARRIER FILM AND PROCESS FOR MAKING SAME," filing date: Aug. 20, 1998, Navy Case No. 79,330; U.S. Patent Application Serial No. 09/137,086 entitled "ELECTRONIC DEVICES WITH CESIUM BARRIER FILM AND PROCESS FOR MAKING SAME," filing date: Aug. 20, 1998, Navy Case No. 79,331; U.S. Patent Application Serial No. 09/137,087 entitled "ELECTRONIC DEVICES WITH RUBIDIUM BARRIER FILM AND PROCESS FOR MAKING SAME," filing date: Aug. 20, 1998, Navy Case No. 79,332; U.S. Patent ApplicationSerial No. 09/137,088 entitled "ELECTRONIC DEVICES WITHCOMPOSITE ATOMIC BARRIER FILM AND PROCESS FOR MAKING SAME," filing date: Aug. 20, 1998, Navy Case No. 79,333; U.S. Patent Application Serial No. 09/137,089 entitled "PROCESSFOR MAKING A SEMICONDUCTOR DEVICE WITH BARRIER FILMFORMATION USING A METAL HALIDE AND PRODUCTS THEREOF," filing date: Aug. 20, 1998, Navy Case No. 79,334; U.S. Patent Application Serial No. 09/215,127 entitled "ELECTRONIC DEVICES WITH STRONTIUM BARRIER FILM AND PROCESS FOR MAKING SAME," filing date: Dec. 18, 1998, Navy Case No. 79,646; U.S. Patent Application Serial No. 09/215,128 entitled "ELECTRONIC DEVICES WITH RUBIDIUM BARRIER FILM AND PROCESS FOR MAKING SAME," filing date: Dec. 18, 1998, Navy Case No. 79,647; U.S. Patent Application Serial No. 08/941,933 entitled "PLATFORM INDEPENDENT COMPUTER INTERFACE SOFTWARE RESPONSIVE TO SCRIPTED COMMANDS," filing date: Sept. 30, 1997, Navy Case No. 78,126; U.S. Patent Application SerialNo. 08/941,257 entitled "COMPUTER SYSTEM PROVIDING PLATFORMINDEPENDENT UNIVERSAL CLIENT DEVICE," filing date: Sept. 30, 1997, Navy Case No. 78,659; U.S. Patent Application SerialNo. 08/941,256, "OPERATING METHODS FOR A COMPUTER SYSTEMPROVIDING PLATFORM INDEPENDENT UNIVERSAL CLIENT DEVICE," filing date: Sep. 30, 1997, Navy Case No. 78,660; U.S. Patent No. 08/941,255 entitled "UNIVERSAL CLIENT DEVICE FORINTERCONNECTING AND OPERATING ANY TWO COMPUTERS," filing date: Sept. 30, 1997, Navy Case No. 78,668; U.S. Patent Application Serial No. 08/941,258 entitled "METHODS FOR OPERATING A UNIVERSAL CLIENT DEVICE PERMITTING INTEROPERATION BETWEEN ANY TWO COMPUTERS," filing date:Sept. 30, 1997, Navy Case No. 78,669; U.S. PatentApplication Serial No. 08/941,667 entitled "A UNIVERSALCLIENT DEVICE PERMITTING A COMPUTER TO RECEIVE AND DISPLAYINFORMATION FROM SEVERAL SPECIAL APPLICATIONSSIMULTANEOUSLY," filing date: Sept. 30, 1997, Navy Case No. 78,670; U.S. Patent Application Serial No. 08/941,544 entitled "OPERATING METHODS FOR A UNIVERSAL CLIENT DEVICE PERMITTING A COMPUTER TO RECEIVE AND DISPLAY INFORMATION FROM SEVERAL SPECIAL APPLICATIONS SIMULTANEOUSLY," filing date: Sept. 30, 1997, Navy Case No. 78,671; U.S. Patent Application Serial No. 08/941,543 entitled "ROBUST COMPUTER SYSTEMS PERMITTING AUTONOMOUSLY SWITCHING BETWEEN ALTERNATIVE/REDUNDANT COMPONENTS," filing date: Sept. 30, 1997, Navy Case No. 78,672; U.S. Patent Application SerialNo. 08/941,545 entitled "OPERATING METHODS FOR ROBUSTCOMPUTER SYSTEMS PERMITTING AUTONOMOUSLY SWITCHING BETWEENALTERNATIVE/REDUNDANT COMPONENTS," filing date: Sept. 30, 1997, Navy Case No.

78,673; U.S. Patent Application SerialNo. 08/941,932 entitled "METHODS PERMITTING RAPID GENERATIONOF PLATFORM INDEPENDENT SOFTWARE APPLICATIONS EXECUTED ON AUNIVERSAL DEVICE," filing date: Sept. 30, 1997, Navy CaseNo. 78,674.

DATES: Anyone wishing to object to the granting of these licenses must file written objections along with supporting evidence, if any, not later than April 26, 1999.

ADDRESSES: Written objections are to be filed with the Office of Patent Counsel, Naval Surface Warfare Center, Dahlgren Laboratory, CD222, 17320 Dahlgren Road, Dahlgren, Virginia 22448–5100.

FOR FURTHER INFORMATION CONTACT: James B. Bechtel, Esq., Patent Counsel, Naval Surface Warfare Center, Dahlgren Laboratory, Code CD222, 17320 Dahlgren Road, Building 189, Room 202, Dahlgren, Virginia 22448–5100, telephone (540) 653–8016.

Authority: 35 U.S.C. 207, 37 CFR Part 404.

Dated: February 19, 1999.

Pamela A. Holden,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–4544 Filed 2–23–99; 8:45 am]

BILLING CODE 3812–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 26, 1999.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address *Pat__Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 18, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Protection and Advocacy of Individual Rights (PAIR) Program Assurances.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 57.

Burden Hours: 9.

Abstract: Section 509 of the Rehabilitation Act of 1973 as amended (Act), and its implementing Federal Regulations at 34 CFR Part 381, require the PAIR grantees to submit an application to the RSA Commissioner in order to receive assistance under Section 509 of the Act. The Act requires that the application contain Assurances to which the grantee must comply. Section 509(f) of the Act specifies the Assurances. There are 57 PAIR grantees. All 57 grantees are required to be part of the protection and advocacy system in each State established under the Developmental Disabilities Assistance and Bill of Rights Act (42 USC 6041 *et seq.*).

[FR Doc. 99–4504 Filed 2–23–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before March 26, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address Pat__Sherrill@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339

between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: February 18, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: National Study of Charter Schools.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,113.

Burden Hours: 509.

Abstract: This four-year study of charter schools will examine the impact of charter schools on student achievement, on education reform, and on an array of other issues. The study includes an annual survey of the universe of charter schools and site visits at a sample of charter schools and comparison schools.

[FR Doc. 99–4505 Filed 2–23–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC99–510–000, FERC–510]

Proposed Information Collection and Request for Comments

February 18, 1999.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted within 60 days of the publication of this notice.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Chief Information Officer, CI–1, 888 First Street, NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 208–2425, and by e-mail at mike.miller@ferc.fed.us.

SUPPLEMENTARY INFORMATION:

Abstract: The information collected under the requirements of FERC–510 "Application for the Surrender of a Hydropower License" (OMB No. 1902–0068) is used by the Commission to implement the statutory provisions of Part 1, Sections 4(e), 6 and 13 of the Federal Power Act, 16 U.S.C. 797(e), 799 and 806. Section 4(e) gives the Commission the authority to issue licenses for the purpose of constructing, operating and maintaining dams, water conduits, reservoirs, powerhouses, transmission lines or other project works necessary or convenient for developing and improving navigation, transmission and utilization of power over which Congress has jurisdiction. Section 6 gives the Commission the authority to prescribe the conditions of the licenses including the revocation and/or surrender of the license. Section 13 defines the Commission's authority to delegate time periods for when a license must be terminated if project construction has not begun. Surrender of a license may be desired by a licensee when a licensed project is retired or not constructed. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR Sections 6.1 through 6.4.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1) × (2) × (3)
8	1	10	80

As the Commission's initiative is to bring more competition to the natural gas and electric markets, the resulting competitive forces have changed the economics and overall conditions under which hydropower projects are developed and operated. This has resulted in a significant decline in the number of operating projects. However, for the next three years, the Commission anticipates only a gradual decrease in the number of projects that are surrendered.

Estimated cost burden to respondents: 80 hours/2,080 hours per year × $109,889 per year = $4,228. The cost per respondent is equal to $529.00.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, 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.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) 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; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–4498 Filed 2–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–225–000]

Mid Louisiana Gas Company; Notice of Proposed Changes in FERC Gas Tariff

February 18, 1999.

Take notice that on February 12, 1999, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of March 15, 1999:

Original Sheet No. 0
Fourth Revised Sheet No. 86
Second Revised Sheet No. 89
Second Revised Sheet No. 91
First Revised Sheet No. 97A
Second Revised Sheet No. 105
First Revised Sheet No. 133
Third Revised Sheet No. 135
Second Revised Sheet No. 143
Second Revised Sheet No. 157

Mid Louisiana states that the primary purpose of the filing of the Revised Tariff Sheet(s) is to make minor spelling and grammatical corrections to various sheets and to remove outdated references to storage services which were discontinued in Mid Louisiana's last rate case filing.

Pursuant to Section 154.7(a)(7) of the Commission's Regulations, Mid Louisiana respectfully requests waiver of any requirement of the Regulations in order to permit the tendered tariff sheet to become effective March 15, 1999, as submitted.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. 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. 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–4502 Filed 2–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–175–000]

Mississippi Canyon Gas Pipeline, LLC; Notice of Application

February 18, 1999.

Take notice that on January 26, 1999, Mississippi Canyon Gas Pipeline, LLC (MCGP), 1301 McKinney, Houston, Texas 77010, filed in Docket No. CP99–175–000 an application pursuant to Section 7 of the Natural Gas Act for authorization to construct and operate certain expansion facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

MCGP states that it currently operates a 30-inch diameter, 45-mile natural gas pipeline extending from West Delta Block 143, offshore Louisiana, to a terminus near the Venice Gas Plant, Plaquemine Parish, Louisiana. It is stated that the capacity of this pipeline is 600,000 Mcf per day (Mcfd). It is further stated that in order to accommodate increasing volumes of natural gas from reserves dedicated to MCGP and from new fields which will be dedicated to MCGP pending the instant proposal, MCGP has determined that it is necessary to expand the firm capacity of the pipeline from 600,000 Mcfd to 800,000 Mcfd. MCGP maintains that it can achieve the necessary capacity expansion through a combination of metering equipment and operating pressure changes. Therefore, MCGP proposes to construct, install and operate additional meter facilities at the Venice Gas Plant delivery point and lower all onshore delivery point pressures in the Venice area to a maximum of 1050 psig while establishing a maximum receipt point pressure of 1325 psig at West Delta Block 143 "A" platform (collectively referred to as the Expansion Facilities). MCGP estimates the total cost of the Expansion Facilities to be $216,464, which will be financed from funds on hand. In addition, MCGP requests a predetermination that rolled-in rates are appropriate for the proposed Expansion Facilities.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before March 11, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., 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. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. 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.

A person obtaining intervenor status will be placed on the service list

maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for MCGP to appear or be represented at the hearing.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 99–4499 Filed 2–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–002]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

February 18, 1999.

Take notice that on February 2, 1999, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain tariff sheets, to be effective February 1, 1999.

Natural states that the purpose of the filing is to implement a Negotiated Rate Formula transaction with NorAm Energy Services, Inc. pursuant to Section 49 of the General Terms and Conditions of Natural's Tariff.

Natural requested waiver of the Commission's Regulations to the extent necessary to permit the tendered tariff sheets to become effective February 1, 1999.

Natural states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to protest this 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 and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. 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 this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–4501 Filed 2–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–2–59–000]

Northern Natural Gas Company; Notice of Tariff Filing

February 18, 1999.

Take notice that on February 18, 1999, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to become effective on March 1, 1999:

Tenth Revised Sheet No. 54
Ninth Revised Sheet No. 61
Ninth Revised Sheet No. 62
Ninth Revised Sheet No. 63
Ninth Revised Sheet No. 64

Northern states that the purpose of this filing is to implement an agreed-upon interim change to the methodology used to derive the annual mainline fuel matrix rates and an interim fuel and UAF reduction.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before February 23, 1999. 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. 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–4496 Filed 2–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–344–013]

Texas Gas Transmission Corporation; Notice of Refund Report

February 18, 1999.

Take notice that on February 11, 1999, Texas Gas Transmission Corporation (Texas Gas) tendered for filing a refund report showing that on January 13, 1999, Texas Gas submitted refunds (total principal and interest amount of $17,189,361.46) to all affected shippers in Docket No. RP97–344.

Texas Gas states that on July 15, 1998, the Commission issued an Order which

approved the Stipulation and Agreement (Settlement) filed March 20, 1998, in Docket No. RP97–344. According to Article XIII of the Settlement, the Settlement became effective on November 14, 1998, due to no applications being filed for rehearing of the Commission's October 14, 1998, Order Denying Rehearing. Pursuant to the provisions of Article II of the approved Stipulation and Agreement, the refunds were made on January 13, 1999.

Texas Gas states that this refund report is being submitted in compliance with the provisions of Article XII of the Stipulation and Agreement, requiring a report within 30 days of the refunds, and in accordance with Subpart F of Part 154 of the Commission's regulations.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before February 25, 1999. 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 this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–4500 Filed 2–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. IS90–21–000, et al. and IS90–39–000, et al.]

Williams Pipe Line Company and Enron Liquids Pipeline Company; Notice of Settlement Conference

February 18, 1999.

Take notice that, pursuant to Rule 601, 18 CFR 385.601, a settlement conference will be convened in these proceedings on Tuesday, March 9, 1999, before the Settlement Judge appointed to Docket No. IS91–34–000, *et al.* The conference will begin at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

The conference continues discussions initiated by the Commission's order issued July 15, 1998, in Docket No. IS91–34–000, *et al.* In addition, participants will discuss all rates for the Williams Pipe Line Company, commencing with Williams' 1990 rates, all rate decisions rendered by the Commission in Opinion No. 391–B, 84 FERC ¶61,022 (1998), and the implications of those decisions, as well as all other issues considered in Opinion No. 391–B. The purpose of the conference is to resolve all matters pending in the above listed proceedings.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined in 18 CFR 385.102(b), is invited to attend the conference. 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 FERC Staff representatives Joel Cockrell at (202) 208–1184, or Russell B. Mamone at (202) 208–0744.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–4497 Filed 2–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER95–266–016, et al.]

PS Energy Group, Inc., et al.; Electric Rate and Corporate Regulation Filings

February 16, 1999.

Take notice that the following filings have been made with the Commission:

1. PS Energy Group, Inc.

[Docket No. ER95–266–016]

Take notice that on February 10, 1999 the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the internet at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

2. Public Service Company of Colorado and Southwestern Public Service Company

[Docket No. EC96–2–000]

Take notice that on February 8, 1999, Public Service Company of Colorado (PSCo) and Southwestern Public Service Company (SPS) filed an update regarding the status of the proposed interconnection between their transmission systems.

Comment date: March 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. BEC Energy and Commonwealth Energy System

[Docket No. EC99–33–000]

Take notice that on February 8, 1999, BEC Energy and Commonwealth Energy System (collectively, the Applicants) filed a Joint Application under Section 203 of the Federal Power Act (FPA) and Part 33 of the Commission's regulations to request authorization and approval for the proposed merger between BEC Energy and Commonwealth Energy System.

The Applicants state that copies of the filing have been served upon the Massachusetts Department of Telecommunications and Energy and potential intervenors.

Comment date: April 12, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. OGE Energy Resources, Inc., EnerZ Corporation, and Wilson Power & Gas Smart, Inc.

[Docket Nos. ER97–4345–008, ER96–3064–011, ER95–751–016]

Take notice that on February 11, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the internet at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

5. Niagara Mohawk Power Corporation

[Docket No. ER98–4635–001]

Take notice that Niagara Mohawk Power Corporation, on February 10, 1999, tendered for filing amendments to its Open Access Transmission Tariff, comprising its compliance filing pursuant to the Commission's Order Rejecting Scheduling And Balancing Tariff, And Accepting In Part And Rejecting In Part (As Modified) Proposed Amendment To Open Access Tariff, issued January 11, 1999.

In the January 11, 1999 Order, the Commission directed Niagara Mohawk to modify the terms and conditions of the Scheduling and Balancing Tariff it had originally proposed in this docket, and to file these modified terms and conditions as an amendment to its Open Access Transmission Tariff.

Copies of the filing were served upon Niagara Mohawk's Open Access

Transmission Tariff customers, intervenors in this proceeding, and the New York Public Service Commission.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Consumers Energy Company

[Docket No. ER99–398–001]

Take notice that on February 10, 1999, Consumers Energy Company submitted for filing a compliance filing of its changes to its Load Ratio share calculation method for Network Integration Transmission Service revised to implement the directives contained in the Federal Energy Regulatory Commission's Order dated January 11, 1999 in this proceeding.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. PacifiCorp

[Docket No. ER99–818–000]

Take notice that on February 10, 1999, PacifiCorp tendered for filing a response to the Commission's deficiency letter dated January 27, 1999.

Copies of this filing were supplied to the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Duke Energy Morro Bay LLC

[Docket No. ER99–1380–000]

Take notice that on February 9, 1999 Duke Energy Morro Bay LLC (DEMB) tendered for filing an amended unexecuted service agreement establishing persons who purchase ancillary services through the California Independent System Operator Corporation auction, as customers under DEMB's Amended FERC Electric Rate Schedule No. 2.

DEMB states that a copy of the filing was served on the ISO.

DEMB requests an effective date of March 22, 1999.

Comment date: March 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Duke Energy Moss Landing LLC

[Docket No. ER99–1381–000]

Take notice that on February 9, 1999 Duke Energy Moss Landing LLC (DEML) tendered for filing an amended unexecuted service agreement establishing persons who purchase ancillary services through the California Independent System Operator Corporation auction, as customers under DEML's Amended FERC Electric Rate Schedule No. 3.

DEML states that a copy of the filing was served on the ISO.

DML requests an effective date of December 22, 1998.

Comment date: March 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Duke Energy Oakland LLC

[Docket No. ER99–1382–000]

Take notice that on February 9, 1999 Duke Energy Oakland LLC (DEO) tendered for filing an amended unexecuted service agreement establishing persons who purchase ancillary services through the California Independent System Operator Corporation auction, as customers under DEO's Amended FERC Electric Rate Schedule No. 3.

DEO requests an effective date of March 22, 1999.

DEO states that a copy of the filing was served on the ISO.

Comment date: March 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Williams Generation Company-Hazelton

[Docket No. ER99–1622–000]

Take notice that on February 9, 1999, the above-referenced public utility filed its quarterly transaction report for the quarter ending December 31, 1998.

Comment date: March 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Niagara Mohawk Power Corporation and Erie Boulevard Hydropower, L.P.

[Docket Nos. ER99–1764–000 and EC99–34–000]

Take notice that on February 8, 1999, Niagara Mohawk Power Corporation and Erie Boulevard Hydropower, L.P. (collectively, the Applicants) tendered for filing an application under Section 203 of the Federal Power Act for approval to transfer certain jurisdictional facilities associated with the sale by Niagara Mohawk of certain hydroelectric generating facilities. The Applicants also tendered for filing pursuant to Section 205 of the Federal Power Act certain agreements providing for services related to the transfer of facilities. In addition, the Applicants have tendered for filing an application pursuant to Section 8 of the Federal Power Act for authorization to transfer certain licenses and exemptions, partial transfer of licenses and substitution of applicants associated with the hydropower stations that are being transferred.

The Applicants have served copies of these filings on the New York Public Service Commission.

Comment date: March 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Niagara Mohawk Power Corporation

[Docket No. ER99–1765–000]

Take notice that on February 9, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing a Borderline Agreement between Niagara Mohawk and Delaware County Electric Cooperative, Inc. (Delaware).

Copies of the filing have been served on Delaware, the Vermont Department of Public Service, and the Public Service Commission of the State of New York.

Comment date: March 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Niagara Mohawk Power Corporation

[Docket No. ER99–1766–000]

Take notice that on February 9, 1999, Niagara Mohawk tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between Niagara Mohawk and PG&E Energy Trading—Power, L.P (PGET). This Transmission Service Agreement specifies that PGET has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96–194–000.

Niagara Mohawk requests an effective date of June 1, 1999.

Niagara Mohawk has served copies of the filing upon New York Public Service Commission and PGET.

Comment date: March 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. New Century/Cheyenne Light, et al.

[Docket No. ER99–1767–000]

Take notice that on February 9, 1999, New Century Services, Inc. on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively Companies) tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Firm Point-to-Point Transmission Service between the Companies and Energy Transfer Group, L.L.C.

The Companies request that the Agreement be made effective on February 1, 1999.

Comment date: March 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. New Century/Cheyenne Light, et al.

[Docket No. ER99–1768–000]

Take notice that on February 9, 1999, New Century Services, Inc. on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively Companies) tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Non-Firm Point-to-Point Transmission Service between the Companies and Energy Transfer Group, L.L.C.

The Companies request that the Agreement be made effective on February 1, 1999.

Comment date: March 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Central Illinois Light Company

[Docket No. ER99–1771–000]

Take notice that on February 9, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61602, tendered for filing with the Commission a substitute Index of Point-To-Point Transmission Service Customers under its Open Access Transmission Tariff and service agreements with two new customers, TransAlta Energy Marketing (U.S.) Inc. and OGE Energy Resources, Inc.

CILCO requested an effective date of February 3, 1999.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: March 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Central Illinois Light Company

[Docket No. ER99–1772–000]

Take notice that on February 9, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission an Index of Customers under its Market Rate Power Sales Tariff and three service agreements with three new customers, OGE Energy Resources, Inc., Southern Company Energy Marketing L.P., and Soyland Power Cooperative, Inc.

CILCO requested an effective date of January 21, 1999.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: March 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Constellation Power Source, Inc.

[Docket No. ER99–1774–000]

Take notice that on February 9, 1999, Constellation Power Source, Inc. (CPS) tendered for filing a revised market-based rate schedule that: enables CPS to make wholesale sales, as separate products, of operable capability, ten-minute spinning reserve, automatic generation control, ten-minute non-spinning reserve, thirty minute operating reserve and any other ancillary service that the Commission subsequently authorizes to be sold at market-based rates in New England; enables CPS to engage in transmission capacity reassignment transactions; and removes language associated with a merger that was not consummated.

CPS requests that all of the revisions become effective February 10, 1999.

Comment date: March 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Alliant Energy Industrial Services, Inc.

[Docket No. ER99–1775–000]

Take notice that on February 10, 1999, Heartland Energy Services, Inc. submitted for filing a notice of name change prepared in accordance with the provisions of 18 CFR 35.16 and 131.51 notifying the Commission that effective February 1, 1999, Heartland Energy Services, Inc. has legally changed its name to Alliant Energy Industrial Services, Inc. (AEGIS). AEGIS adopts, ratifies and makes its own, in every respect all applicable rate schedules, and supplements thereto, listed below, heretofore filed with the Federal Energy Regulatory Commission by Heartland Energy Services, Inc. effective February 1, 1999:

Heartland Energy Services, Inc.
Rate Schedule FERC No. 1

Alliant Energy Industrial Services, Inc.'s filing is available for public inspection at its offices in Madison, Wisconsin.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. California Independent System Operator Corporation

[Docket No. ER99–1776–000]

Take notice that on February 10, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities (Meter Service Agreement) between the ISO and Cabrillo Power II LLC (Cabrillo Power II) for acceptance by the Commission.

The ISO states that this filing has been served on Cabrillo Power II and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement to be made effective as of February 28, 1999, or the purchase closing date, whichever is later.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. California Independent System Operator Corporation

[Docket No. ER99–1777–000]

Take notice that on February 10, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Participating Generator Agreement between Cabrillo Power I LLC (Cabrillo Power I) and the ISO for acceptance by the Commission.

The ISO states that this filing has been served on Cabrillo Power I and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective as of February 28, 1999, or the purchase closing date, whichever is later.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. California Independent System Operator Corporation

[Docket No. ER99–1778–000]

Take notice that on February 10, 1999, the California Independent System Operator Corporation (ISO), tendered for FILING a Participating Generator Agreement between Cabrillo Power II LLC (Cabrillo Power II) and the ISO for acceptance by the Commission.

The ISO states that this FILING has been served on Cabrillo Power II and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective as of February 28, 1999, or the purchase closing date, whichever is later.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. California Independent System Operator Corporation

[Docket No. ER99–1779–000]

Take notice that on February 10, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Meter Service Agreement for ISO Metered Entities (Meter Service Agreement) between the ISO and

Cabrillo Power I LLC (Cabrillo Power I) for acceptance by the Commission.

The ISO states that this filing has been served on Cabrillo Power I and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement to be made effective as of February 28, 1999, or the purchase closing date, whichever is later.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Wisconsin Electric Power Company

[Docket No. ER99–1780–000]

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on February 10, 1999, tendered for filing short-term firm Transmission Service Agreements and non-firm Transmission Service Agreements between itself and Manitowoc Public Utilities (Manitowoc), Tractebel energy marketing, Inc. (Tractebel); and Cinergy Energy Services (Cinergy). The Transmission Service Agreements allow Manitowoc, Tractebel, and Cinergy to receive transmission services under Wisconsin Energy corporation Operating Companies' FERC Electric Tariff, Volume No. 1.

Wisconsin electric requests an effective date coincident with its filing and waiver of the Commission's notice requirements in order to allow for economic transactions as they appear. Copies of the filing have been served on Manitowoc, Tractebel, and Cinergy, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Carolina Power & Light Company

[Docket No. ER99–1781–000]

On February 10, 1999, Carolina Power & Light Company (CP&L), tendered for filing the Agreement Regarding the Allocation of Clean Air Amendment Costs Between North Carolina Eastern Municipal Power Agency and Carolina Power & Light Company Applicable to Remaining Supplemental Load Beginning January 1, 1999. The Agreement clarifies certain allocation principles set forth in the 1981 Power Coordination Agreement, filed as FERC Rate Schedule No. 121.

CP&L states that copies of the filing have been served on the Power Agency as well as on the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Southwestern Public Service Co.

[Docket No. ER99–1782–000]

Take notice that on February 10, 1999, New Century Services, Inc., on behalf of Southwestern Public Service Company (Southwestern), submitted an executed umbrella service agreement under Southwestern's market-based sales tariff with Entergy Power Marketing Corporation (Entergy Power). This umbrella service agreement provides for Southwestern's sale and Entergy Power's purchase of power at market-based rates pursuant to Southwestern's market-based sales tariff.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Kansas City Power & Light Company

[Docket No. ER99–1783–000]

Take notice that on February 10, 1999, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated February 1, 1999, between KCPL and Midwest Energy, Inc. KCPL proposes an effective date of February 1, 1999, and requests waiver of the Commission's notice requirement. This Agreement provides for Non-Firm Power Sales Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are pursuant to KCPL's compliance filing in Docket No. ER94–1045.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Indeck Pepperell Power Associates

[Docket No. ER99–1784–000]

Take notice that on February 10, 1999, Indeck Pepperell Power Associates, Inc. (Indeck Pepperell), tendered for filing with the Federal Energy Regulatory Commission a Power Purchase and Sale Agreement (Service Agreement) between Indeck Pepperell and Engage Energy US, L.P. (ENGA), dated January 22, 1999, for service under Indeck Pepperell's Rate Schedule FERC No. 1 Indeck Pepperell requests that the Service Agreement be made effective as of March 1, 1999.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Duke Energy South Bay LLC

[Docket No. ER99–1785–000]

Take notice that on February 10, 1999, Duke Energy South Bay LLC (South Bay), tendered for filing an application for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective on the date of it leases the South Bay Facility, a generation facility in California, from the San Diego Unified Port District.

South Bay intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where South Bay sells electric energy, it proposes to make such sales on rates, terms and conditions to be mutually agreed to with the purchasing party.

Comment date: March 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

31. Boston Edison Company and Niagara Mohawk Power Corporation

[Docket Nos. OA97–431–007 and OA97–158–007]

Take notice that on February 9, 1999, the companies listed in the above-captioned dockets filed revised organizational charts and job descriptions posted on OASIS in response to the Commission's December 18, 1998 order on standards of conduct.[1]

The December 18, 1998, order accepted the standards of conduct submitted by Niagara Mohawk Power Corporation (Niagara Mohawk) but required it to revise the organizational charts and job descriptions posted on OASIS. Niagara Mohawk did not make any filing with the Commission (nor was it required to). However, by this notice, the public is invited to intervene, protest or comment regarding Niagara Mohawk's revised organizational charts and job descriptions.

Comment date: March 3, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 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.

[1] Allegheny Power Service Corporation, 85 FERC ¶ 61,390 (1998).

Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–4495 Filed 2–23–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Request for Motions to Intervene and Protests

February 18, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11664–000.

c. *Date filed:* January 14, 1999.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Monongahela Lock and Dam No. 2 Project.

f. *Location:* At the U.S. Army Corps of Engineers' Monongahela Lock and Dam No. 2 Project on the Monongahela River, near the Town of Braddock, Allegheny County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r)

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Ed Lee (202) 219–2808 or E-mail address at Lee.EdFERC.fed.us.

j. *Comment Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the U.S. Army Corps of Engineers' Monongahela Dam No. 2 and Reservoir, and would consist of the following facilities: (1) a new powerhouse to be constructed on the downstream side of the dam having an installed capacity of 6,140 kilowatts; (2) a new 14.7-kV transmission line; and (3) appurtenant facilities. The proposed average annual generation is estimated to be 24 gigawatthours. The cost of the studies under the permit will not exceed $2,000,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

m. Available Locations of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, NE, Room 2–A, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at www.ferc.fed.us/online/rims.htm. For assistance, users may call (202) 208–2222.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also

be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–4503 Filed 2–23–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6235–1]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Mobile Source Emission Factor Recruitment Questionnaire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Mobile Source Emission Factor Recruitment Questionnaire OMB Control Number 2060–0078, expiration date 2/27/99. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 0619.08.

SUPPLEMENTARY INFORMATION:

Title: Mobile Source Emission Factor Recruitment Questionnaire, OMB Control Number 2060–0078, EPA ICR Number 0619.08, expiration date February 27, 1999. This is a request for extension of a currently approved collection.

Abstract: The EPA Emission Inventory Group, through contractors, solicits the general public to voluntarily offer their vehicle for emissions testing. The owner is also asked to complete a multiple choice form of nine questions that summarize vehicle usage. There are two methods of soliciting the general public for participation in Emission Factor Program (EFP):

1. Postal cards are sent to a random selection of vehicle owners using State motor vehicle registration lists.

2. Motor vehicle owners, who arrive at State inspection lanes for yearly certification, are randomly solicited.

Information from the EFP provides a basis for developing State Implementation Plans (SIPs), Reasonable Further Progress (RFP) reports, attainment status assessments for the National Ambient Air Quality Standards (NAAQS).

The legislative basis for the Emission Factor Program is section 103(a)(1)(2)(3) of the Clean Air Act, which requires the Administrator to "conduct * * * research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and control of air pollution" and "conduct investigations and research and make surveys concerning any specific problem of air pollution in cooperation with any air pollution control agency * * *"

EPA uses the data from the EFP to verify predictions of the computer model known as MOBILE, which calculates the contribution of mobile source emissions to ambient air pollution. MOBILE is used by EPA, state and local air pollution agencies, the auto industry, and other parties interested in estimating mobile source emissions.

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 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on August 3, 1998 (63 FR 41251); no comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 10 minutes to 2 hours per response. 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.

Respondents/Affected Entities: General public owners of "on road motor vehicles."

Estimated Number of Respondents:

Frequency of Response:

Estimated Total Annual Hour Burden:

Estimated Total Annualized Cost Burden:

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 0619.08 and OMB Control No. 2060–0078 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460
and
Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503

Dated: February 18, 1999.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 99–4580 Filed 2–23–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6235–3]

Regulatory Reinvention (XL) Pilot Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of Atlantic Steel Project XL Draft Phase 1 Project Agreement and Related Documents.

SUMMARY: EPA is requesting comments on a proposed Phase 1 Project XL Agreement for the Atlantic Steel XL Project. The Phase 1 Project Agreement is a voluntary agreement developed collaboratively by the project sponsor, Atlantis 16th, L.L.C., stakeholders, and EPA. Project XL, announced in the **Federal Register** on May 23, 1995 (60 FR 27282), gives regulated entities the flexibility to develop alternative strategies that will replace or modify specific regulatory requirements on the condition that the alternative strategy will produce greater environmental benefits. EPA has set a goal of

implementing a total of fifty XL projects undertaken in full partnership with the states.

DATES: The period for submission of comments ends on March 10, 1999.

ADDRESSES: All comments on the draft Phase 1 Project Agreement should be sent to: Michelle Glenn, U.S. EPA, Region IV, 61 Forsyth Street, Atlanta, GA 30303, or Tim Torma, U.S. EPA, Office of Reinvention (1802), 401 M Street, SW, Room 1025WT, Washington, DC 20460. Comments may also be faxed to Ms. Glenn at (404) 562–8628 or Mr. Torma at (202) 401–6637. Comments will also be received via electronic mail sent to: glenn.michelle@epa.gov or torma.tim@epa.gov.

FOR FURTHER INFORMATION CONTACT: The proposed Phase 1 Project Agreement and related documents are available via the Internet at the following location: "http://www.epa.gov/ProjectXL". The Agreement and related documents may also be obtained by contacting: Michelle Glenn, U.S. EPA, Region IV, 61 Forsyth Street, Atlanta, GA 30303, or Tim Torma, U.S. EPA, Office of Reinvention (1802), 401 M Street, SW, Room 1025WT, Washington, DC 20460. In addition, public files on the Project are located at EPA's Region IV in Atlanta. Questions to EPA regarding the documents can be directed to Michelle Glenn at (404) 562–8674 or Tim Torma at (202) 260–5180. To be included on the Atlantic Steel Project XL mailing list to receive information about future public meetings, XL progress reports and other mailings from the project sponsor, contact: Brian Leary, CRB Realty Associates, P.O. Box 2246, Duluth, GA 30096. Mr. Leary can be reached by telephone at (770) 622–7797. For information on all other aspects of the Project XL contact Christopher Knopes at the following address: Office of Reinvention (1802), United States Environmental Protection Agency, Room 1029, 401 M Street, SW, Washington, DC 20460. Additional information on Project XL, other EPA policy documents related to Project XL, regional XL contacts, application information, and descriptions of existing XL projects and proposals, is available via the Internet at "http://www.epa.gov/ProjectXL" and via an automated fax-on-demand menu at (202) 260–8590.

SUPPLEMENTARY INFORMATION: Atlantis 16th, L.L.C., a real estate development partnership in Atlanta, GA which is managed by and hereafter referred to as Jacoby Development Corporation or Jacoby, has proposed redevelopment of a 138-acre site currently owned by Atlantic Steel near Atlanta's central business district. The proposed development is a mix of residential and business uses. An integral component of the project is a multimodal (cars, pedestrians, bicycles, transit linkage) bridge that would cross I–75/85 at 17th Street and provide access ramps as well as connecting the site to a nearby Metropolitan Atlanta Rapid Transit Authority (MARTA) station. EPA and Jacoby believe that the multi-modal access provided by the bridge would have a positive environmental impact, however, for reasons described below, the bridge cannot be built without the flexibility provided by this XL Project. Jacoby has worked intensively with representatives of EPA, the State of Georgia, local authorities, and public stakeholders to develop a site-specific Phase 1 Project XL Agreement that will allow implementation of this redevelopment.

What is the Phase 1 Project XL Agreement?

Due to the complexity of the Atlantic Steel project and the numerous processes and analyses necessary to implement it, EPA and Jacoby have adopted a two-phased approach to the Project XL Agreement. The Phase 1 XL Project Agreement being announced in this Notice is the first phase of a two-part agreement between EPA and Jacoby. EPA and Jacoby hope to sign a subsequent Final Project Agreement in May, 1999. Today's Phase 1 Agreement spells out intentions of Jacoby and EPA related to development and implementation of this project and describes areas where further details are needed or additional discussions between EPA, Jacoby and stakeholders will occur. Neither the Phase 1 Project Agreement nor the Final Project Agreement are legally binding. Legally enforceable commitments described in the Agreement will be contained in separate legal documents.

Background

The Atlanta metropolitan area is one of the fastest growing regions in the country. This growth is expected to continue. In part due to its rapid growth, Atlanta is currently out of compliance with federal air quality conformity requirements. Being "out of conformity" means that Atlanta has failed to demonstrate that its transportation activities will not exacerbate existing air quality problems or create new air quality problems in the region. The Clean Air Act (CAA), generally prohibits construction of new transportation projects that use federal funds or require federal approval in areas which are out of conformity. However, projects which are expected to reduce air emissions, called transportation control measures (TCMs), can proceed even during a conformity lapse if they are approved in a state's air quality plan. EPA is considering an innovative approach to approving the Atlantic Steel redevelopment as a TCM and Jacoby is committing to attain superior environmental performance as described below.

Improving multi-modal access to the Atlantic Steel site is essential for completion of this XL Project as proposed by Jacoby. Construction of an interchange and multi-modal bridge across I–75/85 at 17th Street would improve access to the site. The bridge would also serve as a vital link between the Atlantic Steel redevelopment and the MARTA Arts Center station. The project site currently suffers from poor accessibility due to the lack of a linkage to and across I–75/85 to midtown and to the existing MARTA rail system. In addition, construction of the 17th Street bridge was one of the City of Atlanta's zoning requirements for the project.

What Flexibility is EPA Granting?

Because of the conformity lapse mentioned above, the proposed 17th Street bridge and the associated I–75/85 access ramps would not be able to proceed without the regulatory flexibility being allowed by EPA under this Project. The flexibility Jacoby is seeking through Project XL is to regard the entire redevelopment project, including the 17th Street bridge, to be a TCM. The flexibility under Project XL is necessary because the redevelopment likely would not qualify as a TCM in the traditional sense. There are two components to the flexibility.

The first is to consider the entire Atlantic Steel redevelopment to be a TCM. That is, EPA would view Atlantic Steel's location, transit linkage, site design, and other transportation elements (e.g., provisions for bicyclists; participation in a transportation management association) together as the TCM. Under the Clean Air Act, a project must demonstrate an air quality benefit to be considered a TCM. The Atlantic Steel redevelopment would incorporate many elements that could be TCMs by themselves. Such elements include the linkage to transit, the requirement that employers at the site will join or form a transportation management association, restricted access of certain areas of the site for pedestrian use, and paths for bicyclists and pedestrians. EPA believes that the combination of these and other aspects of the redevelopment will have a positive effect on reducing emissions.

The second aspect of the flexibility sought under Project XL concerns use of an innovative approach to measuring the air quality benefit of the Atlantic Steel redevelopment. When viewed in isolation, the Atlantic Steel redevelopment would attract new automobile trips, result in new emissions and would not qualify as a TCM in the traditional sense. However, EPA believes that the Atlanta region will continue to grow, and that redevelopment of the Atlantic Steel site will produce fewer air pollution emissions than an equivalent quantity of development at other sites in the region. Therefore, EPA will measure Atlantic Steel's air quality benefit relative to an equivalent amount of development at other likely sites in the region. This type of comparison is available only to this particular redevelopment through the Project XL process.

Why Is This Flexibility Appropriate?

EPA believes the flexibility described above is appropriate for this project because of the unique attributes of the site and the redevelopment. EPA's intention to grant flexibility to this project is a result of the superior environmental performance expected to result from the combination of unique elements listed below. In the absence of these elements, EPA would be unlikely to approve new transportation projects during a conformity lapse.

First, the site is a "brownfield." Brownfields are sites which are contaminated from past uses and which must be remediated prior to reuse. An accelerated clean-up of the site will occur if this XL Project is implemented. The clean-up and redevelopment of this industrial site aligns with EPA's general efforts to encourage clean-up and reuse of urban brownfields. The likely alternative would be an underdeveloped, underused industrial parcel in the middle of midtown Atlanta.

Second, the site has a regionally central, urban location. Redeveloping this property will result in a shift of growth to midtown Atlanta from the outer reaches of the metropolitan area. Because of the site's central location, people taking trips to and from the site will be driving shorter average distances than those taking trips from a development on the edge of the city. Shorter driving distances result in fewer emissions.

Third, the redevelopment plans include a linkage to MARTA. This linkage would make it possible for those who work at the site to commute without a car and would serve residents of Atlantic Steel as well as residents of surrounding neighborhoods. In addition, the transit link is valuable for those coming to the site for non-work purposes, such as dining, shopping, and entertainment.

Fourth, the site design incorporates many "smart growth" site design principles. These principles include features which promote pedestrian and transit access rather than exclusive reliance on the car. Using these concepts, the redevelopment will avoid creating areas that are abandoned and unsafe in the evening, hotels and offices will be located within walking distance of shops and restaurants, shops that serve local needs will be located within walking distance of both the Atlantic Steel site and the adjacent neighborhoods, and wide sidewalks will encourage walking and retail use.

Fifth, the redevelopment incorporates many elements that could qualify as TCMs by themselves. In addition to the linkage to mass transit, the redevelopment will participate in a transportation management association (TMA). The TMA will monitor the number and type of vehicular trips and will create transportation management plans that would be implemented if specified performance criteria are not met.

With the exception of the accelerated site clean-up, all of these elements will have an impact on transportation decisions of people who begin and/or end their trips in the Atlantic Steel site. The combination of the site's location and design elements are expected to work together to reduce auto traffic in the Atlanta region. Therefore, EPA intends to use regulatory flexibility under Project XL to seek approval for the redevelopment and its associated transportation projects to proceed as a TCM.

Dated: February 10, 1999.

Lisa Lund,

Deputy Associate Administrator for Reinvention Programs, Office of Reinvention.

[FR Doc. 99–4581 Filed 2–23–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34177; FRL–6062–6]

1,3-Dichloropropene; Pesticide Reregistration Eligibility Decision Document; Availabliity for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces availability of the Reregistration Eligibility Decision documents (REDs) for the active ingredient 1,3-dichloropropene (trade name, Telone®) and starts a 60 day public comment period. The RED for 1,3-dichloropropene is the Agency's formal regulatory assessment of the health and environmental data base of the subject chemical, and presents the Agency's determination that all pre-plant soil fumigant uses of 1,3-dichloropropene are eligible for reregistration.

DATES: Written comments on these decisions must be submitted by April 26, 1999.

ADDRESSES: Three copies of comments, identified with the docket control number [OPP–34177] and the case number (listed in the table in this document), should be submitted to: By mail: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA.

Comments may also be submitted electronically by following the instructions under Unit III. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment in response to this notice may be claimed confidential by marking any part or all of that information as 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 docket. Information not marked confidential will be included in the public docket without prior notice (including comments and data submitted electronically). The public docket and docket index, including printed paper versions of electronic comments, which does not include any information claimed as CBI will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

To request a copy of any of the listed RED, or a RED Fact Sheets, contact the Public Information and Records Integrity Branch, in Rm. 119 at the address in this unit or call (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Technical questions on the RED should be directed to the Chemical Review Manager, Lisa Nisenson, at (703) 308–

8031. Inquiries by e-mail can be sent to nisenson.lisa@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

Electronic copies of the REDs and RED Fact Sheets can be downloaded from EPA's World wide web site at "http://www.epa.gov/oppsrrd1/REDs/."

II. Background

The Agency has issued a Reregistration Eligibility Decision (RED) document for the pesticidal active ingredient 1,3-dichloropropene. Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate existing pesticides to make sure they meet current scientific and regulatory standards. The data base to support the reregistration of the chemical 1,3-dichloropropene is substantially complete. EPA has determined that all currently registered products containing 1,3-dichloropropene as an active ingredient are eligible for reregistration.

All registrants of products containing 1,3-dichloropropene have been sent the RED and Fact Sheet and must respond to the labeling requirements and the product specific data requirements within 8 months of receipt. These products will not be reregistered until adequate product specific data have been submitted and all necessary product label changes are implemented. Products containing both 1,3-dichloropropene and chloropicrin, will not be reregistered until the applicable uses of the active ingredient chloropicrin are found eligible for reregistration.

The reregistration program is being conducted under congressionally mandated time frames, and EPA recognizes both the need to make timely reregistration decisions and to involve the public. Therefore, EPA is issuing the RED as a final document with a 60-day comment period. Although the 60-day public comment period does not affect the registrant's response due date, it is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the RED. All comments will be carefully considered by the Agency and if any of those comments impact on the RED, EPA will issue an amendment to the RED and publish a **Federal Register** notice announcing its availability.

III. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket control number [OPP–34177] (including comments submitted electronically as described in this unit). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments will also be accepted on disks in Wordperfect 5.1/6.1 file format or ASCII file format. All comments in electronic form must be identified by the docket control number [OPP–34177]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection.

Dated: February 11, 1999.

Lois Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–4546 Filed 2–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34176; FRL 6059–6]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: The Agency will approve these use deletions and the deletions will become effective on or soon after the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: By mail: Akiva Abramovitch, Office of Pesticide Programs (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail: Rm. 207, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 308–8328; e-mail: abramovitch.akiva@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in nine manufacturing-use bendiocarb pesticide registration listed in Table 1 below. This registration is listed by registration number, product names, active ingredients and the specific uses deleted.

The use deletions (non-food sites) announced in this notice will retain a 90–day comment period. Users of these products who desire continued use on sites being deleted should contact the applicable registrant before May 26, 1999 to discuss withdrawal of the applications for amendment. This 90–day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1 — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
45639–150	Ficam 2 1/2G	Bendiocarb	Non Bearing Nut, Citrus and other Fruit Trees
45639–6	Bendiocarb Technical		Non Bearing Nut, Citrus and other Fruit Trees
45639–100	Turcam 2 1/2G	Bendiocarb	Non Bearing Nut, Citrus and other Fruit Trees

TABLE 1 — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
45639–59	Turcam	Bendiocarb	Non Bearing Nut, Citrus and other Fruit Trees
45639–1	Ficam W	Bendiocarb	Use in Aircrafts, Mausoleums
45639–2	Bendiocarb WP	Bulk Pack	Use in Aircrafts, Mausoleums
45639–3	Ficam D	Bendiocarb	Use in Aircrafts, Mausoleums
45639–10	Homeowner Dust	Bendiocarb	Use in Aircrafts, Mausoleums
45639–66	Ficam PLUS	Bendiocarb, Pyrethrin Piperonyl Butoxide	Use in Aircrafts, Mausoleums

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2 — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
45639	AgrEvo Environmental Health, 95 Chestnut Ridge Road, Montvale, NJ 07645

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 90 days after the effective date of use deletions. This determination was based in part on the voluntary agreement of these registrants to cease selling product bearing previously approved labeling within that time period.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: February 10, 1999

Richard D. Schmitt,

Acting Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 99–4438 Filed 2-23-99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–857; FRL–6058–9]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–857, must be received on or before March 26, 1999.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Divison (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Following the instructions under "SUPPLEMENTARY INFORMATION." No confidential business information should be submitted through e-mail.

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). CBI should not be submitted through e-mail. Information marked as CBI 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. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	e-mail Address
Bipin Gandhi	Rm. 707A, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy, Arlington, VA; 703–308–8380	Bipin.Gandhi@epamail.epa.gov.
Mary Waller	Rm. 249, CM #2, 1921 Jefferson Davis Hwy, Arlington, VA; 703–308–9354	Waller.Mary@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various raw food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports grantinig of the

petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice, as well as the public version, has been established for this notice of filing under docket control number PF–857 (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 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in "ADDRESSES" at the beginning of this document.

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. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (insert docket number) and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

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

Dated: February 16, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Below summaries of the pesticide petitions are printed. The summaries of the petitions were prepared by the petitioners. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. ICI Surfactants

PP 9E5063

EPA has received a pesticide petition (PP) from ICI Surfactants, 3411 Silverside Road, Wilmington, DE 19803-8340 proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR 180.1001(c) and (e) to establish an exemption from the requirement of a tolerance for polyoxyethylated sorbitol fatty acid esters; the sorbitol solution containing up to 15% water is reacted with 20–50 moles of ethylene oxide and aliphatic alkanoic and/or alkenoic fatty acids C_8 through C_{22} with minor amounts of associated fatty acids; the resulting polyoxyethylene sorbitol ester having a minimum molecular weight of 1,300 when used as an inert ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest or to animals. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

Magnitude of residues. ICI Americas is petitioning that polyoxyethylated sorbitol fatty acid esters; the sorbitol solution containing up to 15% water is reacted with 20–50 moles of ethylene oxide and aliphatic alkanoic and/or alkenoic fatty acids C_8 through C_{22} with minor amounts of associated fatty acids; the resulting polyoxyethylene sorbitol ester having a minimum molecular weight of 1,000, be exempt from the requirement of a tolerance based upon the low risk polymer criteria per 40 CFR 723.250. Therefore, an analytical method to determine residues in raw agricultural commodities has not been proposed. No residue chemistry data or environmental fate data are presented in the petition as the Agency does not generally require some or all of the listed studies to rule on the exemption from the requirement of a tolerance for a low risk polymer inert ingredient.

B. Toxicological Profile (Low Risk Polymer Criteria)

1. *Acute toxicity.* 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 compounds 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 these criteria will present minimal or no risk. Polyoxyethylated sorbitol fatty acid esters; the sorbitol solution containing up to 15% water is reacted with 20–50 moles of ethylene oxide and aliphatic alkanoic and/or alkenoic fatty acids C_8 through C_{22} with minor amounts of associated fatty acids; the resulting polyoxyethylene sorbitol ester having a minimum molecular weight of 1,000, conform to the definition of a polymer given in 40 CFR 723.250(b) and meet the criteria used to identify low risk polymers under 40 CFR 723.250(e) and is not an excluded polymer per 40 CFR 723.250(d), i.e.:

i. The polymer is not a cationic polymer, nor is it capable of becoming a cationic polymer in the natural aquatic environment.

ii. It contain as an integral part of its composition only the atomic elements carbon, hydrogen, and oxygen.

iii. It does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(iii).

iv. It is not designed to, nor is it reasonably anticipated to substantially degrade, decompose or depolymerize.

v. It 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.

vi. It is not a water absorbing polymer with a number average molecular weight greater than or equal to 10,000 daltons.

vii. Its minimum number-average molecular weight is greater than 1,000 and less than 10,000 daltons. It contains less than 10% oligomeric material below molecular weight 500 and less than 25% oligomeric material below 1,000 daltons molecular weight. Substances with molecular weights greater than 400 are generally not readily absorbed through the intact skin, and substances with molecular weights greater than 1,000 are generally not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the GI tract are generally incapable of eliciting a toxic response.

viii. It does not contain any reactive functional groups.

ICI believes sufficient information was submitted in the petition to assess the hazards of polyoxyethylated sorbitol fatty acid esters; the sorbitol solution containing up to 15% water is reacted with 20–50 moles of ethylene oxide and aliphatic alkanoic and/or alkenoic fatty acids C_8 through C_{22} with minor amounts of associated fatty acids; the resulting polyoxyethylene sorbitol ester

having a minimum molecular weight of 1,300. No toxicology data were presented in the petition as the Agency does not generally require some or all of the listed studies to rule on the exemption from the requirement of a tolerance for a low risk polymer inert ingredient.

Based on this polymer conforming to the definition of a polymer and meeting the criteria of a polymer under 40 CFR 723.250, ICI believes there are no concerns for risks associated with toxicity.

2. *Endocrine disruption.* There is no evidence that polyoxyethylated sorbitol fatty acid esters; the sorbitol solution containing up to 15% water is reacted with 20–50 moles of ethylene oxide and aliphatic alkanoic and/or alkenoic fatty acids C_8 through C_{22} with minor amounts of associated fatty acids; the resulting polyoxyethylene sorbitol ester having a minimum molecular weight of 1,000, is an endocrine disrupter. 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 the skin or GI tract generally are incapable of eliciting a toxic response.

EPA is not requiring information on the endocrine effects of this substance at this time; Congress has allowed 3 years after August 3, 1996, for the Agency to implement a screening program with respect to endocrine effects.

C. Aggregate Exposure

1. *Dietary exposure.* Polyoxyethylated sorbitol fatty acid esters may come in contact with food when used as inert ingredients in pesticide formulations applied to growing crops only per 40 CFR 180.1001(d). Such use typically involves low application rates for the inert where potential residues of inert ingredients are indirectly controlled through tolerances established for the active ingredient. Polyoxyethylated sorbitol esters with a molecular weight greater than 1,000 daltons are not readily absorbed through the intact gastrointestinal tract and are considered incapable of eliciting a toxic response.

2. *Non-dietary exposure.* Typical uses of polyoxyethylated sorbitol fatty acid esters are in the synthetic fiber manufacturing industry as emulsifiers for oils used in lubricants at low end product use rates. In these uses the primary exposures is dermal, however, and polyoxyethylated sorbitol esters with a molecular weight significantly greater than 400 are not readily absorbed through the intact skin and are considered incapable of eliciting a toxic response.

D. Cumulative Effects

There is data to support a conclusion of negligible cumulative risk from polyoxyethylated sorbitol fatty acid esters; the sorbitol solution containing up to 15% water is reacted with 20–50 moles of ethylene oxide and aliphatic alkanoic and/or alkenoic fatty acids C_8 through C_{22} with minor amounts of associated fatty acids; the resulting polyoxyethylene sorbitol ester having a minimum molecular weight of 1,300. Polymers 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 the skin or GI tract generally are incapable of eliciting a toxic response. Therefore, there is no reasonable expectation of increased risk due to cumulative exposure. Based on this polymer conforming to the definition of a polymer and meeting the criteria of a polymer under 40 CFR 723.250, ICI believes there are no concerns for risks associated with cumulative effects.

E. Safety Determination

1. *U.S. population.* ICI believes sufficient information was submitted in the petition to assess the hazards of polyoxyethylated sorbitol fatty acid esters; the sorbitol solution containing up to 15% water is reacted with 20–50 moles of ethylene oxide and aliphatic alkanoic and/or alkenoic fatty acids C_8 through C_{22} with minor amounts of associated fatty acids; the resulting polyoxyethylene sorbitol ester having a minimum molecular weight of 1,000. Based on this polymer conforming to the definition of a polymer and meeting the criteria of a polymer under 40 CFR 723.250, ICI believes there are no concerns for risks associated with any potential exposure to adults. There are no known additional pathways of exposure (non-occupational, drinking water, etc.) where there would be additional risk.

2. *Infants and children.* ICI believes sufficient information was submitted in the petition to assess the hazards of polyoxyethylated sorbitol fatty acid esters; the sorbitol solution containing up to 15% water is reacted with 20–50 moles of ethylene oxide and aliphatic alkanoic and/or alkenoic fatty acids C_8 through C_{22} with minor amounts of associated fatty acids; the resulting polyoxyethylene sorbitol ester having a minimum molecular weight of 1,000. Based on this polymer conforming to the definition of a polymer and meeting the criteria of a polymer under 40 CFR 723.250, ICI believes there are no concerns for risks associated with any potential exposure to infants and children. There are no known additional pathways of exposure (non-occupational, drinking water, etc.) where infants and children would be at additional risk.

F. International Tolerances

We are not aware of any country requiring a tolerance for polyoxyethylated sorbitol fatty acid esters; the sorbitol solution containing up to 15% water is reacted with 20–50 moles of ethylene oxide and aliphatic alkanoic and/or alkenoic fatty acids C_8 through C_{22} with minor amounts of associated fatty acids; the resulting polyoxyethylene sorbitol ester having a minimum molecular weight of 1,000. Nor have there been any CODEX Maximum Residue Levels (MRL's) established for any food crops at this time. (Bipin Gandhi)

2. Zeneca Ag Products

PP 0E3853

EPA has received a pesticide petition (PP 0E3853) from Zeneca Ag Products, 1800 Concord Pike, Wilmington, DE 19850-5458, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of hexaconazole in or on the imported raw agricultural commodity bananas at 0.7 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The nature of the residue in plants is adequately understood. Plant metabolism studies have been conducted in apples, grapes, and wheat. The predominant residues in each of these studies are hexaconazole and its diol metabolites. EPA has determined that only the parent, hexaconzole, should appear in the tolerance expression, but that the diol metabolites are to be included in the risk assessment.

2. *Analytical method.* Analytical method SOPRAM 108/3 was used to

determine residues (parent) of hexaconazole in or on bananas. This method is proposed as the regulatory enforcement method. The method uses gas liquid chromatography for identification and quantification of hexaconazole. Results are confirmed by mass spectroscopy. The method has been independently validated.

3. *Magnitude of residues.* Twenty-six separate residue trials on bananas have been conducted and submitted to the EPA. Six of these trials were conducted on unbagged bananas per EPAs request and the remaining 20 trials were conducted on bagged bananas. The trials on unbagged bananas were conducted in Mexico (3), Costa Rica (2), and Guatemala (1). The trials on bagged bananas were conducted in Mexico (4), Guatemala (4), Colombia (3), Equador (3), Costa Rica (1), Panama (2), and Honduras (3). The results of these trials show that residues of hexaconazole in the raw agricultural commodity bananas will not exceed the proposed tolerance of 0.7 ppm. There are no livestock feed stuffs derived from bananas and therefore no secondary residues are expected in animal products.

B. Toxicological Profile

1. *Acute toxicity.* Acute toxicity data are not required for an import tolerance; however hexaconazole has been shown to have low acute toxicity with an acute oral LD_{50} of 2,189 mg/kg in female rats and 6,071 mg/kg in male rats, a dermal LD_{50} of > 2,000 mg/kg in rats, and an inhalation LC_{50} of > 5.91 mg/L. Hexaconazole is a non-irritant to rabbit skin and mild eye irritant in the rabbit. It is a skin sensitizer in guinea pigs.

2. *Genotoxicty.* A battery of *in vitro* and *in vivo* mutagenicity studies (5) have been conducted on hexaconazole. These studies included an Ames assay, a mouse lymphoma assay, an *in vitro* cytogenetics assay in human lymphocytes, an assay for unscheduled DNA synthesis in rat hepatocytes, and a mouse micronucleus test. The results of these tests were all negative indicating that hexaconazole is not genotoxic.

3. *Reproductive and developmental toxicity.* Developmental toxicity studies have been conducted in rats and rabbits. Pregnant Wistar rats were treated from day 7–16 of gestation with 0, 2.5, 25, or 250 mg/kg hexaconazole. Administration of 250 mg/kg was associated with maternal toxicity which consisted of reduced body weight gain and food consumption. Also at this dosage level, increased post-implantation loss and reduced fetal weights were seen when compared to the control group. There was no evidence of a teratogenic effect. Developmental toxicity at 250 mg/kg consisted of an increased incidence of extra 14th ribs, unossified calcanea, and partially ossified 5th sternebrae, and mean manus and pes scores. The incidence of extra 14th ribs was statistically increased at 25 mg/kg on a fetal, but not litter, basis. At 25 mg/kg, the incidence of extra 14th ribs was increased compared to the control group, but not statistically by either fetal or litter incidence. The no observed adversed effect level (NOAEL) for maternal toxicity was 25 mg/kg and the NOAEL for developmental toxicity was 2.5 mg/kg.

The developmental toxicity of hexaconazole was determined in two New Zealand rabbit studies. In the first study, dose levels of 0, 2.5, 12.5, or 50 mg/kg were administered to pregnant rabbits on days 7–19 of gestation. The NOAEL for maternal and developmental toxicity in this study was 50 mg/kg (the highest dosage level tested). Therefore, a second study was conducted using dose levels of 0, 25, 50, and 100 mg// kg. In the repeat study, reduced maternal body weight gain was observed at 100 mg/kg and reduced fetal weights at 50 and 100 mg/kg. The NOAEL for maternal toxicity was 50 mg/kg and the NOAEL for fetotoxicity was 25 mg/kg.

In a 2–generation reproduction study, dose levels of 0, 20, 100, or 1,000 ppm (equivalent to 0, 1, 5, and 50 mg/kg/day) were administered in the diet to Wistar rats. Liver pathology was seen in both parental animals and in the pups at 100 and 1,000 ppm. Reduced pup weight was seen at 1,000 ppm in the F^1 generation from postnatal day 5 onwards. There was a slight effect on pup survival at 1,000 ppm in the F^2b generation. The systemic NOAEL was 20 ppm and the reproductive NOAEL was 100 ppm.

4. *Subchronic toxicity.* Subchronic toxicity studies have been conducted in rats and dogs. Male and female Wistar rats were fed diets containing 0, 50, 500, or 5,000 ppm hexaconzole for a period of 90 days. Findings included decreased body weight gain (500 and 5,000 ppm), fatty changes and liver hypertrophy (500 and 5,000 ppm), and adrenal cortical vacuolation (50, 500, and 5,000 ppm). A clear NOAEL was not determined in this study.

Beagle dogs were orally administered 0, 5, 25, or 125 mg/kg/day hexaconazole in gelatin capsules for 90 days. At 25 and 125 mg/kg/day, increased alkaline phosphatase activity, increased liver weight, and increased lipid accumulation in liver parenchymal cells were seen. The NOAEL was 5 mg/kg/day.

5. *Chronic toxicity.* Chronic toxicity studies have been conducted in rats, mice, and dogs. In a 2-year feeding study in Alpk:APfSD rats, hexaconazole was tested at dose levels of 0, 10, 100, and 1,000 ppm (equivalent to 0, 0.47, 4.7, and 47 mg/kg/day in males and 0, 0.61, 6.1, and 61 mg/kg/day in females). At 1,000 ppm and to a lesser extent at 100 ppm. increased hepatocyte hypertrophy and reduced body weight gain were observed. The NOAEL in this study was determined to be 10 ppm, equivalent to 0.47 mg/kg/day in males and 0.61 mg/kg/day in females. An increased incidence of Leydig cell tumors was seen in male rats at 1,000 ppm.

The oncogenic potential of hexaconazole was assessed in C57/BL/10JfCD-1/Alpk mice. Dosage levels were 0, 5, 40, and 200 ppm administered in the diet for a period of 2 years. At 200 ppm, decreased body weight gain (10%) in males was observed. Food utilization was decreased in male and female mice at this dosage level. Fatty changes were seen in the livers of treated mice at 200 ppm. Hexaconazole was not considered oncogenic to mice. The NOAEL was determined to be 40 ppm which is equivalent to 4.7 mg/kg/day in male mice and 5.9 mg/kg/day in female mice.

Beagle dogs were orally administered 0, 2, 10, or 50 mg/kg/day hexaconazole daily in capsules for 1 year. At 10 and 50 mg/kg/day, increased alkaline phosphatase activity, increased liver weight, and increased fatty changes in the liver were observed. The NOAEL was 2 mg/kg/day.

6. *Animal metabolism.* In the rat, ^{14}C-hexaconazole is readily absorbed, extensively metabolized, and readily excreted. The major route of metabolism involves oxidation of the *n*-butyl chain. In male rats the majority of the radioactivity is excreted in the feces and in female rats in the urine. The sex difference in the proportions of hexaconazole excreted in urine and feces is due to quantitative differences in biliary elimination of hexaconazole metabolites.

7. *Metabolite toxicology.* The EPA metabolism committee considered that only the parent hexaconazole should be included in the tolerance expression. The diol metabolites of hexaconazole, however, were to be considered in risk assessments. The Committee further considered that the diol metabolites were toxicologically similar to hexaconazole and therefore, testing of hexaconazole metabolites was not considered necessary.

8. *Endocrine disruption.* Results of developmental and reproductive studies on hexaconazole did not provide any

indication that hexaconazole disrupted endocrine function. In a 2-year rat chronic toxicity study, an increased incidence of benign Leydig cell tumors was seen at the highest dose level tested (1,000 ppm). Also in this study a slightly increased incidence of adrenal cortical vacuolation was seen in male rats; however, the toxicologic significance of this finding is not known because the spontaneous incidence in untreated male rats was very high. Zeneca has conducted studies to determine the mechanism of induction of the Leydig cell tumors in isolated rat and human Leydig cells.

Hexaconazole inhibits steroid production in both cell types through inhibition of C_{17-20} lyase, a cytochrome P450-dependent enzyme, leading to a decrease in testosterone production. Zeneca postulates that the decrease in testosterone production leads to a direct effect on the Leydig cell resulting in a compensatory hyperplasia and eventually to tumors.

C. Aggregate Exposure

1. *Dietary exposure.* — i. *Chronic.* For purposes of assessing the potential dietary exposure from bananas at the tolerance level, Zeneca has calculated the anticipated residue concentration (ARC) for the U.S. population and various subgroups, including infants and children. In performing this assessment, Zeneca used conservative assumptions, including assuming that 100% of bananas imported into the U.S. would be treated with hexaconazole. Actual residue data from the trials listed in section 1.3 above were used in the assessment. Residue levels, which included levels of hexaconazole plus its diol metabolites, from whole bananas were averaged. Most of the residue values obtained were below the level of quantification of the analytical method. In these cases 1/2 of the quantified level was used. Therefore, the safety determinations outlined in section E. below represent conservative estimates of potential exposure of the U.S. population and various subgroups to residues of hexaconazole on bananas.

ii. *Acute.* EPA does require acute dietary assessments for import tolerances and therefore, an acute dietary assessment was not conducted. However, results of residue trials indicate that levels of hexaconazole and its metabolites are not expected to reach the tolerance level.

2. *Food.* Aggregate exposure to residues of hexaconazole on food products is not expected. There are no registrations for food uses of hexaconazole within the U.S.; there is an import tolerance on bananas only. Therefore, the only food source of hexaconazole residues to the U.S. population is bananas.

3. *Drinking water.* No drinking water exposure is expected because there are no U.S. registrations for hexaconazole uses. The only existing U. S. tolerance is an import tolerance on bananas.

4. *Non-dietary exposure.* There are no registered uses of hexaconazole within the U.S. and therefore no non-dietary exposure to hexaconazole or its metabolites is expected.

D. Cumulative Effects

Although other triazole fungicides are registered for uses in the U.S., Zeneca has no information to indicate that the toxic effects of these fungicides (primarily liver toxicity) would be cumulative with those of hexaconazole in the U.S. population.

E. Safety Determination

1. *U.S. population.* —i. *Cancer.* EPA has classified hexaconazole as a Group C (Possible Human) carcinogen with a Q^{1*} of 0.023 $(mg/kg/day)^{-1}$. This classification was based on a statistically significant increase in benign Leydig cell tumors in male rats fed hexaconazole in the diet at a level of 1,000 ppm for 2 years. In addition, this tumor type is an uncommon tumor in the strain of rat used in this study and the tumors occurred at an accelerated rate. The classification was also supported by a marginal increase in mouse liver tumors and the structural similarity of hexaconazole to other triazole fungicides that are mouse liver carcinogens.

Using the conservative assumptions outlined in section C.1, an assessment of the potential cancer risk, based on a Q^{1*} of 0.023 $(mg/kg/day)^{-1}$, from dietary consumption of hexaconazole (bananas) resulted in an exposure of 0.00025 mg/kg/day and a lifetime risk to the U.S. population of 5.7×10^{-7}. EPA considers a lifetime cancer risk of one in a million to be acceptable.

ii. *Threshold effects.* Prior to the enactment of FQPA, EPA calculated a reference dose (RfD) for hexaconazole of 0.02 mg/kg/day based on the NOAEL from a 1-year dog study of 2 mg/kg/day and an uncertainty factor of 100. In calculating the dietary risk of hexaconazole to the U.S. population, Zeneca added an additional uncertainty factor of 3 (to be protective of infants and children; see section E.2 below) which gives a RfD of 0.007 mg/kg/day. Zeneca considered adding an additional uncertainty factor of 10; however, it did not believe that the effects seen at non-maternally toxic doses in the rat and rabbit developmental toxicity studies were of a serious enough concern to warrant an additional factor of 10.

Using the conservative assumptions outline in section C.1 and a RfD of 0.007 mg/kgday, an assessment of the dietary risk to the U.S. population resulted in an ARC of 0.00011 mg/kg/day or 0.4% of the RfD.

2. *Infants and children.* When assessing the potential for extra sensitivity of infants and children to hexaconazole, Zeneca considered the results of developmental (rat and rabbit) and reproductive (rat) toxicity studies. The developmental toxicity NOAELs in the rat and rabbit teratology studies were lower than the NOAELs for maternal toxicity. The NOAEL (2.5 mg/kg/day) for developmental toxicity in rat study was based on an increased incidence of extra 14th ribs at doses of 25 mg/kg/day and higher. The NOAEL in the rabbit developmental toxicity study was 25 mg/kg/day based on decreased fetal body weight at doses of 50 mg/kg/day and higher. The results of a rat 2-generation reproduction study did not provide any evidence of an increased sensitivity of the offspring to hexaconazole-induced toxicity, including to the liver. As noted in section E.1.b above, when calculating the RfD Zeneca added an additional safety factor of 3 to account for the slightly increased sensitivity of the developing fetus to the effects of hexaconazole. The NOAEL (2.0 mg/kg/day) for effects (liver toxicity) attributed to hexaconazole in the dog is close to the NOAEL for effects of hexaconazole on rat fetuses and lower than the NOAEL for rabbit fetuses. Therefore the dietary risk assessment for infants and children was performed using a RfD of 0.007 mg/kg/day.

Using the conservative assumptions outline in section C.1 and a RfD of 0.007 mg/kg/day, an assessment of the dietary risk to non-nursing infants (the most sensitive population subgroup) resulted in ARC of 0.00011 mg/kg/day or 1.6% of the RfD.

F. International Tolerances.

Codex Alimentarius Commission (Codex) Maximum Residue Levels (MRLs) for hexaconazole have been established on apples (0.1 ppm), bananas (0.1 ppm), coffee beans (0.05 ppm), grapes (0.1 ppm), wheat (0.1 ppm), and wheat straw and dry fodder (0.5 ppm). (Mary Waller)

[FR Doc. 99–4321 Filed 2–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181066; FRL 6063–1]

Diclosulam; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Texas Department of Agriculture hereafter referred to as the "Applicant" to use the new chemical diclosulam (Strongarm Agriculture Herbicide, EPA File Symbol 62719–EII) to treat up to 184,000 acres of peanuts, to control broadleaf weeds. The Applicant proposes the use of a new chemical which has not been registered by the EPA. Therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before March 11, 1999.

ADDRESSES: Three copies of written comments, bearing the identification notation (OPP–181066) should be submitted by mail to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions under SUPPLEMENTARY INFORMATION. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as 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 provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. The docket is available for public inspection at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–305–6463); e-mail: madden.barbara@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at her discretion, exempt a federal or state agency from any provision of FIFRA if she determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue a specific exemption for the use of diclosulam on peanut to control broadleaf weeds. Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the Applicant asserts that diclosulam is the only herbicide available that can be applied preplant incorporated and provide excellent control of purple nutsedge, eclipta, and golden crownbeard. Also it is the only herbicide available for the control of purple nutsedge that allows for cotton to be planted the following year. According to the Applicant once nutsedge is established in a field the production and profitably of that field declines year by year. Diclosulam herbicide has the potential to turn that process around and thus allow the grower to reclaim unproductive fields that have been unusable for years. In addition the use of diclosulam will help to eliminate the two or more year continuous peanut cropping scheme. This is an economic problem in that it degrades the productivity of the land through unsound agronomic practice. These effects include proliferation of difficult to control weeds, increased disease potential and nematode problems. All of this can result in economic loss.

The applicant proposes to make no more than one application of granular or water soluble packets of diclosulam on peanuts at the rate of 0.38 ounces of active ingredient (a.i.) per acre. The total maximum proposed use during the 1999 growing season (March 15, 1999 until July 15, 1999) would be 0.38 ounces of a. i. per acre. The applicant proposes that the maximum acreage which could be treated under the requested exemption would be 184,000 acres. If all the proposed acres were treated at the maximum proposed rate, then 4,370 lbs., a.i. would be used in Texas.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient) which has not been registered by the EPA. Such notice provides for opportunity for public comment on the application.

The official record for this notice, as well as the public version, has been established under docket number (OPP–181066) (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 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in "ADDRESSES" at the beginning of this document.

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. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number (OPP–181066). Electronic comments on this notice may be filed online at many Federal Depository Libraries.

The Agency, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Texas Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: February 16, 1999

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–4439 Filed 2–23–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181065A; FRL–6059–3]

Malathion and Diazinon; Receipt of Application for Emergency Exemption, Solicitation of Public Comment Period; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the public comment period related to the consideration of a section 18 quarantine exemption request submitted to the Agency by the U.S. Department of Agriculture for the use of the pesticides malathion and diazinon to treat areas in Florida where nonindigenous subtropical fruit flies (various species in the family Tephritidae) are discovered. The public may directly review the materials submitted in support of the subject emergency exemption application at the EPA's Pesticide Public Docket or through the main branch of the Tampa-Hillsborough County Library. The comment period is extended for an additional 30 days.

DATES: Written comments must be submitted to EPA by March 26, 1999.

ADDRESSES: By mail, submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Follow the instructions under SUPPLEMENTARY INFORMATION. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as 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. The public docket is available for public inspection in Rm. 119 at the Virginia address given in this unit, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Daniel J. Rosenblatt, Office of Pesticide Programs (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, Rm. 280, 1921 Jefferson-Davis Highway, Arlington, VA, (703–308–9375); e-mail: rosenblatt.dan@epamail.epa.gov. The emergency exemption application is also available for public inspection in the Special Collection Department of the main library of the Tampa-Hillsborough County Library system located at 900 N. Ashley, Tampa, Florida, (813–273–3629).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of December 9, 1998 (63 FR 67880)(FRL–6047–8) which solicited public comment on the section 18 quarantine exemption request which was submitted to the Agency by the U.S. Department of Agriculture for the use of the pesticides malathion and diazinon to treat areas in Florida where nonindigenous subtropical fruit flies (various species in the family Tephritidae) are discovered.

EPA is evaluating the quarantine exemption request under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from the U.S. Department of Agriculture (hereinafter referred to as the "Applicant") to use the pesticides malathion (CAS No. 121–75–5), formulated as Fyfanon ULV (EPA Registration Numbers 4787–8 and 51036–104 and diazinon (CAS No. 333–41–5), formulated as Diazinon 4–E (EPA Registration Number 769–687) at this time. The purpose of this notice is to extend the period for public comment about how the Agency should respond to the emergency exemption application from the Applicant.

In the past years, severe infestations of the Mediterranean fruit fly (Ceratitis capitata) has been discovered in Florida. The Mediterranean fruit fly is a destructive pest capable of damaging a wide range of important agricultural crops. In order to ensure that the Mediterranean fruit fly does not become established in Florida, the Applicant and the State of Florida have undertaken emergency eradication programs to combat each outbreak.

The section 18 request under consideration by the Agency involves use of the pesticides in eradication programs, the release of sterile Mediterranean fruit flies, and numerous other exclusion and detection activities in order to help ensure that this pest species does not become established.

The official record for this notice, as well as the public version, has been established for this notice under docket control number [OPP–181065A] (including comments and data submitted electronically as described in this unit). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, except legal holidays. The official notice record is located at the Virginia address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@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 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number [OPP–181065A]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Pesticides and pests, Emergency exemptions.

Dated: February 16, 1999.

Peter Caulkings,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–4317 Filed 2–23–99; 8:45 am]

BILLING CODE 6560–50–F

COUNCIL ON ENVIRONMENTAL QUALITY

Annual Report on Endangered Species Act Exemption

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Availability of report.

SUMMARY: This notice announces the availability of the Annual Report submitted by Basin Electric Power Cooperative, as Project Manager for the Missouri Basin Power Project in the matter of an exemption granted from the requirements of the Endangered Species Act to Grayrocks Dam. The lead federal agency in the project is the Rural Electrification Administration.

DATES: The report was submitted to the Council in November, 1998.

ADDRESSES: The Annual Report is available from Basin Electric Power Cooperative, 1717 East Interstate Avenue, Bismarck, ND 58501–0564; Telephone: (701) 223–0441.

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW, Washington, DC 20503; Telephone: (202) 395–7421.

SUPPLEMENTARY INFORMATION: Under the Endangered Species Act, any agency granted an exemption under 16 U.S.C. 1536(h) must submit to the Council on Environmental Quality an annual report describing its compliance methods with the mitigation and enhancement measures prescribed by 16 U.S.C. 1536. See 16 U.S.C. 1536(l)(2). This subsection further requires that the Council publish availability of the report in the **Federal Register.**

On February 7, 1979, the Endangered Species Committee granted an exemption from the requirements of the Endangered Species Act to Grayrocks Dam. In granting the Exemption Order, the Committee, as required by the act, established requirements for reasonable mitigation and enhancement measures. These requirements are set out in an "Agreement of Settlement and Compromise" and is part of the Annual Report announced here.

Dated: February 9, 1999.

George T. Frampton,

Acting Chair.

[FR Doc. 99–4487 Filed 2–23–99; 8:45 am]

BILLING CODE 3125–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: FEDERAL ELECTION COMMISSION BILLING CODE: 6715–01–M

DATE & TIME: *TUESDAY, MARCH 2, 1999 AT 10:00 a.m.*

PLACE: 999 E STREET, N.W., WASHINGTON, D.C.

STATUS: THIS MEETING WILL BE CLOSED TO THE PUBLIC.

ITEMS TO BE DISCUSSED: Compliance matters pursuant to 2 U.S.C. § 437g. Audits conducted pursuant to 2 U.S.C. § 427g, § 438(b), and Title 26, U.S.C. Matters concerning participation in civil actions or proceedings or arbitration. Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: *THURSDAY, MARCH 4, 1999 AT 10:00 a.m.*

PLACE: 999 E STREET, N.W., WASHINGTON, D.C. (NINTH FLOOR)

STATUS: THIS MEETING WILL BE OPEN TO THE PUBLIC.

ITEMS TO BE DISCUSSED: Correction and Approval of Minutes. Advisory Opinion 1999–02 Premera Blue Cross by Barbara Mehlert. Report of the Audit Division on Clinton/Gore '96 Primary Committee, Inc. Report of the Audit Division on Clinton/Gore '96 General Committee, Inc. and Clinton/Gore '96 General Election Legal and Accounting Compliance Fund. Report of the Audit Division on the Dole for President Committee, Inc. (Primary). Report of the Audit Division on the Dole/Kemp '96 and Dole/Kemp Compliance Committee, Inc. (General). Legislative Recommendations, 1999. Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Signed:

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 99–4724 Filed 2–22–99; 2:32 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Elle International, Inc., 1981 Surrey Hill Circle, Lawrenceville, GA 30044, Officers: Lisa Riley, C.E.O., Donald Sooy, Director

Dated: February 19, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–4583 Filed 2–23–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Ambyth Shipping Micronesia, Inc., d/b/a Intermodal Cargo Forwarders, Westpac Bldg., Puerto Rico, P.O. Box 3681–CK, Saipan, MP 96950, Officers: Alfred K.Y. Lam, President, Gregory R. David, Vice President

Dated: February 19, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–4584 Filed 2–23–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will 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 notice or to the offices of the Board of Governors. Comments must be received not later than March 11, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. LeRoy L. Gray, Fairbank, Iowa; to acquire additional voting shares of Evans Bancshares, Inc., Evansdale, Iowa, and thereby indirectly acquire additional voting shares of First Security State Bank, Evansdale, Iowa.

Board of Governors of the Federal Reserve System, February 19, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–4565 Filed 2-23-99; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 22, 1999.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Community Capital Bancshares, Inc., Albany, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Albany Bank & Trust, N.A., Albany, Georgia (in organization).

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Northfield Bancshares, Inc., Northfield, Minnesota; to merge with RCB Holding Company, Roseville, Minnesota, and thereby indirectly acquire Roseville Community Bank National Association, Roseville, Minnesota.

Board of Governors of the Federal Reserve System, February 19, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–4564 Filed 2–23–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 11, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Ambank Company, Inc., Sioux Center, Iowa; to engage *de novo*, in lending and leasing activities, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, February 19, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–4563 Filed 2–23–99; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research; Notice of Meetings

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2) announcement is made of the following subcommittees scheduled to meet as special emphasis panels during the month of March 1999:

Name: Health Care Technology and Decision Sciences.

Date and Time: March 5, 1999, 8:00 a.m.

Place: 6010 Executive Blvd., Conference Room D, Rockville, Maryland 20852. Open March 5, 1999, 8:00 a.m. to 8:15 a.m. Closed for remainder of meeting.

Purpose: To review and evaluate grant applications.

Name: Health Research Dissemination and Implementation.

Date and Time: March 12, 1999, 8:00 a.m.

Place: Ramada Inn, 1775 Rockville Pike, Montrose Room, Rockville, Maryland 20852. Open March 12, 8:00 a.m. to 8:15 a.m. Closed for remainder of meeting.

Purpose: To review and evaluate grant applications.

Agenda: The open sessions of the meetings will be devoted to business covering administrative matters and reports. During the closed sessions, the Subcommittees will be reviewing and discussing grant applications dealing with health services research issues. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), the Administrator, Agency for Health Care Policy and Research, has made a formal determination that these latter sessions will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meetings, or other relevant information should contact Ms. Jenny Griffith, Committee Management Officer, Office of Research Review, Education and Policy, Agency for Health Care Policy and Research, 2101 East Jefferson Street, Suite 400, Rockville, Maryland 20852, Telephone (301) 594–1847.

Agenda items for these meetings are subject to change as priorities dictate.

Dated: February 17, 1999.

John M. Eisenberg,

Administrator.

[FR Doc. 99–4479 Filed 2–23–99; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Administration on Aging, HHS.

The Administration on Aging (AoA), Department of Health and Human Services, proposes to submit to the Office of Management and Budget (OMB) the following proposal for the collection of information in compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 96–511):

Title of Information Collection: Operation Restore Trust Grantee Reports.

Type of Request: New.

Use: To collect and publish periodic summaries of proposed projects. These proposed projects constitute an evaluation of the Administration on Aging's Operation Restore Trust (ORT) grantees. The mission of the Administration on Aging's ORT initiatives is to fight fraud, waste, and abuse in the Medicare and Medicaid programs. As part of a nation-wide partnership of public and private agencies and organizations, AoA funds grants through two mechanisms, the Health Insurance Portability and Accountability Act (HIPPA) (Pub. L. 104–191) and the Health Care Anti-fraud Waste and Abuse Community Volunteer Demonstration Program contained in the Omnibus Consolidated Appropriation Act of 1997. These two sets of projects provide education, training, outreach, and other services to build community coalitions, promote awareness, and stimulate action on the part of staff, volunteers, and beneficiaries to identify and report potential cases of inappropriate billing and other improper activity in the nation's publicly financed health insurance programs.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed collection of information; 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. Data will be from all of the AoA funded sites receiving funding in Fiscal Year 1999 and later years where program outcomes are to be assessed on a semi-annual basis. The analysis of the data also will help to determine whether the goal of reducing health care waste, fraud, and abuse is being achieved.

The primary purpose of the proposed data collection activity is to meet the reporting requirements of the Government Performance Review Act (GPRA) (Pub. L. 103–62) by allowing AoA to quantify the effects and accomplishments of ORT programs.

	Number of clients	Responses/ client	Hours/ response	Annual burden hours	Annual burden cost
Semi-annual Reporting Form	30	2	1	60	$1,800
Staff Interview	30	1	1	30	900
Trainee Interview	100	1	.5	50	1,500
Total	160			140	4,200

Frequency: Semi-annual.

Respondents: Health Insurance Portability and Accountability Act and Health Care Anti-fraud Waste and Abuse Community Volunteer Demonstration Program grantees To request more information concerning the proposed projects, or to obtain a copy of the information collection plans, call Kenton Williams (202) 619–3951. Written comments may be sent to Kenton Williams, Room 4730, Wilber Cohen Building, 330 Independence Avenue, SW Washington, DC 20201.

Written comments should be received within 60 days of this notice.

Dated: February 18, 1999.

June B. Faris,

Acting Director, Executive Secretariate Administration on Aging.

[FR Doc. 99–4491 Filed 2–23–99; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement 13655.911]

Grants to Indian Tribal Organizations for Supportive and Nutritional Services for Older Indians

AGENCY: Administration on Aging (AoA).

ACTION: Extension of deadline to apply for funds under the Older Americans Act, Title VI, grants for Native Americans, Part A—Indian Program.

SUMMARY: Due to extenuating circumstances the Administration on Aging is extending the date for which the Title VI grant applications for the grant period April 1, 1999–March 31, 2002 are due.

DATES: All applications must be received or postmarked on or before March 17, 1999.

FOR FURTHER INFORMATION CONTACT: M. Yvonne Jackson, Ph.D., Office for American Indian, Alaskan Native, and Native Hawaiian Programs, Administration on Aging, Department of Health and Human Services, Wilbur J. Cohen Federal Building, Room 4743, 330 Independence Avenue, SW, Washington, DC 20201, telephone (202) 619–2713 as stated in the original **Federal Register** announcement dated October 30, 1998 on pages 58392–58396.

Dated: February 18, 1999.

Jeanette C. Takamura,

Assistant Secretary for Aging.

[FR Doc. 99–4485 Filed 2–23–99; 8:45 am]

BILLING CODE 4130–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–08–99]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of

information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

1. The National Health and Nutrition Examination Survey (NHANES)—(0920–0237)—Revision—The National Center for Health Statistics (NCHS). The National Health and Nutrition Examination Survey (NHANES) has been conducted periodically since 1970 by NCHS. NHANES will begin again in February 1999 and will be conducted on a continuous, rather than periodic, basis from that point on. The plan is to sample about 5,000 persons annually. They will receive an interview and a physical examination. A dress rehearsal of 555 sample persons is needed to test computer-assisted personal interviews (including translations into Spanish), examination protocols, automated computer systems and quality control procedures. Participation in the dress rehearsal and main survey will be completely voluntary and confidential.

NHANES programs produce descriptive statistics which measure the health and nutrition status of the general population. Through the use of questionnaires, physical examinations, and laboratory tests, NHANES studies the relationship between diet, nutrition and health in a representative sample of the United States. NHANES monitors the prevalence of chronic conditions and risk factors related to health such as coronary heart disease, arthritis, osteoporosis, pulmonary and infectious diseases, diabetes, high blood pressure, high cholesterol, obesity, smoking, drug and alcohol use, environmental exposures, and diet. NHANES data are used to establish the norms for the general population against which health care providers can compare such patient characteristics as height, weight, and nutrient levels in the blood. Data from NHANES can be compared to those from previous surveys to monitor changes in the health of the U.S. population. NHANES will also establish a national probability sample of genetic material for future genetic research for susceptibility to disease.

Users of NHANES data include Congress; the World Health Organization; Federal agencies such as NIH, EPA, and USDA; private groups such as the American Heart Association; schools of public health; private businesses; individual practitioners; and administrators. NHANES data are used to establish, monitor, and evaluate recommended dietary allowances, food fortification policies, programs to limit environmental exposures, immunization guidelines and health education and disease prevention programs. Approval was received on 5/29/98 for only a pilot test of the revised survey—without the genetic research component. This submission requests three year approval for the dress rehearsal and the full survey, including all components.

The survey description, contents, and uses are the same as those in the **Federal Register** notice for the pilot test. The total annual burden hours are 51,414.

Burden category	No. of respondents	No. of responses/ respondent	Average burden/response (in hrs.)
1. Screening interview only	13,467	1	0.167
2. Screener and household interviews only	710	1	0.434
3. Screener, household, and SP interviews only	1,066	1	1.100
4. Screener, household, and SP interviews and primary MEC exam only	5,257	1	6.613
5. Screener, household, and SP interviews, primary MEC exam and full MEC replicate exam	263	1	11.613
6. Screener, household, and SP interviews, MEC exam and dietary replicate interview only (5% + optional 15%)	1,052	1	8.363
7. Home exam	71	1	2.700
8. Telephone follow-up of elderly -option	1,167	1	0.750

2. The National Nursing Home Survey (NNHS)—(0920–0353)—Reinstatement—The National Center For Health Statistics(NCHS)—Section 306 of the Public Health Service Act states that the National Center for Health Statistics "shall collect statistics on health resources * * * [and] utilization of health care, including utilization of * * * services of hospitals, extended care facilities, home health agencies, and other institutions." The data system responsible for collecting this data is the National Health Care Survey (NHCS). The National Nursing Home Survey (NNHS) is part of the Long-term Care Component of the NHCS. The NNHS was conducted in 1973–74, 1977, 1985, 1995, and 1997. NNHS data describe this major segment of the long-term care system and are used extensively for health care research, health planning and public policy. The survey provides detailed information on utilization patterns needed in order to make accurate assessments of the effects of health care reform on the elderly. The NNHS also provides detailed information to assess the need for and costs associated with such care. The use of long-term care services will become an increasingly important issue as the population continues to age. Data from earlier NNHS collections have been used by the National Immunization Program at CDC, Office of the U.S. Attorney General, the Bureau of Health Professionals, the National Institute of Dental and Craniofacial Research at NIH, the Agency for Health Care Policy and Research, the American Health Care Association, Johnson and Johnson Pharmaceutical, the Rand Corporation and by several newspapers and journals. NNHS data cover: baseline data on the characteristics of nursing homes in relation to their residents and staff, Medicare and Medicaid certification, costs to residents, sources of payment, residents' functional status and diagnoses. Data collection is planned for the period July–November, 1999. Survey design is in process now. Sample selection and preparation of layout forms will precede the data collection by several months. The total annual burden hours are 4,500.

Respondents	No. of respondents	No. of responses/respondent	Average burden/response (in hrs.)
Facility Questionnaire	1,500	1	0.333
Current Resident Sampling List	1,500	1	0.333
Current Resident Questionnaire	1,500	6	0.17
Discharged Resident Sampling List	1,500	1	0.333
Discharged Resident Questionnaire	1,500	6	0.17

3. Provider Survey of Partner Notification and Partner Management Practices Following Diagnosis of a Sexually-Transmitted Disease (0920–0431)—Reinstatement—The National Center for HIV, STD, and TB Prevention (NCHSTP), Division of STD Prevention, CDC is proposing to conduct a national survey of physician's partner management practices following the diagnosis of a sexually-transmitted disease. Partner notification, a technique for controlling the spread of sexually-transmitted diseases is one of the five key elements of a long standing public health strategy to control sexually-transmitted infections in the US. At present, there is very little knowledge about partner notification practices outside public health settings despite the fact that most STD cases are seen in private health care settings. No descriptive data currently exist that allow the Centers for Disease Control and Prevention to characterize partner notification practices among the broad range of clinical practice settings where STDs are diagnosed, including acute or urgent care, emergency room, or primary and ambulatory care clinics. The existing literature contains descriptive studies of partner notification in public health clinics, but no baseline data exist as to the practices of different physician specialties across different practice settings.

The CDC proposes to fill that gap through a national sample survey of 7,000 physicians who treat patients with STDs in a wide variety of clinical settings; an 80% completion rate is anticipated (n=5,040 surveys). This survey will provide the baseline data necessary to characterize infection control practices, especially partner notification practices, for syphilis, gonorrhea, HIV, and chlamydia and the contextual factors that influence those practices. Findings from the proposed national survey of physicians will assist CDC to better focus STD control and partner notification program efforts and to allocate program resources appropriately. Without this information, CDC will have little information about STD treatment, reporting, and partner management services provided by physicians practicing in the US. With changes underway in the manner in which medical care is delivered and the move toward managed care, clinical functions typically provided in the public health sector will now be required of private medical providers. At present, CDC does not have sufficient information to guide future STD control efforts in the private medical sector.

The current OMB approval for this collection covered the pilot only and expired on October 31, 1998. The pilot varied the respondent payment to equal subsections of the sample using amounts of $0, $15, and $25. The re-submission of the full information collection package will include a description of the results of the pilot including details of the response rates overall and break down by use of the various response rates. The total annual burden hours are 2,268.

Respondents	No. of respondents	No. of responses/respondent	Average burden/response (in hrs.)
Clinicians who see STDs	4,032	1	0.5
Clinicians who do not see STDs	1,008	1	.25

4. School Health Policies and Programs Study 2000 (SHPPS 2000)—New—The National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP). The purpose of this request is to obtain OMB clearance to conduct a study of school health policies and programs in elementary, middle/junior, and senior high schools nationwide. A similar study was conducted in 1994 (OMB No. 0920–0340). SHPPS 2000 will assess the characteristics of eight components of school health programs at the elementary, middle/junior, and senior high school levels: health education, physical education and activity, health services, food service, school policy and environment, mental health and social services, faculty and staff health promotion, and family and community involvement. SHPPS 2000 data will be used to provide end-of-decade measures for 18 national health objectives for 2000 and as a baseline measure for at least 17 draft objectives for 2010. No other national source of data exists for these 2000 and draft 2010 objectives. The data also will have significant implications for policy and program development for school health programs nationwide. The total annual burden hours are 26,416.

ANNUAL BURDEN HOURS FOR SHPPS 2000 MAIN DATA COLLECTION, SPRING 2000

Questionnaire/activity	Respondent	Number of respondents	Burden hours per respondent
State Health Education	State officials	51	1.00
State Physical Education and Activity	State officials	51	1.00
State Health Services	State officials	51	1.00
State Food Service	State officials	51	1.00
State Questionnaire on School Policy and Environment	State officials	51	1.25
State Mental Health and Social Services	State officials	51	1.00

ANNUAL BURDEN HOURS FOR SHPPS 2000 MAIN DATA COLLECTION, SPRING 2000—Continued

Questionnaire/activity	Respondent	Number of respondents	Burden hours per respondent
State Faculty and Staff Health Promotion	State officials	51	0.50
Assist with identifying state level respondents and with recruiting districts and schools.	State officials	51	1.00
District Health Education	District officials	1148	1.00
District Physical Education and Activity	District officials	1148	1.00
District Health Services	District officials	1148	1.00
District Food Service	District officials	1148	1.00
District Questionnaire on School Policy and Environment	District officials	1148	1.25
District Mental Health and Social Services	District officials	1148	1.00
District Faculty and Staff Health Promotion	District officials	1148	0.50
Assist with identifying district and school level respondents and with recruiting schools.	District officials	350	1.00
Assist with identifying and scheduling school level respondents	School officials	1539	1.00
School Health Education	Health education lead teachers, principals, or designees.	1539	1.00
School Physical Education and Activity	Physical education lead teachers, principals, or designees.	1539	1.00
School Health Services	School nurses, principals, or designees.	1539	1.00
School Food Service	Food service managers, principals, or designees.	1539	1.00
School Questionnaire on School Policy and Environment	Principals or designees	1539	1.50
School Mental Health and Social Services	Counselors, principals, or designees.	1539	1.00
School Faculty and Staff Health Promotion	Principals or designees	1539	0.50
Health Education Classroom Teacher	Health education teachers (Average 1.5 per school).	2309	0.80
Physical Education and Activity Classroom Teacher	Physical education teachers (Average 2 per school).	3078	0.80

ANNUAL BURDEN HOURS FOR VALIDITY/RELIABILITY STUDY, SPRING 2000

Questionnaire	Respondent	Number of respondents	Burden hours per respondent
State Health Education	State officials	32	0.25
State Physical Education and Activity	State officials	32	0.25
State Health Services	State officials	32	0.20
State Food Service	State officials	32	0.20
State Questionnaire on School Policy and Environment	State officials	32	0.40
State Mental Health and Social Services	State officials	32	0.25
State Faculty and Staff Health Promotion	State officials	32	0.20
District Health Education	District officials	82	0.25
District Physical Education and Activity	District officials	82	0.25
District Health Services	District officials	82	0.20
District Food Service	District officials	82	0.20
District Questionnaire on School Policy and Environment	District officials	82	0.40
District Mental Health and Social Services	District officials	82	0.25
District Faculty and Staff Health Promotion	District officials	82	0.40
School Health Education	Health education lead teachers, principals, or designees.	82	0.80
School Physical Education and Activity	Physical education lead teachers, principals, or designees.	82	0.80
School Health Services	School nurses, principals, or designees.	82	0.80
School Food Service	Food service managers, principals, or designees.	82	0.80
School Questionnaire on School Policy and Environment	Principals or designees	82	1.25
School Mental Health and Social Services	Counselors, principals, or designees.	82	0.80
School Faculty and Staff Health	Principals or designees	82	0.40
Promotion Health Education Classroom Teacher	Health education teachers (Average 1.5 per school).	82	0.80
Physical Education and Activity Classroom Teacher	Physical education teachers (Average 2 per school).	82	0.80

ANNUAL BURDEN HOURS FOR SHPPS FIELD TEST, SPRING 1999

Questionnaire	Respondent	Number of respondents	Burden hours per respondent
District Health Education	District officials	9	2.00
District Physical Education and Activity	District officials	9	2.00
District Health Services	District officials	9	2.00
District Food Service	District officials	9	2.00
District Questionnaire on School Policy and Environment	District officials	9	2.50
District Mental Health and Social Services	District officials	9	2.00
District Faculty and Staff Health Promotion	District officials	9	1.00
School Questionnaire on School Policy and Environment (interview and reinterview).	Principals or designees	80	3.00
Health Education Classroom Teacher (interview and reinterview)	Health education teachers	80	1.60

ANNUAL BURDEN HOURS ACROSS ALL SHPPS 2000 STUDY COMPONENTS

Study component	Number of respondents	Total burden hours
Main Study Data Collection, Spring 2000	26,493	25,115.9
Validity/Reliability Study, Spring 2000	1,536	810.4
Field Test, Spring 1999	223	489.5
Total	28,252	26,415.8

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–4509 Filed 2–23–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Announcement of Availability of Funds and Request for Applications Under the Office of Community Services' Urban and Rural Community Economic Development Program for Fiscal Year 1999

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Notice.

SUMMARY: The Office of Community Services (OCS) announces that Application Kits for the Urban and Rural Community Economic Development Program will be available on February 26, 1999. The closing date for submission of applications will be May 12, 1999.

The purpose of the OCS Urban and Rural Community Economic Development grant is to provide financial assistance to private non-profit community development corporations (CDCs) to conduct economic development activities that provide employment and business development opportunities for low-income persons, stimulate job creation, and revitalize communities which suffer from disinvestment and physical deterioration. Information relative to the following categories was published in the **Federal Register** Notice on December 28, 1998: Program Contact Person; Legislative Authority; Type of Awards; Project Periods and Budget Periods; Eligible Applicants and Availability of Funds, and Review Criteria.

Funds are awarded in 7 different priority areas (Operational grants, Historically Black Colleges and Universities, Pre-Developmental grants; Training and technical assistance, Administrative and management expertise, Developmental grants, and Rural community development). Refer to the Application Kit for a more complete description of eligible applicants for each priority areas.

Copies of the Urban and Rural Community Economic Development Application Kit may be obtained by calling (202) 401–9354, 401–9345, or 401–1195. This application kit will be posted on the OCS Website soon after it becomes available. The OCS Website address is: http://www.acf.dhhs.gov/programs/ocs.

FOR FURTHER INFORMATION CONTACT: Thelma Woodland (202) 401–5294.

Dated: February 18, 1999.

Donald Sykes,

Director, Office of Community Services.

[FR Doc. 99–4514 Filed 2–23–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–270]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Request: Extension of a currently approved collection;

Title of Information Collection: Managed Care organization Year 2000

Continuity and Contingency Planning (BCCP) Status Report.

Form Number: HCFA–R–0270.

Use: This information is needed to determine the status of HCFA's business partners millennium readiness.

Frequency: Monthly.

Affected Public: Federal Government, Business or other for-profit, and Not-for-profit institutions.

Number of Respondents: 350.

Total Annual Responses: 4,200.

Total Annual Hours Requested: 44,450.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 16, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–4488 Filed 2–23–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–264, A–F]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Medicare DMEPOS Competitive Bidding Demonstration;

Form No.: HCFA–R–0264, A–F;

Use: Section 4319 of the Balanced Budget Act (BBA) mandates HCFA to implement demonstration projects under which competitive acquisition areas are established for contract award purposes for the furnishing of Part B items and services, except for physician's services. The first of these demonstration projects implements competitive bidding of categories of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS). Under the law, suppliers can receive payments from Medicare for items and services covered by the demonstration only if their bids are competitive in terms of quality and price. Each demonstration project may be conducted in up to three metropolitan areas for a three year period. Authority for the demonstration expires on December 31, 2002. The schedule for the demonstration anticipates about a six month period required between mailing the bidding forms to potential bidders and the start of payments for DMEPOS under the demonstration. HCFA intends to operate the demonstration in two rounds, the first of two years, and the second of one year. HCFA has announced that it intends to operate its first demonstration in Polk County, Florida, which is the Lakeland-Winter Haven Metropolitan Area.

There are six forms that are required for the demonstration. The first, HCFA–R–0264A, will be filled out by suppliers to describe the attributes of their organization, including quality of services and financial data. Form HCFA–R–0264B will be filled out by suppliers for each of the categories of DMEPOS for which they bid, and includes information about their supply of that category of equipment or supplies, and the prices that they bid for each item in that category. Form HCFA–R–0264C will be used by site inspectors who gather information at the facilities of bidders. Form HCFA–R–0264D is used to gather data by telephone from referral sources of business for the bidding suppliers, form HCFA–R–0264E is used to gather data by telephone from banks and other financial institutions for financial and business references. Form HCFA–R–0264F is used by suppliers to provide data on their financial charaacteristics and soundness.

The competitive bidding demonstration for DMEPOS has the following objectives:

- Test the policies and implementation methods of competitive bidding to determine whether or not it should be expanded as a Medicare Program.
- Reduce the price that Medicare pays for medical equipment and supplies.
- Limit beneficiary out-of-pocket expenditures for copayments.
- Improve beneficiary access to high quality medical equipment and supplies.
- Prevent business transactions with suppliers who engage in fraudulent practices.

HCFA plans to mail the bidding package, including the referenced forms A and B, to potential bidders at the first demonstration sites in Polk County, Florida and to use the remaining forms to gather information on only those bidders in the competitive range. The remaining forms C, D, E, and F will be used for inspections and reference checking in the three months following the bid submissions. These forms will be used by HCFA or its agents to gather information regarding bidders who have made financially attractive bids and are being evaluated for quality, financial stability, and other attributes for consideration as demonstration suppliers.

Frequency: Two times at each demonstration site;

Affected Public: Business or other for-profit, and not-for-profit institutions;

Number of Respondents: 2,040;

Total Annual Responses: 2,040;

Total Annual Hours: 24,780.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and

recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 16, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–4489 Filed 2–23–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Cancer Institute Board of Scientific Advisors.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Board of Scientific Advisors.

Date: March 8–9, 1999.

Open: March 8–8:00 am to 10:15 am.

Agenda: Joint Session with Board of Scientific Counselors, National Cancer Institute. Report of the Director, NCI.

Open: March 8—10:30 am to Recess; March 9—8:00 am to Adjournment.

Agenda: RFA Concept Reviews, Report of the Deputy Director for Extramural Science, Status Reports of Implementing Program Review Group(s) Recommendations, Budget Presentations, and Report of Special Initiatives.

Place: National Cancer Institute, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Paulette S. Gray, Ph.D., Executive Secretary, National Cancer Institute, NIH, Executive Plaza North, Room 600, Rockville, MD 20892–7405, 301/496–4218.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 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, National Institutes of Health, HHS)

Dated: February 17, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–4554 Filed 2–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Sleep Disorders Research Advisory Board.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Sleep Disorders Research Advisory Board.

Date: March 17, 1999.

Time: 8:00 AM to 4:30 PM.

Agenda: To discuss sleep research and education priorities and programs.

Place: National Institutes of Health, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: James P. Kiley, PhD, Director, National Center on Sleep Disorders Research, National Heart, Lung, and Blood Institute, NIH, Rockledge Building II, Room 10038, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 16, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–4558 Filed 2–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: March 5, 1999.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: 7550 Wisconsin Avenue, Federal Building, Room 9C10, Bethesda, MD 20814–9692 (Telephone Conference Call)

Contact Person: Lillian M. Pubols, PhD, Chief, Scientific Review Branch, Scientific Review Branch, Division of Extramural Activities, NINDS, National Institutes of Health, PHS, DHHS, Federal Building, Room 9C10, 7550 Wisconsin Avenue, Bethesda, MD 20892–9175, 301–496–9223, lp28e@nih.gov

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: March 9, 1999.

Time: 2:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: McCarran International Airport, Mezzanine 5, Las Vegas, NV 89111–1005.

Contact Person: Paul A. Sheehy, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS, Fed Bldg., Rm. 9C10, 7550 Wisconsin Avenue, MSC 9175, National Institutes of Health, Rockville, MD 20892–9175, 301–496–9223, ps32h@nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: March 18–19, 1999.

Time: 7:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Katherine Woodbury, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NINDS, National Institutes of Health, PHS, DHHS, Federal Building, Room 9C10, 7550 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9223, kw47.@nih.gov.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: March 23–24, 1999.

Time: 7:30 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Katherine Woodbury, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NINDS, National Institutes of Health, PHS, DHHS, Federal Building, room 9C10, 7550 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9223, kw47o@nih.gov.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: March 24–25, 1999.

Time: 7:30 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Katherine Woodbury, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NINDS, National Institutes of Health, PHS, DHHS, Federal Building, room 9C10, 7550 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9223, kw47o@nih.gov.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: April 6, 1999.

Time: 8:00 am to 8:00 pm.

Agenda: To review and evaluate grant applications.

Place: The Hotel Washington, 15 15th Street, NW, Washington, DC 20004–1099.

Contact Person: Paul A. Sheehy, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS, Fed. Bldg., rm. 9C10, 7550 Wisconsin Avenue, MSC 9175, National Institutes of Health, Rockville MD 20892–9175, 301–496–9223, ps32h@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Reserch in the Neurosciences, National Institutes of Health, HHS)

Dated: February 17, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–4555 Filed 2–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; 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 meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant application and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Molecular Mechanisms of Metal & Metal Mixture Toxicity.

Date: March 29–31, 1999.

Time: 6:00 p.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Houston Medical Center, 6701 South Main Street, Houston, TX 77030.

Contact Person: Linda K. Bass, PhD, Scientific Review Administrator, NIEHS, PO Box 12233 EC–24, Research Triangle Park, NC 27709, (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: February 17, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–4556 Filed 2–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; 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.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental Research Special Emphasis Panel 99–47, Review RFP NIH–NIDR–11–99–1.

Date: February 23, 1999.

Time: 2:00 pm to 3:30 pm.

Agenda: To review and evaluate contract proposals.

Place: Natcher Building, Rm. 4AN44F, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Chief, Scientific Review Section, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental Research Special Emphasis Panel 99–46, Review of R13,

Date: February 25, 1999.

Time: 10:00 am to 11:30 am.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, Rm. 4AN44F, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Chief, Scientific Review Section, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892 (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental Research Special Emphasis Panel 99–12, Review of R13.

Date: February 25, 1999.

Time: 11:30 am to 12:30 pm.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, Rm. 4AN44F, Bethesda, MD 20892 (Telephone Conference Call)

Contact Person: H. George Hausch, PhD, Chief, Scientific Review Section, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: February 17, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–4557 Filed 2–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Basic Behavioral Science and Medication Development.

Date: March 18, 1999.

Time: 12:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Blvd., Room 3158, Bethesda, MD 20892–9547 (Telephone Conference Call).

Contact Person: Rita Liu, PhD, Health Scientist Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9457, Bethesda, MD 20892–9547, (301) 443–2620.

(Catalog of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: February 18, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–4559 Filed 2–23–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: February 22, 1999.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Select, 480 King Street, Old Town Alexandria, VA 22314.

Contact Person: Timothy J. Henry, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180, MSC 7808, Bethesda, MD 20892, (301) 435–1147.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Infectious Diseases and Microbiology Initial Review Group, Bacteriology and Mycology Subcommittee 1.

Date: February 23–24, 1999.

Time: 8:30 am to 12:30 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Select, 480 King Street, Old Town Alexandria, VA 22314.

Contact Person: Timothy J. Henry, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180 MSC 7808, Bethesda, MD 20892, (301) 435–1147.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Infectious Diseases and Microbiology Initial Review Group, Microbial Physiology and Genetics Subcommittee 1.

Date: February 24–25, 1999.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Martin L. Slater, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7808, Bethesda, MD 20892, (301) 435–1149.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Oncological Sciences Initial Review Group, Metabolic Pathology Study Section.

Date: March 1–3, 1999.

Time: 8:00 am to 1:00 pm.

Agenda: To review and evaluate grant applications.

Place: St. James Hotel, 950 24th Street, NW, Washington, DC 20037.

Contact Person: Marcelina B. Powers, DVM, MS, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7804, Bethesda, MD 20892, (301) 435–1720.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1–SSS–W (19).

Date: March 1, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5126, MSC 7854, Bethesda, MD 20892, (301) 435–1174, dhinsad@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1–SSS–X (12).

Date: March 1, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Old Town Alexandria, Alexandria, VA 22314.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 1–2, 1999.

Time: 8:00 am to 11:30 am.

Agenda: To review and evaluate grant applications.

Place: Wyndham Bristol Hotel, 2430 Pennsylvania Ave, NW, Washington, DC 20037.

Contact Person: Nabeeh Mourad, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4212, MSC 7812, Bethesda, MD 20892, (301) 435–1222.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1–SSS9 (21)–SRB.

Date: March 1–2, 1999.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854, (301) 435–1177, bunnagb@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG–1 AARR–3 (01).

Date: March 1, 1999.

Time: 8:30 am to 6:00 pm.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, One Metro Center, Bethesda, MD 20814.

Contact Person: Mohindar Poonian, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, Bethesda, MD 20892, 301–435–1168, poonianm@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Biophysical and Chemical Sciences Initial Review Group, Physical Biochemistry Study Section.

Date: March 1–2, 1999.

Time: 8:30 am to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Gopa Rakhit, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–1721, rakhitg@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 1–2, 1999.

Time: 10:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Houston Baker, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7854, Bethesda, MD 20892, 301–435–1175, bakerh@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 1, 1999.

Time: 2:30 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jo Pelham, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG–1 AARR–3 (02).

Date: March 2, 1999.

Time: 8:30 am to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, One Metro Center, Bethesda, MD 20814.

Contact Person: Mohindar Poonian, Phd, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, Bethesda, MD 20892, 301–435–1168, poonianm@drg.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1–BDCN–1 (01).

Date: March 2–3, 1999.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn-Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Joe Marwah, Phd, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5188, MSC 7846 Bethesda, MD 20892, 301–435–1253.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG–1 BDCN–2 (01).

Date: March 2–4, 1999.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Herman Teitelbaum, Phd, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5190, MSC 7846, Bethesda, MD 20892, (301) 435–1254.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 2–3, 1999.

Time: 8:30 am to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Daniel B. Berch, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892, (301) 435–0902.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 2, 1999.

Time: 1:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anita Corman Weinblatt, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7778, Bethesda, MD 20892, (301) 435–1124.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: March 2, 1999.

Time: 1:15 pm to 2:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jo Pelham, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4106, MSC 7814, Bethesda, MD 20892, (301) 435–1786.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844,

93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 18, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–4551 Filed 2–19–99; 3:09 pm]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Conservation Plan and Associated Environmental Impact Statement for the Great Meadows National Wildlife Refuge Complex

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare a Comprehensive Conservation Plan (CCP) and Environmental Impact Statement pursuant to the National Environmental Policy Act and its implementing regulations, for those Great Meadows National Wildlife Refuge Complex refuges located in the Commonwealth of Massachusetts. These refuges include Great Meadows National Wildlife Refuge (NWR), Mashpee NWR, Massasoit NWR, Monomoy NWR, Nantucket NWR, Nomans Land Island NWR, and Oxbow NWR. Also included in the CCP is Assabet NWR, a parcel of land formerly known as Sudbury Annex, that is to transfer to the Service in 1999. The Refuges are in Middlesex, Plymouth, Barnstable, Nantucket, Dukes, and Worcester Counties, Massachusetts.

The Service is furnishing this notice in compliance with the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd *et seq.*): (1) to advise other agencies and the public of our intentions, and (2) to obtain suggestions and information on the scope of issues to include in the environmental documents.

DATES: Inquire at the address below for dates of planning activity and due dates for comments.

ADDRESSES: Address comments and requests for more information to the following: Refuge Manager, Great Meadows National Wildlife Refuge, Weir Hill Road, Sudbury, Massachusetts 01776, (978) 443–4661.

SUPPLEMENTARY INFORMATION: By Federal law, all lands within the National Wildlife Refuge System are to be managed in accordance with an approved CCP. The CCP guides management decisions and identifies refuge goals, long-range objectives, and strategies for achieving refuge purposes. The planning process will consider many elements, including habitat and wildlife management, habitat protection and acquisition, public use, and cultural resources. Public input into this planning process is essential. The CCP will provide other agencies and the public with a clear understanding of the desired conditions for the Refuges and how the Service will implement management strategies.

The Service will solicit information from the public via open houses, meetings, and written comments. Special mailings, newspaper articles, and announcements will inform people in the general area near each refuge of the time and place of opportunities for public input to the CCP.

The Great Meadows NWR Complex is a diverse group of coastal and inland refuges. Habitats include forest, field, riparian, barrier island beach, freshwater marsh, and pond. Assabet NWR will contain 2,300 acres; Great Meadows NWR contains 3,400 acres; Mashpee 281 acres; Massasoit 184 acres; Monomoy 2,700 acres, a portion of which is Federal Wilderness Area; Nantucket 40 acres; Nomans Land Island 628 acres; and Oxbow 1,547 acres. Two refuges in the Complex are in New Hampshire, John Hay NWR and Wapack NWR. They are not included in the CCP. Seven of the refuges are open to wildlife-dependent public use.

Review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), NEPA Regulations (40 CFR 1500–1508), other appropriate Federal laws and regulations, and Service policies and procedures for compliance with those regulations.

We estimate that the draft Environmental Impact Statement will be available in late spring 2000 for public review and comment.

Dated: February 16, 1999.

Ronald E. Lambertson,

Regional Director, U.S. Fish and Wildlife Service, Hadley, Massachusetts.

[FR Doc. 99–4511 Filed 2–23–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Recovery Plan for the Plant Holy Ghost Ipomopsis for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service announces the draft Holy Ghost Ipomopsis (*Ipomopsis sancti-spiritus*) Recovery Plan is available for public review. This plant is known from only one site in the southern Sangre de Cristo Mountains on the Santa Fe National Forest in San Miguel County, New Mexico. We are soliciting review and comment from the public on this draft plan.

DATES: We must receive comments on the draft plan on or before April 26, 1999 to ensure their consideration.

ADDRESSES: Anyone wanting a copy of the plan should contact the Field Supervisor, New Mexico Ecological Services Field Office, U.S. Fish and Wildlife Service, 2105 Osuna, NE, Albuquerque, New Mexico 87113 (Telephone 505/346–2525). Written comments on the plan and other materials should be sent to the Field Supervisor at the above address. Comments and materials received are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Charles B. McDonald, Botanist, at the address and telephone number (Ext. 112) given above.

SUPPLEMENTARY INFORMATION:

Background

A primary goal of the endangered species program is to restore endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems. To help guide recovery, we prepare recovery plans for most endangered or threatened species native to the United States. Recovery plans describe needed conservation actions for the species, time and cost estimates for the actions, and recovery goals for downlisting or delisting.

The Endangered Species Act of 1973 (Act), as amended, (16 U.S.C. 1531 *et seq.*) requires that each endangered or threatened species be included in a recovery plan unless a plan would not promote a species' conservation. Section 4(f) of the Act as amended in 1988 requires the public be notified and given

an opportunity to review and comment on draft recovery plans. We consider all information presented during the comment period prior to approving any new or revised recovery plan. We and other Federal agencies also consider these comments when implementing approved recovery plans.

Holy Ghost ipomopsis was given endangered status under the Act on March 23, 1994 (59 FR 13840). It is known from a single canyon in the Santa Fe National Forest in northwestern San Miguel County, New Mexico. An estimated 2,500 plants occupy about 80 hectares (200 acres) along a U.S. Forest Service road. Impacts from road maintenance, recreation, and catastrophic forest fire are immediate management concerns. In the long term, present land uses influence management away from frequent disturbances that produce the preferred habitat for this species.

Recovery will focus on protecting and enhancing the existing population. Additional recovery work will include research to determine the biological and ecological requirements of the species, establishment of a botanical garden population and a seed bank, and establishment of seven more populations in suitable habitat in the upper Pecos River Basin.

Public Comments Solicited

We are soliciting written comments on the draft Holy Ghost Ipomopsis Recovery Plan. All comments received by the date specified above will be considered prior to approval of the plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: February 3, 1999.

Lynn B. Starnes,

Acting Regional Director, Southwest Region, Fish and Wildlife Service.

[FR Doc. 99–3345 Filed 2–23–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Application for Approval

The following applicant has applied for approval to conduct certain activities with birds that are protected in accordance with the Wild Bird Conservation Act of 1992. This notice is provided pursuant to Section 112(4) of the Wild Bird Conservation Act of 1992, 50 CFR 15.26(c).

Applicant: Judith A. Robben, Goddard, KS. The applicant wishes to establish a cooperative breeding program for the Roseifron conure (*Pyrrhura picta roseifrons*), the Rose-crowned conure (*Pyrrhura rhodocephala*) and the Fiery-shouldered conure (*Pyrrhura egregia egregia* and *Pyrrhura egregia obscura*). Ms. Robben wishes to be an active participant in this program with five other private individuals. The Coastal Carolina Bird Society has assumed the responsibility for the oversight of the program.

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 700, 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 700, Arlington, Virginia 22203. Phone: (703/358–2095); FAX: (703/358–2298).

Dated: February 17, 1999.

Dr. Rosemarie Gnam,

Chief, Branch of Operations, Office of Management Authority.

[FR Doc. 99–4477 Filed 2–23–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

Oil and Gas Management Plan, Draft Environmental Impact Statement, Padre Island National Seashore, Texas

AGENCY: National Park Service, DOI.

ACTION: Availability of Draft Environmental Impact Statement and Oil and Gas Management Plan for Padre Island National Seashore, Texas.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of a Draft Environmental Impact Statement and Oil and Gas Management Plan (DEIS/OGMP) for Padre Island National Seashore, Texas.

DATES: The DEIS/OGMP will remain available for public review through May 12, 1999. If any public meetings are held concerning the DEIS/OGMP, they will be announced at a later date.

ADDRESSES: Comments on the DEIS/OGMP should be sent to the Superintendent, Padre Island National Seashore, P.O. Box 181300, Corpus Christi, Texas 78480–1300. Public reading copies of the DEIS/OGMP will be available for review at the following locations:

Office of the Superintendent, Padre Island National Seashore, 20301 Park Road 22, Corpus Christi, Texas, Telephone: 361–949–8173

Office of Minerals/Oil and Gas Support, Intermountain Support Office-Santa Fe, National Park Service, 1100 Old Santa Fe Trail, Santa Fe, New Mexico 87501, Telephone 505–988–6095

Planning and Environmental Quality, Intermountain Support Office-Denver, National Park Service, 12795 W. Alameda Parkway, Lakewood, CO 80228, Telephone: (303) 969–2851

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets NW, Washington, DC 20240, Telephone: (202) 208–6843

SUPPLEMENTARY INFORMATION: The Oil and Gas Management planning objectives are: 1) identify which park resources and values are most sensitive to oil and gas exploration and development disturbance, and define impact mitigation requirements to protect such resources, 2) establish reasonable oil and gas exploration and development performance standards to protect park resources and values, and 3) provide pertinent information to oil and gas operators that will facilitate operations planning and compliance with all applicable regulations. Three alternatives are analyzed in the DEIS/OGMP for managing surface uses associated with the exploration, development, and transportation of nonfederal oil and gas underlying Padre Island National Seashore. Under Alternative A: Proposed Action, there would be no surface occupancy in some sensitive resource areas that have important natural, cultural and visitor use values. Alternative B is the No Action/Current Management alternative that provides for the continuing evaluation and permitting of operations on a case-by-case basis. Under Alternative C: Maximum Protection Alternative there would be no access in any sensitive resource area for any type of nonfederal oil and gas activity.

The DEIS/OGMP evaluates the environmental consequences of the proposed action and the other alternatives on oil and gas exploration and development, soil and water resources, wetlands, cultural resources,

visitor experience, and sensitive resource areas.

FOR FURTHER INFORMATION CONTACT: Contact Superintendent, Padre Island National Seashore, at the above address and telephone number.

Dated: February 26, 1999.

John Gibson,

Acting Superintendent, Padre Island National Seashore.

[FR Doc. 99–4481 Filed 2–23–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Scoping for Fire Management Plan Sequoia and Kings Canyon National Parks Tulare & Fresno Counties, California

SUMMARY: Notice is hereby given, in accordance with the provisions of the National Environmental Policy Act (42 U.S.C. 4321 et. seq.) that public scoping has been initiated for a conservation planning and impact analysis process for updating the fire management plan for Sequoia and Kings Canyon National Parks. The purpose of the scoping process is to elicit early public comment regarding issues and concerns, a suitable range of alternatives and appropriate mitigating measures, and the nature and extent of potential environmental impacts which should be addressed.

Background

Sequoia and Kings Canyon National Parks, units of the National Park System, are managed as one administrative unit. Extensive research has shown that fire is a significant natural process across a large portion of the 864,000 acres of the parks. An extensive fire management program was begun in 1968 and has continued to the present time. All forms of fire management, from aggressive suppression to managing natural (lightning) ignitions, have been used to achieve natural and cultural resource management and hazard fuel reduction goals. The parks fire management program also has a significant fire prevention and suppression function.

The last revision of the fire management plan culminated in a *Finding Of No Significant Impact*, dated November 1, 1989. Since that time, a range of new issues, improved information, and unforeseeable constraints have emerged which have the potential to affect the future direction of the fire management program within the parks. Some of these issues include but are not limited to: a continued decline in ecosystem health due to fire suppression, increased hazards and costs associated with fire suppression, and more stringent air quality regulations.

Comment and Approval

As noted, the National Park Service will undertake an environmental analysis effort to address issues and alternatives for fire management in Sequoia and Kings Canyon National Parks. At this time, it has not been determined whether an Environmental Assessment or Environmental Impact Statement will be prepared, however, this scoping process will aid in the preparation of either document.

As the first step in this undertaking, a series of five public scoping meetings will be conducted during March, 1999. California cities where scoping meetings will be held are:

- Wednesday March 3, 7:00 pm at Fort Miller Middle School Cafeteria, 1302 E. Dakota, Fresno;
- Wednesday March 10, 7:00 pm at the Tulare County Education Center (Education Building Corner of Burrel Ave. near the County Civic Center), Visalia;
- Monday March 15, 7:00 pm at the Visitor Center Auditorium at Griffith Park, Los Angeles;
- Monday March 22, 7:00 pm at the Presidio Visitor Center, 1st floor conference room, Building 102 on Montgomery St., San Francisco (adjacent parking available on parade grounds);
- Tuesday March 23, 7:30 pm at Three Rivers Union School gym.

For those unable to attend meetings, a scoping document will be available through the park. The main topics addressed in the scoping document and meetings are: background information on the fire management program; a review of relevant policy and law affecting the fire management program; an assessment of current fire management needs; and the identification of issues and alternatives related to the fire management in the parks.

Interested individuals, organizations, and agencies are invited to provide comments or suggestions. Written comments regarding the fire management program must be postmarked no later than June 7, 1999. For additional information on the scoping meetings, or to request a copy of the scoping background material and provide comments, please contact: Superintendent, Sequoia and Kings Canyon National Parks; Attn: Fire Management Plan; Three Rivers, California 93271 (telephone (559) 565–3164 or email seki_fire@nps.gov.).

The official responsible for approval is the Regional Director, Pacific West Region, National Park Service. The official responsible for implementation is Michael J. Tollefson, Superintendent, Sequoia and Kings Canyon National Parks. The draft fire management plan and environmental document are expected to be available for public review in January, 2000. At this time it is anticipated that the final plan and environmental document are to be completed in June, 2000.

Dated: February 16, 1999.

John J. Reynolds,

Regional Director, Pacific West.

[FR Doc. 99–4484 Filed 2–23–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Record of Decision; Final General Management Plan/Environmental Impact Statement; Oregon Caves National Monument, Oregon

ACTION: Notice of Approval of Record of Decision.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, and the regulations promulgated by the Council on Environmental Quality (40 CFR 1505.2), the Department of the Interior, National Park Service, has prepared a Record of Decision on the Final General Management Plan/Environmental Impact Statement for Oregon Caves National Monument in Oregon.

DATES: The Record of Decision was recommended by the Superintendent of Oregon Caves National Monument, concurred by the Deputy Regional Director, Pacific West Region, and approved by the Regional Director, Pacific West Region, on December 23, 1998.

ADDRESSES: Inquiries regarding the Record of Decision or the Environmental Impact Statement should be submitted to the Superintendent, Oregon Caves National Monument, 19000 Caves Highway, Cave Junction, OR 97523, phone (541) 592–2100.

SUPPLEMENTARY INFORMATION: The text of the Record of Decision follows:

The Department of the Interior, National Park Service (NPS), has prepared this Record of Decision (ROD) on the final Environmental Impact Statement (EIS) for the General Management Plan for Oregon Caves

National Monument, Oregon. This ROD is a statement of the decision made, other alternatives considered, public involvement in the decision making process, the basis for the decision, the environmentally preferable alternative, and measures to minimize environmental harm.

Decision (Selected Action)

Oregon Caves National Monument will implement Alternative C. identified as the action that best satisfies the Monument and NPS missions, as well as the Monument's long-term management objectives. Some actions remain consistent with those presented in the draft EIS. Others were modified in the final EIS to respond to public comments and concerns. The selected action recognizes both the need to protect natural and cultural resources and to provide appropriate opportunities for visitors and area residents.

Specific actions to be implemented under the selected action are summarized below:

Adequate administrative and collection storage will be provided at the administrative site. Cave tours will be operated with NPS interpretive rangers, and a cave tour reservation system will be established and based at the Illinois Valley Visitor Center (IVVC). The IVVC will continue to serve as a key point for initial visitor contact and information.

Protection will be provided to the Lake Creek and upper Cave Creek watersheds, the public water supply, and foreground and middleground viewsheds as seen from the Monument through the transfer of 3,410 acres to the Monument from the Siskiyou National Forest (SNF).

Additional hiking, horseback riding, and other recreational opportunities will be provided to the public, and public road access will be maintained to adjacent national forest lands. The cave will be open to public use from the middle of March to mid-December. Concession-provided lodging, food service and gift sales will continue, and will be located at the Chateau. Use of the lower level of the Chalet will be converted from the concession-operated gift shop to the Monument visitor center and will be staffed with NPS and cooperating association employees.

Other Alternatives Considered

Alternative A—The no-action alternative represents no change from present management direction. This alternative, therefore, represents the current situation, including retention of concession-contracted services for cave tours, lodging, food service and gift sales. No boundary change would be included, no change to current administrative facilities would occur, and the Monument would remain open to cave tours year-round under Alternative A.

Alternative B—This is the "minimum requirements alternative", representing the minimum actions necessary to protect the natural and cultural resources of the Monument and protect the health and safety of the public. Alternative B includes the development of adequate administrative and collection storage facilities in the Chateau. Cave tours would be operated with NPS interpretive guides, and a cave tour reservation system would be established and based at the IVVC. A cooperative agreement between the U.S. Forest Service (USFS) and NPS would set aside 3.410 acres as a protected area within the SNF. Under this agreement, protection would be provided to the Lake Creek and upper Cave Creek watersheds, the public water supply, and foreground and middleground viewsheds as seen from the Monument. The caves would be open to public use from mid-March to mid to late December. However, no concession lodging, dining or gift sales would be provided. The lower level of the Chalet would be used for an on-site visitor center.

Alternative D—Under this alternative, a new on-site visitor center would be developed to provide interpretive services to the public. Concession lodging, food service and gift sales operations would be retained at the Chateau and the Chalet. The caves would be open to the public on a year-round basis, and tours would be conducted by a non-profit institute or similar organization. This alternative would also provide adequate administrative and collection storage at the administrative site, and the IVVC would be used for initial visitor orientation, visitor contact, and cave tour reservations. Protection of the Lake Creek and upper Cave Creek watersheds, the public water supply and foreground viewshed would be accomplished through a transfer of 2,377 acres to the Monument from the SNF. In addition, protection of portions of the middleground viewshed would be accomplished by the establishment of a 1,033-acre protected area within the SNF through a cooperative agreement between the USFS and NPS.

Actions common to all alternatives include the continued rehabilitation of the cave trail, the continued use of the IVVC for orientation and information, protection of the Oregon Caves Historic District, and ongoing regional cooperation on various issues such as fire management and tourism.

Basis for Decision

After careful consideration of public comments throughout the planning process, including comments on the draft EIS, the selected action best accomplishes the legislated purpose of the Monument and balances the statutory mission of the NPS to provide long-term protection of the Monument's resources and significance, while allowing for appropriate levels of visitor use and appropriate means of visitor enjoyment. The selected action also best accomplishes identified management goals and desired future conditions, with the fewest environmental impacts.

Environmentally Preferable Alternative

The alternative which causes the least damage to the cultural and biological environment, and that best protects, preserves, and enhances resources is Alternative C.

Measures to Minimize Environmental Harm

All practicable measures to avoid or minimize environmental impacts that could result from implementation of the selected action have been identified and incorporated into the selected action. Implementation of the selected action would avoid any adverse impacts on wetlands and any endangered or threatened species, or that would result in the destruction or adverse modification of critical habitat of such species.

Public Involvement

Public comment has been requested, considered, and incorporated throughout the planning process in numerous ways. A Notice of Intent to prepare an EIS was published in the **Federal Register** on January 23, 1996 (vol. 61, no. 15, pgs. 1783–1784). In early March 1996, NPS produced a newsletter that was mailed to a list of interested individuals and was inserted in the *Illinois Valley Newspaper* for distribution to its circulation of 3,400 readers. The purpose of the newsletter was to explain the planning process, provide information, and encourage public participation in the process.

Two public scoping meetings were held in March 1996 in Cave Junction and Grants Pass, OR, to assist in identifying issues to be addressed in the GMP/EIS. A total of 23 people attended the two meetings. Also in March, the planning team met with several interest groups, at their request. The NPS received 88 written comments during the scoping period.

More than 300 copies of the draft GMP/EIS were mailed to government agencies, organizations and interested individuals in January 1998. In addition, the document was posted on the Internet and mailed to local libraries in Cave Junction, Grants Pass, and Portland, OR. The EPA Notice of Availability was published in the **Federal Register** on January 16, 1998 (vol. 63, no. 11, pg. 2676). A Notice of Availability was also published by NPS on January 15 (vol. 63, no. 10, pg. 2412). A second newsletter was prepared that included a summary of the draft plan and information on scheduled public workshops. Each newsletter included a postage-paid response form for people to use in submitting comments if desired. Approximately 3,500 newsletters were inserted into the *Illinois Valley News* on January 14, and another 1,000 were made available to visitors at the IVVC and the Chateau. In addition, newspapers in Grants Pass and Cave Junction published the notices and local radio stations announced locations and times for the public workshops.

Four public workshops were held in Cave Junction and Grants Pass on February 9 and 10, 1998. The purpose of the workshops was to offer the public an opportunity to meet with the NPS planning staff and discuss the draft GMP/EIS. A total of 111 people attended the workshops.

The final GMP/EIS was released to the public on November 10, 1998. The EPA Notice of Availability of the final GMP/EIS was published in the **Federal Register** on November 20, 1998 (vol. 63, no. 224, pg. 64473); the NPS also published a Notice of Availability in the **Federal Register**. The final document included a summary of the comments received at the public workshops and a summary of the comments received from written responses.

Consultation with the U.S. Fish and Wildlife Service (USFWS) on Section 7 of the Endangered Species Act was undertaken to identify listed plant and animal species that may occur within the Oregon Caves National Monument. In addition, a copy of the draft plan was sent to the USFWS for concurrence that the broad-scale elements of the proposed action would not adversely affect any listed species known or suspected to be in the planning area.

Consultation also occurred with the Oregon State Historic Preservation Office and the Advisory Council on Historic Preservation. A copy of the plan was sent to each of these offices to initiate and plan for coordination of survey, eligibility, effect, and mitigation of cultural resources in the Monument area.

During the comment period, 982 letters were received from government agencies, businesses, special interest groups and individuals. Of these, 735 were individually written letters, individually signed form letters and postcards, 132 E-mail responses through the Internet, and 115 response forms from the newsletter. In addition, a petition with 102 signatures was received. Written responses were prepared for more than 69 substantive questions and/or comments requiring clarification of information contained in the draft plan, changes to the text, or direct responses.

Dated: February 9, 1999.

William C. Walters,

Deputy Regional Director, Pacific West Region.

[FR Doc. 99–4480 Filed 2–23–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Boston Harbor Island Advisory Council; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (PL 92–463) that the Boston Harbor Islands Advisory Council will meet on Thursday, March 4, 1999. The meeting will convene at 6:00 PM in the Exchange Conference Center at the Boston Fish Pier, One Fish Pier, Boston, Massachusetts.

The Advisory Council was appointed by the Director of National Park Service pursuant to Public Law 104–333. The 28 members represent business, educational, cultural, and environmental entities; municipalities surrounding Boston Harbor; and Native American interests. The purpose of the Council is to advise and make recommendations to the Boston Harbor Islands Partnership with respect to the development and implementation of a management plan and the operation of the Boston Harbor Islands National Recreation Area.

The Agenda for this meeting is as follows:

1. Presentation of the Annual Report.
2. Election of new members.
3. Vote taken on a recommendation to the Boston Harbor Islands Partnership regarding a preferred alternative of the draft management plan prepared by the Planning Committee for the Boston Harbor Islands.

The meeting is open to the public. Further information concerning Council meetings may be obtained from the Superintendent, Boston Harbor Islands. Interested persons may make oral/written presentations to the Council or file written statements. Such requests should be made at least seven days prior to the meeting to: Superintendent, Boston Harbor Islands NRA, 408 Atlantic Ave., Boston, MA, 02110, telephone (617) 223–8667.

Dated: February 17, 1999.

George E. Price, Jr.,

Superintendent, Boston Harbor Islands NRA.

[FR Doc. 99–4483 Filed 2–23–99; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before FEBRUARY 13, 1999 Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by March 11, 1999.

Beth Boland,

Acting Keeper of the National Register.

Georgia

Butts County

Idlewilde, Lake Clark Rd., Indian Springs State Park, Indian Springs, 99000293

Indiana

Cass County

Courthouse Historic District, Roughly between Third and Sixth Sts., E. Melbourne Ave. and High St., Logansport, 99000294

Grant County

Fairmount Commercial Historic District, 205–101 S. Main, 102–124 N. Main, 124–102 S. Main, 101–123 N. Main, 107 W. 1st, 119–117 W. Washington, Fairmount, 99000295

Hamilton County

Conner Street Historic District, Roughly both sides of Logan and Conner Sts. between 10th and 17th., Noblesville, 99000296

West—Harris House, 10595 Eller Rd., Fishers, 99000297

Miami County

Converse—Jackson Township Public Library, 100 S. Jefferson St., Converse, 99000298

Morgan County

Hastings Schoolhouse (Indiana's Public Common and High Schools MPS), 1/5 mi. S. of Jct. Hacker Creek Rd. and Liberty

Church Rd., Martinsville vicinity, 99000299

Parke County

Rockville Chautauqua Pavilion, College St. and Mecca Rd., Rockville, 99000301

Putnam County

Putnam County Bridge No. 159, Co. Rd. 650 W. over Big Walnut Cr., Reelsville, 99000302

Randolph County

Union City Commercial Historic District, Roughly bounded by W. Oak, N. Union, W. Smith, and N. Howard Sts., Union City, 99000303

Spencer County

Spencer County Courthouse, Bounded by 2nd, 3rd, Main, and Walnut Sts., Rockport, 99000304

Vermillion County

Vermillion County Jail and Sheriff's Residence, 220 E. Market St., Newport, 99000305

Wabash County

St. Patrick's Roman Catholic Church, W. Main St., Lagro, 99000306

Iowa

Butler County

Shell Rock Bridge (Highway Bridges of Iowa MPS), Cherry St. over Shell Rock R., Shell Rock, 99000307

Clayton County

Read Township Culvert (Highway Bridges of Iowa MPS), Co. Rd. over unnamed stream, Elkader vicinity, 99000308

Crawford County

Nishnabotna River Bridge (Highway Bridges of Iowa MPS), 310th St. between X and Y Aves., Manilla vicinity, 99000309

Des Moines County

Schramm Building, 212 Jefferson St., Burlington, 99000310

Floyd County

Main Street Bridge (Highway Bridges of Iowa MPS), Main St. over Cedar R., Charles City, 99000311

Jones County

Rick's Brewery, 12412 Buffalo Rd., Anamosa vicinity, 99000312

Monona County

Garretson Outlet Bridge (Highway Bridges of Iowa MPS), Co. Rd. K64 over Garretson Outlet Ditch, Whiting vicinity, 99000313

Wapello County

St. Mary's of the Visitation Church and Rectory (Ottumwa MPS), 103 E. Fourth St., Ottumwa, 99000314

New York

New York County

Building at 21 West Street, 21 West St., New York, 99000316

Richmond County

Fort Wadsworth, Fort Wadsworth, Gateway NRA, Staten Island, 99000315

North Carolina

New Hanover County

Carolina Heights Historic District, Roughly bounded by Market St., Thirteenth St., Rankin St. and Nineteenth St., Wilmington, 99000317

Ohio

Columbiana County

Burchfield Homestead, 867 E. Forth St., Salem, 99000320

Hise, Daniel Howell, House, 1100 Franklin Av., Salem, 99000319

Hamilton County

Cincinnati East Manufacturing and Warehouse District, Between E. Court and E. Eighth, Broadway and Main Sts., Cincinnati, 99000318

Lawrence County

Marting Hotel, 202 Park Av., Ironton, 99000331

Pennsylvania

Cambria County

Moxham Historic District, Roughly bounded by Dupont St., Linden Av., Village St., Park and Coleman Avs., Johnstown, 99000324

Huntingdon County

Seeds, Hugh D. and Martha S., Farm, L.R. 31061, 1 mi. E. of Pemberton, Tyrone, 99000328

Lancaster County

Harnish, Johannes, Farmstead (Historic Farming Resources of Lancaster County MPS), Woodfield Crossing, 202, West Lampeter Township, 99000327

Watt and Shand Department Store, 2–12 E. King St., 23–27 Penn Sq., 1–21 S. Queen St., 18–24 S. Christian St., Lancaster, 99000322

Montgomery County

Kulp, Issac, Farm, Jct. North Swedesford Rd. and Hancock Rd., Upper Gwynedd Township, 99000323

Perry County

Newport Historic District, Roughly bounded by Fickes Ln., Oliver St., Front St., Little Buffalo Run, Bloomfield Av. and Sixth St., Newport and Oliver Township, 99000321

Philadelphia County

Lower North Philadelphia Speculative Housing Historic District, Roughly bounded by N. 15th St., Sydenham St., N. 16th St., Montgomery Av., N. 19th St. Jefferson St., Willington St., Philadelphia, 99000325

York County

East York Historic District, Bounded by Oxford St., Wallace St., Royal St., and Eastern Bvd., Springettsbury Township, 99000326

Tennessee

Sullivan County

Kingsport Improvement Building, 201 W. Market St., Kingsport, 99000329

Wisconsin

Brown County

Broadway—Dousman Historic District, Part of 200 and 300 block N. Broadway, 300 and 400 block Dousman St, part of 300 block N. Chestnut St., Green Bay, 99000330

[FR Doc. 99–4478 Filed 2–23–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability for a Plan of Operations and Environmental Assessment

The National Park Service has received from, Western Geophysical Company, a Plan of Operations for conducting a 3–D Seismic survey at Padre Island National Seashore, Kleberg County, Texas.

Pursuant to § 9.52(b) of Title 36 of the Code of Federal Regulations, Part 9, Subpart B (36 CFR 9B); the Plan of Operations and Environmental Assessment are available for public review and comment for a period of 30 days from the publication date of this notice in the Office of the Superintendent, Padre Island National Seashore, 20301 Park Road 22, Corpus Christi, Texas. Copies of the documents are available from the Superintendent, Padre Island National Seashore, P.O. Box 181300 Corpus Christi, Texas 78480–1300, and will be sent upon request.

John Gibson,

Acting Superintendent.

[FR Doc. 99–4482 Filed 2–23–99; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation

Sunshine Act Meeting, March 9, 1999 Board of Directors Meeting

TIME AND DATE: Tuesday, March 9, 1999, 1:00 PM (OPEN Portion) 1:30 PM (CLOSED Portion).

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, N.W., Washington, D.C.

STATUS: Meeting OPEN to the Public from 1:00 PM to 1:30 PM Closed portion will commence at 1:30 PM (approx.).

MATTERS TO BE CONSIDERED:

1. President's Report.
2. Approval of December 15, 1998 Minutes (Open Portion).
3. Appointment—Jeffrey T. Griffin.

FURTHER MATTERS TO BE CONSIDERED: (Closed to the Public 1:30 PM)

1. Insurance Project in Argentina.
2. Insurance Project in Argentina.
3. Insurance Project in Argentina.
4. Finance project in Brazil and Bolivia.
5. Finance project in India.
6. Insurance project in Russia.
7. Insurance project in Azerbaijan.
8. Approval of December 15, 1998 Minutes (Closed Portion).
9. Pending Major Projects.

CONTACT PERSON FOR INFORMATION: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Dated: February 22, 1999.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 99–4717 Filed 2–22–99; 12:59 pm]

BILLING CODE 3210–01–M

INTERNATIONAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: U.S. International Trade Commission.

ACTION: Notice of proposed collection; comment request.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35), the Commission intends to seek approval from the Office of Management and Budget to issue a survey to participants in Commission injury investigations (primarily countervailing duty, antidumping, and safeguard investigations) to obtain feedback on the procedures used by the Commission in the conduct of such investigations. Comments concerning the proposed information collection are requested in accordance with 5 CFR 1320.8(d).

DATES: To be assured of consideration, written comments must be received not later than April 26, 1999.

ADDRESSES: Signed comments should be submitted to Donna Koehnke, Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed survey and draft Supporting Statement to be submitted to the Office of Management and Budget are posted on the Commission's World Wide Web site at http://www.usitc.gov or may be obtained from Lynn Featherstone, Office of Investigations, U.S. International Trade Commission, telephone 202–205–3160.

SUPPLEMENTARY INFORMATION:

Request for Comments

Comments are solicited as to: (1) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (3) the quality, utility, and clarity of the information to be collected; and (4) minimization of the burden of the proposed information collection on those who are to respond (including through the use of appropriate automated, electronic, mechanical, or other forms of information technology, e.g., permitting electronic submission of responses).

Summary of the Proposed Information Collection

In its Strategic Plan (available on the agency's World Wide Web site at http://www.usitc.gov), the Commission set itself the goal of obtaining feedback on investigative procedures from users of the agency's import injury investigation process. The proposed survey seeks to gather that feedback to allow the Commission to ensure that its procedures are fair and equitably implemented.

The survey asks if the Commission's rules and other written guidance make clear to participants what the Commission expects of them procedurally in an investigation; if there are area(s) where additional guidance would be of benefit to their participation in investigations; if Commission personnel responded to procedural inquiries in a helpful way; if their access to information collected by/submitted to the Commission was satisfactory; if their opportunity to present information for consideration by the Commission was satisfactory; and if they have any other comments or recommended improvements. It will be sent to firms that have participated in an antidumping, countervailing duty, or safeguard investigation during the period October 1, 1998–September 30, 1999. Responses are voluntary. While the survey will be made available on the Commission's web site, responses must be in paper form.

The Commission estimates that the survey will impose an average burden of less than 1 response hour each on 50 respondents.

By order of the Commission.

Issued: February 19, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–4574 Filed 2–23–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: The U.S. International Trade Commission (USITC) has submitted the following information collection requirements to the Office of Management and Budget (OMB) requesting emergency processing for review and clearance under the Paperwork Reduction Act of 1995, (44 U.S.C. Chap. 35). The Commission has requested OMB approval of this submission by COB March 1, 1999.

EFFECTIVE DATE: February 19, 1999.

PURPOSE OF INFORMATION COLLECTION: This information collection is for use by the Commission and complies with objectives set forth in the Government Performance and Results Act of 1993 (Public-Law 103–62) to initiate measures to improve information on program performance, and specifically, to focus on evaluating results, quality, and customer satisfaction. The one-page survey will be placed only once annually inside the cover of most all public reports issued by the Commission pursuant to section 332 of the Tariff Act of 1930 (19 U.S.C. 1332), and including public reports that meet agency requirements for the USITC Research Program.

SUMMARY OF PROPOSAL:

(1) Number of forms submitted: one.

(2) Title of form: USITC Customer Satisfaction Survey.

(3) Type of request: new.

(4) Frequency of use: single and/or annual information gathering.

(5) Description of Respondents: Interested parties receiving most all public reports issued by the USITC, with the exception of Title VII reports.

(6) Estimated number of respondents: 2,500 annually.

(7) Estimated total number of hours to complete the forms: 625 hours annually.

(8) Information requested on a voluntary basis is not proprietary in nature, but rather for program evaluation purposes and is not intended to be published. Commission treatment of questionnaire responses will be followed; responses will be aggregated and will not be presented in a manner

that will reveal the individual parties that supplied the information.

ADDITIONAL INFORMATION OR COMMENT: Copies of agency submissions to OMB in connection with this request may be obtained from Larry Brookhart, Office of Industries, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436 (telephone no. 202–205–3418). Comments should be addressed to: Desk Officer for U.S. International Trade Commission, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (telephone no. 202–395–3897). Copies of any comments should also be provided to Robert Rogowsky, Director of Operations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, who is the Commission's designated Senior Official under the Paperwork Reduction Act.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal, (telephone no. 202–205–1810).

By order of the Commission.

Issued: February 19, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–4596 Filed 2–23–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–204–1]

Broom Corn Brooms: [1] Evaluation of the Effectiveness of Import Relief

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation and scheduling of a hearing under section 204(d) of the Trade Act of 1974 (19 U.S.C. § 2254(d)) (the Act).

SUMMARY: On December 3, 1998, the President announced the termination of import relief, granted under section 203 of the Act, for the domestic broom corn broom industry. Following this action, the Commission, as required by section 204(d) of the Act, instituted investigation No. TA–204–1 to evaluate the effectiveness of the import relief action in facilitating positive adjustment by the domestic industry to import competition, consistent with the reasons set out by the President in the report submitted to the Congress under section 203(b) of the Act.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201, subparts A and E), and part 206, subparts A and F (19 CFR part 206, subparts A and F).

EFFECTIVE DATE: February 16, 1999.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Participation in the investigation and service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than 14 days after publication of this notice in the **Federal Register**. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Public hearing.—As required by statute, the Commission has scheduled a hearing in connection with this investigation. The hearing will be held beginning at 9:30 a.m. on March 18, 1999, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before March 9, 1999. All persons desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on March 11, 1999, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the hearing are governed by sections 201.6(b)(2) and 201.13(f) of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is March 11, 1999. Parties may also file posthearing briefs. The deadline for filing posthearing briefs is March 25, 1999. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement concerning the matters to be addressed in the report on or before March 25, 1999. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with section 201.16(c) of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under the authority of section 204(d) of the Trade Act of 1974; this notice is published pursuant to section 206.3 of the Commission's rules.

By order of the Commission.

Issued: February 18, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–4568 Filed 2–23–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–130 (Review)]

Chloropicrin From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping duty order on chloropicrin from China.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on chloropicrin from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For

[1] Broom corn brooms made wholly or in part of broom corn (including broom heads), covered by subheadings 9603.10.50 and 9603.10.60 of the Harmonized Tariff Schedule of the United States (HTS).

further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: February 4, 1999.

FOR FURTHER INFORMATION CONTACT: Bonnie Noreen (202–205–3167), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—On February 4, 1999, the Commission determined that the domestic interested party group response to its notice of institution (63 FR 58761, Nov. 2, 1998) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.[1] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on March 4, 1999, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before March 9, 1999, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by March 9, 1999. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. § 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: February 18, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–4572 Filed 2–23–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Invs. Nos. 701–TA–387–392 (Preliminary) & 731–TA–815–822 (Preliminary)]

Certain Cut-To-Length Steel Plate From the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia

AGENCY: United States International Trade Commission.

ACTION: Institution of countervailing duty and antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty investigations Nos. 701–TA–387–392 (Preliminary) and antidumping investigations Nos. 731–TA–815–822 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a) and 19 U.S.C. § 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from France, India, Indonesia, Italy, Korea, and Macedonia of certain cut-to-length steel plate that are alleged to be subsidized by the Governments of the respective countries, and imports from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia of certain cut-to-length steel plate that are alleged to be sold in the United States at less than fair value.[1] Unless the Department of Commerce extends the time for initiation pursuant to section 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. § 1671a(c)(1)(B) or 19 U.S.C. § 1673a(c)(1)(B)), the Commission must reach a preliminary determination in these investigations in 45 days, or in this case by April 2, 1999. The Commission's views are due at the Department of Commerce within five business days thereafter, or by April 9, 1999.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: February 16, 1999.

FOR FURTHER INFORMATION CONTACT: Douglas Corkran (202–205–3177), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

[2] The Commission has found the responses submitted by ASHTA Chemicals, Inc.; HoltraChem Manufacturing Co., L.L.C.; Niklor Chemical Co., Inc.; and Trinity Manufacturing, Inc. to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

[1] Such imports are provided for in headings 7207, 7208, 7210, 7211, 7212, 7224, 7225, and 7226 of the Harmonized Tariff Schedule of the United States.

accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on February 16, 1999, by Bethlehem Steel Corp. (Bethlehem, PA); U.S. Steel Group, a unit of USX Corp. (Pittsburgh, PA); Gulf States Steel, Inc. (Gadsden, AL); IPSCO Steel Inc. (Muscatine, IA); Tuscaloosa Steel Co.[2] (Tuscaloosa, AL); and the United Steelworkers of America (Pittsburgh, PA).

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. § 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on March 9, 1999, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Douglas Corkran (202–205–3177) not later than March 5, 1999, to arrange for their appearance. Parties in support of the imposition of countervailing and/or antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before March 12, 1999, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: February 18, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–4570 Filed 2–23–99; 8:45 am]

BILLING CODE 7020–02–P

[2] Tuscaloosa Steel Co. is not a petitioner with respect to the investigations on the Czech Republic, France, and Italy.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–101 (Review)]

Greige Polyester Cotton Printcloth From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of an expedited five-year review concerning the antidumping duty order on greige polyester cotton printcloth from China.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(3)) (the Act) to determine whether revocation of the antidumping duty order on greige polyester cotton printcloth from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at *http://www.usitc.gov/rules.htm.*

EFFECTIVE DATE: February 4, 1999.

FOR FURTHER INFORMATION CONTACT: Bonnie Noreen (202–205–3167), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION:

Background.—On February 4, 1999, the Commission determined that the domestic interested party group response to its notice of institution (63 FR 58763, Nov. 2, 1998) of the subject five-year review was adequate and that the respondent interested party group response was inadequate.[1] The Commission did not find any other circumstances that would warrant conducting a full review.[2] Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Act.[3]

Staff report.—A staff report containing information concerning the

[1] Vice Chairman Miller not participating.

[2] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

[3] Vice Chairman Miller not participating and Commissioner Koplan dissenting.

subject matter of the review will be placed in the nonpublic record on March 11, 1999, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,[4] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before March 16, 1999, and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by March 16, 1999. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. § 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: February 18, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–4571 Filed 2–23–99; 8:45 am]

BILLING CODE 7020–02–P

[4] The Commission has found the responses submitted by Alice Manufacturing Co.; CMI Industries, Inc.; Greenwood Mills, Inc.; Hamrick Mills, Inc.; Inman Mills, Inc.; Mayfair Mills, Inc.; Mount Vernon Mills, Inc.; and Spartan Mills, Inc. to be individually adequate. Comments from other interested parties will not be accepted (see 19 CFR 207.62(d)(2)).

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 303–TA–13 (Review), 701–TA–249 (Review), and 731–TA–262, 263, and 265 (Review)]

Certain Iron Castings From Brazil, Canada, China, and India

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determination to conduct full five-year reviews concerning the countervailing duty orders on iron metal castings from India and heavy iron construction castings from Brazil and the antidumping duty orders on iron construction castings from Brazil, Canada, and China.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the countervailing duty orders on iron metal castings from India and heavy iron construction castings from Brazil and the antidumping duty orders on iron construction castings from Brazil, Canada, and China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: February 4, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Eninger (202–205–3194), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: On February 4, 1999, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission, in consultation with the Department of Commerce, grouped these reviews because they involve similar domestic like products. See 19 U.S.C. 1675(c)(5)(D); 63 FR 29372, 29374 (May 29, 1998).

With regard to iron metal castings from India, Inv. No. 303–TA–13 (Review), the Commission found that both the domestic interested party group response and the respondent interested party group response to its notice of institution [1] were adequate and voted to conduct a full review.

With regard to heavy iron construction castings from Brazil, Inv. No. 701–TA–249 (Review) and iron construction castings from Brazil, Canada, and China, Invs. Nos. 731–TA–262, 263, and 265 (Review), the Commission found that the domestic interested party group response was adequate and the respondent interested party group responses were inadequate. The Commission also found that other circumstances warranted conducting full reviews.[2]

A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to 207.62 of the Commission's rules.

By order of the Commission.

Issued: February 18, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–4573 Filed 2–23–99; 8:45 am]

BILLING CODE 7020–02–P

[1] The notice of institution for all of the subject reviews was published in the **Federal Register** on Nov. 2, 1998 (63 FR 58758).

[2] Commissioner Crawford dissenting.

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–411]

Certain Organic Photoconductor Drums and Products Containing the Same; Notice of Commission Determination to Review an Initial Determination Terminating the Investigation Based on Withdrawal of the Complaint

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review the initial determination (ID) of the presiding administrative law judge (ALJ) terminating the above-captioned investigation on the basis of complainants' withdrawal of their complaint. The review concerns the consistency of the ALJ's termination of the investigation with Commission policy regarding termination of investigations "with prejudice." The Commission intends to complete its review expeditiously.

In addition, since respondents' motion for monetary sanctions remains under consideration by the ALJ, the Commission has deferred ruling on any issues concerning sanctions, including the matter of whether the determination of sanctionable conduct made in ALJ Order No. 11 should be treated as concurrently filed with the ID terminating the investigation under 19 CFR 210.25(d). Therefore, the Commission has determined to waive any requirement for publication at this time of a schedule that may be applicable for filing and responding to a petition for review of ALJ Order No. 11.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3104.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 4, 1998, based on a complaint filed by Mitsubishi Chemical Corporation of Japan and Mitsubishi Chemical Corporation America of White Plains, New York (collectively, Mitsubishi). 58 FR 30513. Twelve firms were named as respondents.

On December 4, 1998, Mitsubishi filed an unopposed motion to terminate the investigation based on withdrawal of its complaint with prejudice. By that date, only respondents Dainippon Ink and Chemicals of Japan and DIC Trading (USA) of Fort Lee, New Jersey (collectively, DIC) remained in the investigation. Some of the respondents had been terminated based on consent order agreements with Mitsubishi or had had the complaint withdrawn as to them. Others had entered into agreements with Mitsubishi to be terminated from the investigation that had not yet been acted upon by the ALJ. On December 7, 1998, the presiding ALJ issued an ID granting complainants' motion.

Mitsubishi filed its motion to terminate one day after the ALJ issued Order No. 11. That order, which issued on December 3, 1998, granted in part a motion filed by DIC for sanctions against Mitsubishi. It also ordered that Mitsubishi turn over to DIC a consultancy agreement as to which Mitsubishi had claimed privilege. The ALJ reserved ruling on two aspects of DIC's motion for sanctions until after the then-scheduled hearing. Those parts of DIC's motion are pending before the ALJ.

No petitions for review of the ID's determination to terminate the investigation were filed. There were, however, numerous filings concerning the sanctions issues raised in ALJ Order No. 11.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and Commission rules 210.44, 19 CFR 210.44 and 210.4, 19 CFR 201.4.

Copies of the public version of the ALJ's ID, and all other nonconfidential documents filed in connection with this investigation, are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

By order of the Commission.
Issued: February 18, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–4567 Filed 2–23–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–125–126 (Review)]

Potassium Permanganate From China and Spain

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determination to conduct full five-year reviews concerning the antidumping duty orders on potassium permanganate from China and Spain.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)(5)) to determine whether revocation of the antidumping duty orders on potassium permanganate from China and Spain would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: February 4, 1999.

FOR FURTHER INFORMATION CONTACT: George Deyman (202–205–3197), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: On February 4, 1999, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act.

With respect to potassium permanganate from Spain, Inv. No. 731–TA–126 (Review), the Commission found that both the domestic interested party group response and the respondent interested party group response to its notice of institution [1] were adequate and voted to conduct a full review.

With respect to potassium permanganate from China, Inv. No. 731–TA–125 (Review), the Commission found that the domestic interested party group response was adequate and the respondent interested party group response was inadequate. The Commission also found that other circumstances warranted conducting a full review.[2]

A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: February 18, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–4569 Filed 2–23–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–777–779 (Final)]

Certain Preserved Mushrooms From China, India, and Indonesia

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China, India, and Indonesia of certain preserved mushrooms, provided for in subheadings 0711.90.40 and 2003.10.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTVF).[2] Vice Chairman Miller and Commissioners Hillman and Koplan find that critical circumstances exist with respect to subject imports from China. Chairman Bragg and Commissioners Crawford and Askey find that critical circumstances do not exist with respect to subject imports from China.

Background

The Commission instituted these investigations effective January 6, 1998, following receipt of a petition filed with the Commission and the Department of Commerce by the Coalition for Fair Preserved Mushroom Trade and its members: L.K. Bowman, Inc., Nottingham, PA; Modern Mushroom Farms, Inc., Toughkenamon, PA; Monterey Mushrooms, Inc., Watsonville, CA; Mount Laurel Canning Corp., Temple, PA; Mushroom Canning Co., Kennett Square, PA; Sunny Dell Foods, Inc., Oxford, PA; and United Canning Corp., North Lima, OH.[3] The final phase of these investigations was scheduled by the Commission following notification of preliminary determinations by the Department of Commerce that imports of certain preserved mushrooms from China, India, and Indonesia were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. § 1673b(b)). Notice of the scheduling of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of August 19, 1998 (63 FR 44470). The hearing was held in Washington, DC, on October 15, 1998, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on February 11, 1999. The views of the Commission are contained in USITC Publication 3159 (February 1999), entitled *Certain Preserved Mushrooms from China, India, and Indonesia: Investigations Nos. 731–TA–777–779 (Final).*

By order of the Commission.

Issued: February 19, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–4575 Filed 2–23–99; 8:45 am]

BILLING CODE 7020–02–M

[1] The notice of institution for both of the subject reviews was published in the **Federal Register** on Nov. 2, 1998 (63 FR 58765).

[2] Commissioner Crawford dissenting.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioners Crawford and Askey dissenting with regard to Indonesia.

[3] On March 9, 1998, the Commission received notice that Southwood Farms, Hockessin, DE, had joined the petitioning coalition.

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 98–12B]

Promotion of Distance Education Through Digital Technologies

AGENCY: Copyright Office, Library of Congress.

ACTION: Extension of deadline for submission of reply comments.

SUMMARY: The Copyright Office is extending the period for submission of reply comments in the above-referenced study on the promotion of distance education through digital technologies.

DATES: Reply comments must be received in the Copyright Office on or before 5:00 p.m. E.S.T. on March 3, 1999.

ADDRESSES: All submissions should be addressed to Sayuri Rajapakse, Attorney-Advisor, Office of Policy and International Affairs. For information on formats, see **SUPPLEMENTARY INFORMATION** for file formats and other information about electronic filing. Those filings sent by regular mail should be sent to the U.S. Copyright Office, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Submissions delivered by hand should be brought to the Office of Policy and International Affairs, Office of the Register, James Madison Memorial Building, Room LM–403, 101 Independence Avenue, Southeast, Washington, D.C. Submissions by telefax should be made to (202) 707–8366. Submissions by electronic mail should be made to "disted@loc.gov."

FOR FURTHER INFORMATION CONTACT: Sayuri Rajapakse, Attorney-Advisor, Office of Policy and International Affairs. Telephone: (202) 707–8350. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: On December 23, 1998, the Copyright Office published a request for comments and notice of public hearing on the promotion of distance education through digital technologies, in connection with the Office's study of distance education in accordance with Section 403 of the Digital Millennium Copyright Act of 1998. (Pub. L. 105–304, 112 Stat. 2860) 63 FR 71167 (December 23, 1998). Comments were due to be filed by February 5, 1999; reply

comments were due to be filed by February 24, 1999.

The Office, however, has decided to extend the deadline for filing reply comments by a period of seven days, to March 3, 1999. The Office takes this action in response to a motion to extend the reply period, given the short time to respond and the extensive comments received.

Formats

The Copyright Office will be placing reply comments on its Website (http://lcweb.loc.gov/copyright/disted/). Reply comments should be sent, therefore, in one of the following formats:

If by regular mail or hand delivery: Send, to the appropriate address listed above, two copies, each on a 3.5-inch write-protected diskette, labeled with the name of the person making the submission, his or her title and organization. The document itself must be in a single file in either Adobe Portable Document File (PDF) format (preferred), or in Microsoft Word Version 7.0 or earlier, or in WordPerfect Version 7 or earlier. The file name must be no longer than eight characters with a three-character extension.

If by electronic mail: Send to "disted@loc.gov" a message containing the name of the person making the submission, his or her title, organization, mailing address, telephone number, telefax number and e-mail address. The message should also identify the document clearly as either a comment or reply comment. The document itself must be sent as a MIME attachment, and must be in a single file in either Adobe Portable Document File (PDF) format (preferred), or in Microsoft Word Version 7.0 or earlier, or in WordPerfect 7 or earlier. The file name must be no longer than eight characters with a three-character extension.

Anyone who is unable to submit a comment in electronic form should submit ten paper copies by hand or by mail to the appropriate address listed above.

Dated: February 19, 1999.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 99–4549 Filed 2–23–99; 8:45 am]

BILLING CODE 1410–30–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services—Washington, DC.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before April 12, 1999. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to records.mgt@arch2.nara.gov.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Michael L. Miller, Director, Modern Records Programs (NWM), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301)713–7110. E-mail: records.mgt@arch2.nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs the records to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Commerce, Office of Executive Assistance and Management (N1–40–98–1, 2 items, 2 temporary items). Records relating to the Department of Commerce's compliance with environmental laws and regulations pertaining to such subjects as recycling, hazardous waste reporting, and procurement of environmentally preferable products. Also included are files relating to implementation of

Office of Management and Budget Circular A-76, "Competition in Contracting," consisting of management efficiency studies, correspondence, and reports concerning library and mail services, food services, loan processing, and facilities maintenance.

2. Department of Health and Human Services, Food and Drug Administration (N1–88–99–1, 1 item, 1 temporary item). User access log of visits to the agency's World Wide Web site. The logs record the visitor's origin, time of day, length of stay, and activities while at the site.

3. Department of State, Coordinator for Counterterrorism (N1–59–96–11, 12 items, 6 temporary items). Electronic copies of chronological files, program files, research and development files, legislation files, foreign terrorist designation files, and publication files created using electronic mail and word processing. Record keeping copies are proposed for permanent retention.

4. Department of Treasury, Bureau of Alcohol, Tobacco, and Firearms (N1–436–99–1, 1 item, 1 temporary item). Online copies of directives in an automated system used between 1991 and 1997 that has not been updated. Paper copies of the directives were previously approved for permanent retention.

5. Consumer Product Safety Commission, Directorate for Epidemiology and Health Sciences (N1–424–99–1, 9 items, 6 temporary items). Input and output data for three electronic systems pertaining to injuries and investigations. The electronic master files for these systems, National Electronic Injury Surveillance System, In-depth Investigation Data Base, and Injury or Potential Injury Incidents Data Base, are proposed for permanent retention.

6. Environmental Protection Agency, Agency-wide, (N1–412–99–2, 8 items, 5 temporary items). Records pertaining to the review of environmental impact statements, particularly the **Federal Register** process. Included are electronic copies of documents created using electronic mail and word processing. Paper copies of environmental impact statements, including drafts, supplemental documents, and agency comments, are proposed for permanent retention.

7. Federal Emergency Management Agency, Response and Recovery Directorate (N1–311–99–1, 27 items, 26 temporary items). Records relating to emergency search and rescue task forces. Files pertain to selection of personnel, training, financial support, reimbursement for claims, and evaluation of readiness. Electronic copies of documents created using electronic mail and word processing are also proposed for disposal. Paper copies of logs, reports and other records relating to specific incidents and disasters are proposed for permanent retention.

8. Federal Emergency Management Agency, Chemical Stockpile Emergency Preparedness Program (N1–311–99–2, 6 items, 5 temporary items). Records created as background material for final reports on joint emergency preparedness exercises and correspondence with Federal agencies and state and local governments relating to administration and coordination of the preparedness program. Included are electronic copies of documents created using electronic mail and word processing. Paper copies of final reports on exercises, including plans, are proposed for permanent retention.

9. Federal Emergency Management Agency, Office of Human Resources Management (N1–311–99–3, 1 item, 1 temporary item). Diskettes used for transmitting payroll information to the office that prepares pay statements and checks.

10. Federal Emergency Management Agency, Office of Policy and Regional Operations (N1–311–99–4, 12 items, 10 temporary items). Correspondence, notes, and other background materials accumulated in connection with the development of agreements between the Federal Government and the states that provide for federal funding and technical assistance. Included are electronic copies of documents created using electronic mail and word processing. Paper copies of final agreements are proposed for permanent retention.

11. Martin Luther King, Jr. Federal Holiday Commission (N1–220–97–2, 27 items, 8 temporary items). Routine administrative correspondence such as form letters and requests for information, awards background files, conference planning files, and budget and financial records of the Commission's various committees. Records that document overall Commission policies, programs, activities, and events are proposed for permanent retention, including such files as correspondence of the Chair and Executive Director, speeches, press releases, and biographies of Commission members, staff planning records, legislation files, transcripts, minutes, and agendas of meetings and Commission publications.

12. National Institute of Standards and Technology, National Voluntary Laboratory Accreditation Program, (N1–167–98–1, 4 items, 4 temporary items). Records relating to the accreditation of laboratories that carry out testing and calibration, including applications, assessment reports, and files that relate to the use of contractors in the accreditation process. A reduction in retention period is proposed for these records, which were previously approved for disposal. Also included are electronic copies of documents created using electronic mail and word processing.

Dated: February 12, 1999.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 99–4539 Filed 2–23–99; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is resubmitting the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until April 26, 1999.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: jbaylen@ncua.gov.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposals for the following collections of information:

OMB Number: 3133–0141.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: 12 CFR 701.22. Organization and Operation of Credit Unions.

Description: NCUA has authorized federal credit unions to engage in loan participations, provided they establish written policies and enter into a written loan participation agreement. NCUA believes written policies are necessary to ensure a plan is fully considered before being adopted by the Board.

Respondents: All Federal Credit Unions.

Estimated No. of Respondents/ Recordkeepers: 1,000.

Estimated Burden Hours Per Response: 4 hours.

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 4,000.

Estimated Total Annual Cost: $100,000.

By the National Credit Union Administration Board on February 18, 1999.

Becky Baker,

Secretary of the Board.

[FR Doc. 99–4486 Filed 2–23–99; 8:45 am]

BILLING CODE 7535–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meeting

TIME AND DATE: 2:00 P.M., Wednesday, March 3, 1999.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street, NW, Suite 800, Board Room, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/ Secretary, 202/376–2441.

AGENDA:

I. Call to Order

II. Approval of Minutes: December 7, 1998 Regular Meeting

III. Home-Ownership Oversight Special Committee Report: January 12, 1999

IV. Budget Committee Report: January 25, 1999

V. Audit Committee Report: February 25, 1999

VI. Treasurer's Report

VII. Executive Director's Quarterly Management Report

VIII. Adjourn

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 99–4604 Filed 2–19–99; 4:42 pm]

BILLING CODE 7570–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–05798, License No. 34–10445–01]

Environmental Assessment, Finding of No Significant Impact

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental Assessment and Finding of No Significant Impact Related to Release of Parts of the Shelwell Services, Inc. Site for Unrestricted Use.

The U.S. Nuclear Regulatory Commission (NRC) is considering approving the release of parts of the Shelwell Services, Inc. (hereafter known as Shelwell) site for unrestricted use, in connection with Shelwell's request to terminate byproduct material license No. 34–10445–01. This environmental assessment has been prepared with respect to that approval.

Introduction

Shelwell, located at 645 Main Street, Hebron, Ohio, is licensed to use sealed sources and unsealed radioactive material in well logging and tracer studies of oil and gas wells. In September 1983, the licensee accidentally drilled into a 2-curie, cesium-137 sealed source, which caused the spread of radioactive contamination. The site was substantially decontaminated following the 1983 incident. The licensee has recently completed additional decontamination, and reported that the site will be ready for release for unrestricted use when some sealed sources and a small amount of containerized radioactive waste are removed from the site.

The NRC staff will approve termination of the Shelwell license, if the staff determines that the site has been adequately decontaminated, and the site is suitable for release for unrestricted use in accordance with 10 CFR 30.36, 10 CFR Part 20, Subpart E, and other applicable requirements. If the staff determines that portions of the site have been adequately decontaminated, but the stored sealed sources and waste have not been removed from the site, then the license may be amended to release the decontaminated portions of the site for unrestricted use, and a decision made on termination at a later date, when the stored sources and waste have been removed from the site.

Proposed Action

The proposed action is the release of Building No. 2, the office trailer, and all outdoor areas of the Shelwell site for unrestricted use. The licensee has reported that Building No. 2, the office trailer, and all outdoor areas are adequately decontaminated and do not contain any stored sealed sources or waste. Building No. 1 still contains stored sealed sources and waste, so this building is not being considered as part of this proposed action.

The Need for Proposed Action

The licensee seeks to release property for unrestricted use. This action is requested in order to remove the current limitations on the future use of the property.

Alternatives to Proposed Action

The only alternative to the proposed action is to not release the buildings and all outdoor areas for unrestricted use and keep these areas under license. Maintaining a license for Building No. 2, and the office trailer, and outdoor areas would provide negligible, if any, environmental benefit, but would significantly reduce options for future use of the property.

Environmental Impacts of the Proposed Action

Radioactive contamination at the Shelwell site is in the form of cesium-137 in the buildings and outdoor areas. NRC staff has performed inspections to assess the levels of contamination, and has evaluated whether the levels of contamination are sufficiently low to meet NRC criteria for unrestricted use; that is, 10 CFR 20.1402, which specifies that residual radioactivity must be reduced so that potential doses to exposed persons do not exceed 25 millirems per year (0.25 millisieverts per year). The staff has determined that potential doses are below 25 millirems per year. The low levels of contaminate fall within the scope of the Generic Environmental Impact Statement prepared in connection with 10 CFR 20.1402. Therefore, the staff concludes that the potential radiological impact of release of Building No. 2, the office trailer, and outdoor areas at the Shelwell site is insignificant.

There are no environmental justice issues associated with the proposed action, because the levels of radioactive contamination at the site are very low, and there are no significant impacts associated with the proposed action.

Other Agencies or Persons Consulted

No agencies or persons outside of NRC were consulted during the preparation of this environmental assessment.

Conclusions

Shelwell has met NRC's unrestricted release criteria, and there is no significant impact on the environment from the proposed action; therefore, Building No. 2, the office trailer, and outdoor areas of the Shelwell site can be released for unrestricted use.

Finding of No Significant Impact

On the basis of this environmental assessment, the Commission has concluded that this proposed action would not significantly affect the quality of the human environment, and does not warrant the preparation of an environmental impact statement for the proposed action. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

The NRC inspection reports and other documents related to this proposed action are available for public inspection and copying for a fee at the NRC Region III Office, 801 Warrenville Road, Lisle, IL 60532–4351.

Dated at Rockville, Maryland, this 18th day of February, 1999.

For the U.S. Nuclear Regulatory Commission.

John W. N. Hickey,

Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management.

[FR Doc. 99–4528 Filed 2–23–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on March 9, 1999, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Tuesday, March 9, 1999—1:00 p.m. until the conclusion of business.

The Subcommittee will discuss proposed ACRS activities and related matters. It may also discuss the status of appointment of a new member to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff person named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/415–7360) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: February 18, 1999.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 99–4527 Filed 2–23–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting Notice

DATE: Weeks of February 22, March 1, 8, and 15, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of February 22

There are no meetings scheduled for the Week of February 22.

Week of March 1—Tentative

Tuesday, March 2

9:30 a.m. Meeting with Commonwealth Edison (Public Meeting)

11:30 a.m. Affirmation Session (Public Meeting) (If needed)

2:00 p.m. Briefing on Status of 10 CFR 50.59 Issues

Wednesday, March 3

9:00 a.m. Briefing by Executive Branch (Closed—Ex. 1)

Week of March 8—Tentative

Wednesday, March 10

11:00 a.m. Affirmation Session (Public Meeting) (If needed)

Week of March 15—Tentative

Tuesday, March 16

1:00 p.m. Briefing on Status of DOE High Level Waste Viability Assessment (Public Meeting)

Wednesday, March 17

9:00 a.m. Meeting with Advisory Committee on Nuclear Waste and Nuclear Waste Technical Review Board (Public Meeting)

11:30 a.m. Affirmation Session (Public Meeting) (If needed)

1:30 p.m. Briefing on Part 50 Decommissioning Issues

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information. Bill Hill (301) 415–1661.

* * * * *

the NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. if you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc. gov.

Dated: February 19, 1999.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 99–4685 Filed 2–22–99; 11:48 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from January 30, 1999, through February 11, 1999. The last biweekly notice was published on February 10, 1999.

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 Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By March 26, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: January 28, 1999.

Description of amendment request: The H. B. Robinson, Unit No. 2, Technical Specifications (TSs) are proposed to be changed to replace and add analytical methodologies used to determine acceptable core designs and provide inputs to methodologies that develop the core operating limits in the Core Operating Limits Report.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes in a methodology have been previously generically reviewed and approved for use by the NRC for determining core neutronics design and gadolinimum oxide thermal conductivity. Analyzed events are assumed to be initiated by the failure of plant structures, systems, or components. The fuel design parameters developed in accordance with the new methodologies are bounded by the limitations in the NRC acceptance in its safety evaluations of the new methodologies. The topical reports associated with the new methodologies demonstrate that the integrity of the fuel will be maintained during normal operations and that design requirements preclude fuel rods containing gadolinium oxide from being limiting in accident and related safety analyses. The proposed change does not have a detrimental impact on the integrity of any plant structure, system, or component. The proposed change will not alter the operation of any plant equipment, or otherwise increase its failure probability. Therefore, the probability of occurrence for a previously analyzed accident is not significantly increased.

The consequences of a previously analyzed accident are dependent on the initial conditions assumed for the analysis, the behavior of the fuel during the analyzed accident, the availability and successful functioning of the equipment assumed to operate in response to the analyzed event, and the setpoints at which these actions are initiated. The proposed changes to methodology continues to meet applicable design and safety analyses acceptance criteria for neutronics design analysis and gadolinimum oxide thermal conductivity. The topical reports associated with the new methodologies demonstrate that the integrity of the fuel will be maintained as is assumed or is bounded initially in accident analyses and that design requirements preclude fuel rods containing gadolinimum oxide from being limiting in accident and related safety analyses. The proposed change does not affect the performance of any equipment used to mitigate the consequences of an analyzed accident. As a result, no analyses assumptions are violated and there are no adverse effects on the factors that contribute to offsite or onsite dose as the result of an accident. The proposed change does not affect setpoints that initiate protective or mitigative actions. The proposed change ensures that plant structures, systems, or components are maintained consistent with the safety analysis and licensing bases. Based on this evaluation, there is no significant increase in the consequences of a previously analyzed event.

Therefore, the proposed change does not involve any increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve any physical alteration of plant systems, structures, or components. The proposed changes in methodology continue to meet applicable criteria for neutronics design analysis and assure that design requirements preclude fuel rods containing gadolinimum oxide from being limiting. The proposed change does not involve a physical alteration of the plant other than allowing for fuel design in accordance with NRC approved methodologies. No new or different equipment is being installed. No installed equipment is being operated in a different manner. There is no alteration to the parameters within which the plant is normally operated or in the setpoints that initiate protective or mitigative actions. As a result no new failure modes are being introduced. There are no changes in the methods governing normal plant operation, nor are the methods utilized to respond to plant transients altered. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The margin of safety is established through the design of the plant structures, systems, and components, through the parameters within which the plant is operated, through the establishment of the setpoints for the actuation of equipment relied upon to respond to an event, and through margins contained within the safety analyses. The proposed change is to methodologies that continue to meet applicable criteria for neutronics design analysis and continues to assure that design requirements preclude fuel rods containing gadolinimum oxide from being limiting. The proposed change does not impact the condition or performance of structures, systems, setpoints, and components relied upon for accident mitigation. The proposed change does not significantly impact any safety analysis assumptions or results. Therefore, the proposed change does not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Project Director: Cecil B. Thomas.

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: November 25, 1998.

Description of amendment request: The proposed amendments would revise Improved Technical Specifications 3.8.4 and 3.8.9 to support on-line replacement of the Braidwood 125 Volt DC AT&T batteries with new Charter Systems Inc. batteries.

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:

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

During the replacement of the existing batteries, a temporary battery bank will provide the same function as the AT&T batteries being removed. Even though this temporary battery will not be seismically mounted, due to its location in the Turbine Building, it is the safety related AT&T battery which was previously qualified and used to perform this function on Unit 1.

While the temporary battery is being connected, the DC bus will be supplied by the existing crosstie with Unit 1. Similar crosstie conditions are allowed under the present Improved Technical Specifications.

The DC system is normally supplied by the AC system through the ESF [Engineered Safety Feature] battery charger. The essential function of the DC system battery is to supply control power necessary to start and load the Diesel Generators. Once the Diesel Generators are on line, the DC system will be supplied via the battery charger. However, the ESF batteries have been sized for one hour to provide additional assurance that the critical DC loads are available in the event of a loss of a battery charger.

During the 10 day Completion Time when the temporary battery and the ESF charger are supporting the bus, the ability of that DC Division to mitigate an event/accident is unchanged except for its ability to cope with a seismic event. However, the probability of a seismic event concurrent with the 10 day Completion Time is extremely small. During a seismic event, one DC division may be compromised, however, the unit has adequate DC power available in the form of the other division to mitigate all Design Basis accidents. This loss of one DC division is bounded by the loss of an entire AC division, a condition which the plant is currently evaluated to withstand.

During the 8 hour Completion Time to connect and disconnect the temporary battery, there is no adverse impact on Unit 1. The compensatory measures to manually open the crosstie will ensure the Unit 1 DC battery can supply its required loads for the entire one hour duty cycle. The Unit 2 DC bus, which is crosstied, will be de-energized in the event of a Unit 2 accident based on the compensatory measures. This action would only be required if the associated Diesel Generator were to fail to re-energize its associated charger. This condition is consistent with the other crosstie scenarios currently permitted by the Technical Specifications. Thus, the 8 hour Completion Time is consistent with the two hour Completion Time with respect to the ability to safely shutdown the Unit. Only the duration of the Completion Time is different.

Based on the above, the overall design, function, and operation of the DC system and equipment has not been significantly modified by these changes. The proposed changes do not affect any accident initiators or precursors and do not alter the design assumptions for the systems or components used to mitigate the consequences of an accident as analyzed in UFSAR Chapter 15.

Therefore, this proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

During the replacement of the existing batteries, a temporary battery bank will provide the same function as the batteries being removed. Even though this temporary battery is not seismically mounted, it is the safety related AT&T battery which was previously qualified and utilized to perform this function on Unit 1. Because this temporary battery is identical to the battery that is currently installed, and will be connected and used in the same way, no new electrical or functional failure modes are created.

The temporary battery will be located in the turbine building, which is non-seismic. The temporary battery will not be seismically mounted. Thus, a seismic failure of the batteries is possible. Since the temporary battery is located in the turbine building the potential for battery failure to initiate an accident is not present, and failure of the battery cannot create a different response from any previously postulated accident.

Due to the location of the main generator in relationship to the temporary batteries, a turbine blade failure would not hit the battery unless it penetrated the turbine casing and ricocheted in the direction of the battery, which is an unlikely scenario due to the orientation of the temporary battery. Likewise, an unmitigated Outside Containment Steam Line Break of either unit would be interrupted by the successful closure of all MSIVs [Main Steam Isolation Valves] thereby leaving the battery and the DC bus intact and available. Also any affects of a postulated storm on the turbine building have been previously addressed and would not change as a result of the batteries being temporary located there.

While the temporary battery is being connected, the DC bus will be supplied by the existing crosstie with Unit 1. To prevent any occurrence on Unit 2 from adversely affecting Unit 1, this crosstie will be manually disconnected based on specific criteria that may be indicative of a Unit 2 accident (specifically a Unit 2 LOOP). Once the crosstie is opened, the Unit 2 bus will be de-energized and the other Unit 2 division will be required to mitigate the accident. This loss of one DC division is bounded by the loss of one division (AC or DC), a condition which the plant is currently evaluated to withstand.

The DC system and its equipment will continue to perform the same function and be operated in the same fashion. The proposed changes do not introduce any new accident initiators or precursors, or any new design assumptions for the systems or components used to mitigate the consequences of an accident. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated has not been created.

Therefore, this proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the change involve a significant reduction in a margin of safety?

During the replacement of the existing batteries, a temporary safety related battery bank will perform the same function as the batteries being removed. Even though this temporary battery is not seismically mounted, it is the safety related battery which was previously qualified and used to perform this function on Unit 1 and is identical to the safety related battery that is currently installed. Therefore, it has the same capacity, margin and capability to fulfill the requirements of the Unit 2 DC bus as the existing qualified battery. The proposed replacement activity will not prevent the plant from responding to either a seismic event or design basis accident. In both cases, the design mitigation capability will be maintained. Due to the limited duration of the activity and the planned contingency actions, a significant reduction in the margin of safety will not result.

While the temporary battery is being connected, the DC bus will be supplied by the existing crosstie with Unit 1. This condition is currently allowed for a limited time by the Improved Technical Specifications.

The inherent design conservatism of the DC system and its equipment has not been altered. The DC system and its equipment will continue to be operated with the same degree of conservatism. Accordingly, there is no significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are

satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney for licensee: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767.

NRC Project Director: Stuart A. Richards.

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: December 29, 1998.

Description of amendment request: The proposed amendments would revise the Technical Specification Tables 3.3.1–1 and 3.3.2–1, to revise twelve Reactor Trip System and Engineered Safety Feature Actuation System Allowable Values.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

These changes to the twelve AVs [Allowable Values] do not involve an increase in the probability of an accident previously evaluated. The AVs provide the basis for determining instrument channel operability and do not change the system function, or channel operation or calibration. Operation within the AV ensures the instrument channel's ability to provide the required reactor trip or engineered safety feature actuation signal during plant operation. In all cases, the proposed changes only make the twelve AVs more restrictive with respect to the current AVs, and do not effect the response characteristics of the instrumentation because actual trip setpoints are unchanged. There is no change being made to the approved design, nor is there any operational change being made which would increase the probability of occurrence of an accident previously evaluated. The RTS [Reactor Trip System] and ESFAS [Engineered Safety Feature Actuation System] systems which are actuated by the corresponding instrumentation setpoints will operate in the same manner as before and within their design limits.

These changes to the twelve AVs do not involve an increase in the consequences of an accident previously evaluated. These changes have no effect on plant operation. There is no physical or operational change being made which would alter the sequence of events, plant response, or assumptions or conclusions of the affected analyses. The use of the AVs as a basis for determining instrument or channel operability does not change system operation or channel function. The proposed changes do not change the established trip setpoints for these functions. No design analyses have changed or will be affected. The twelve revised AVs are more restrictive than the current AVs and continue to ensure that the safety limits are not violated during anticipated transients, and that the consequences of design basis accidents remain acceptable. The change to the AVs does not degrade or prevent any actions from taking place in response to an accident. The use of NRC approved or endorsed methodology in developing the proposed AVs ensures that the present analytical limits for all accidents will be maintained. These proposed changes to the AVs for RTS and ESFAS instrumentation will continue to ensure that the associated RTS trip or ESFAS actuation signals will be generated when required within the bounds of the plant safety analyses. There is no change in the type or amount of any effluents released, and no change in either the onsite or offsite dose consequences as a result of this change.

Therefore, based on this evaluation, this proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

These proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes to the twelve AVs for RTS and ESFAS instrumentation will not affect the trip setpoints at which a reactor trip or engineered safety feature actuation is initiated. The trip setpoints contained in the Technical Requirements Manual are not being changed and will continue to be maintained. The only changes being made are to the AVs used as a basis for determining instrument channel operability. Because the trip setpoints are unchanged, RTS or ESFAS setpoint actuation is not affected by the revised AVs.

An RTS trip or ESFAS actuation signal that may initiate between its trip setpoint and the associated AV is acceptable because an allowance has been made in the affected instrument uncertainty calculation to accommodate this deviation. It allows for potential drift while ensuring plant operation in a safe manner. Using this methodology provides plant operational flexibility and yet remains within the allowances accounted for in the various accident analyses. No new equipment is being installed, and no installed equipment is being operated in a new or different manner with these twelve AV changes. The revised AVs do not alter the intended design or operation of systems or instrument channels.

As no physical plant equipment changes are being made, no new equipment failure modes are being introduced as a result of these proposed changes. There is no change in plant operation that affects previously evaluated failure modes and no change in plant response to a transient condition. These changes do not represent a new failure mode over what has been previously evaluated.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

There is no significant reduction in the margin of safety from these proposed changes. These proposed changes move twelve AVs closer to the trip setpoints compared to the existing AVs, which increases the margin of safety. An RTS trip or ESFAS actuation signal that may initiate between its trip setpoint and the associated AV is acceptable because an allowance has been made in the affected instrument uncertainty calculation to accommodate this deviation. The revised AVs have been calculated using NRC approved or endorsed methodology, which is consistent with existing safety analyses that define the margin of safety. Safety analyses assumptions and results are not affected.

Therefore, these 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 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: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767.

NRC Project Director: Stuart A. Richards.

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: January 21, 1999.

Description of amendment request: This amendment request proposes to relocate Technical Specification (TS) Section 3/4.6.I to the Updated Final Safety Analysis Report (UFSAR) and plant procedures. TS Section 3/4.6.I contains reactor coolant chemistry limiting conditions for operation (LCO) and surveillance requirements (SR) for conductivity, chloride concentration and pH.

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:

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes simplify the TS, meet regulatory requirements for relocated TS's, and implement the recommendations of the Commission's Final Policy Statement on TS improvements. The Chemistry requirements will be relocated to the Updated Final Safety Analysis Report (UFSAR) and to applicable station procedures. Future changes to these requirements will be controlled by 10 CFR 50.59. The proposed changes are administrative in nature and do not involve any modification to any plant equipment or affect plant operation. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of any previously evaluated accident.

Consequently, this proposed amendment does not involve a significant increase in the probability or consequences of any accident previously evaluated.

Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes are administrative in nature, do not involve any physical alterations to any plant equipment, and cause no change in the method by which any safety related system performs its function. Therefore, this proposed TS amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the change involve a significant reduction in a margin of safety?

The proposed amendment represents the relocation of current requirements which are based on generic guidance or previously approved provisions for other stations. The proposed changes are administrative in nature and do not adversely affect existing plant safety margins or the reliability of the equipment assumed to operate in the safety analysis. The proposed changes have been evaluated and found to be acceptable for use at Quad Cities Nuclear Power Station. Since the proposed changes are administrative in nature, and are based on NRC accepted provisions which have been adopted at other nuclear facilities, and maintain the necessary levels of system reliability, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767.

NRC Project Director: Stuart A. Richards.

Duke Energy Corporation (DEC), et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: January 28, 1999.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) to correct Surveillance Requirement (SR) 3.7.13.4 and the associated Bases. This SR currently is incorrect and does not reflect the Fuel Handling Ventilation Exhaust System (FHVES) as designed. Specifically, the FHVES flow rate requirement has been inadvertently stated at half the design value (18,221 instead of 36,443 cfm [cubic feet per minute]). The proposed amendments would only revise the SR to the correct design value; no physical change to the FHVES design is involved.

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:

First Standard

Implementation of this amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. Approval of this amendment will have no effect on accident probabilities or consequences. The FHVES is not an accident initiating system; therefore, there will be no impact on any accident probabilities by the approval of this amendment. The design of the system is not being modified by this proposed amendment. The amendment merely aligns TS requirements with the existing design and function of the system. Therefore, there will be no impact on any accident consequences.

Second Standard

Implementation of this amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. No new accident causal mechanisms are created as a result of NRC approval of this amendment request. No changes are being made to the plant which will introduce any new accident causal mechanisms. This amendment request does not impact any plant systems that are accident initiators; neither does it impact any accident mitigating systems.

Third Standard

Implementation of this amendment would not involve a significant reduction in a margin of safety. Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The performance of these fission product barriers will not be impacted by implementation of this proposed amendment. The FHVES is already capable of performing as designed. No safety margins will be impacted.

Based upon the preceding analysis, Duke Energy has concluded that the proposed amendment does not involve a significant hazards consideration.

The staff reviewed the licensee's analysis, and agrees 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: York County Library, 138 East Black Street, Rock Hill, South Carolina.

Attorney for licensee: Mr. Paul R. Newton, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina.

NRC Project Director: Herbert N. Berkow.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: December 16, 1998, supplemented January 25, 1999.

Description of amendment request: The proposed amendments would completely replace the High Pressure Injection (HPI) section of the Improved Technical Specifications that were issued on December 16, 1998. The proposed changes would: (1) expand the applicability for the requirements regarding the third HPI pump, discharge crossover valves, and the HPI suction headers; (2) specify the HPI conditions and allowed times that require the discharge headers be cross-connected or separated; (3) incorporate limiting conditions for operation when specified equipment was inoperable during specified plant conditions; (4) specify changes in HPI system discharge path valve lineup when certain equipment is inoperable; (5) change the requirement to reduce reactor power when an HPI system is inoperable from 60 percent power to 75 percent power and specify the length of time operation may continue at this power level; (6) address the failure to cross-connect the HPI

discharge headers as an independent condition; (7) add a requirement to verify by administrative means that the Atmospheric Dump Valve flow path for each steam generator is operable every 12 hours under certain conditions; (8) add a requirement that the HPI pump and crossover valves be restored to operable status within 30 days; (9) delete the requirement to restore the capability to automatically actuate the HPI within 24 hours; (10) add a Required Action to reduce reactor power to less than or equal to 75 percent power within 3 hours in the event an HPI train cannot be actuated by automatic or manual means; (11) expand the Completion Time for restoring an inoperable HPI train to 72 hours; (12) require that Limiting Condition for Operation 3.0.3 be entered immediately if two HPI trains or two HPI (low pressure injection) -LPI flow paths are inoperable; (13) change the surveillance requirement to manually cycle open each LPI-HPI flow path discharge valve every 18 months to require that the HPI discharge crossover valves be cycled every 18 months; and (14) add or modify various administrative and Bases changes that support the proposed changes. The licensee supplied data resulting from risk-informed analyses that were performed in accordance with Regulatory Guides 1.174 and 1.177 to support the evaluation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated:

No. The proposed change do not involve a physical alteration of the plant. No new or different equipment is being installed, and no installed equipment is being operated in a new or different manner. No set points for parameters which initiate protective or mitigative action are being changed.

The proposed changes do not have any impact upon the ability of the HPI [High Pressure Injection] System to add soluble poison to the Reactor Coolant System. The remaining potential impact is upon the ability to mitigate the consequences of a small break LOCA [Loss-of-Coolant Accident], which is addressed below. The small break LOCA is the limiting design basis accident with respect to HPI System operability requirements.

The Technical Specification requirements for the HPI System are supported by a spectrum of small break LOCA analyses based on the approved Evaluation Model described in FTI [Framatome Technologies Incorporated] topical report BAW–10192PA. These small break LOCA analyses demonstrate that the acceptance criteria of 10 CFR 50.46 are satisfied.

The requirements of LCO [Limiting Condition for Operation] 3.5.2 assure that flow can be provided via two HPI trains (i.e., one HPI train responds automatically upon an ESPS [Engineered Safeguards Protective System] signal, and the second HPI train is aligned within 10 minutes via operator actions in the Control Room) following a small break LOCA and a single active failure. The full power small break LOCA analyses supporting this proposed license amendment have been performed in accordance with the approved Evaluation Model described in FTI topical report BAW–10192P.

If enhanced steam generator cooling is not credited in the accident analysis, two HPI trains are required to mitigate specific small break LOCAs with Thermal Power [less than or equal to] 75% RTP [Reactor Thermal Power]. However, if equipment not qualified as QA–1 (i.e., an ADV [Atmosphic Dump Valve] flow path for one steam generator) is credited for enhanced steam generator cooling, the safety analyses have determined that the capacity of one HPI train is sufficient to mitigate a small break LOCA on the discharge of the reactor coolant pumps if Thermal Power [less than or equal to] 75% RTP. An ADV flow path for each steam generator is credited as a compensatory measure in Actions B and C of LCO 3.5.2 to permit operation to continue with THERMAL POWER [less than or equal to] 75% RTP: a) for 30 days with an HPI pump of one or more HPI discharge crossover valve(s) inoperable; and b) for 72 hours with one HPI train inoperable. This provides additional defense-in-depth, because the ADV flow path for each steam generator is required to be operable while only one is needed to perform the function. Additionally, a risk-informed assessment (provided as Attachment 7 to Duke's license amendment request dated December 18, 1998) concluded that operating the plant in accordance with the Required Actions was acceptable.

The proposed changes involve crediting an additional operator action (i.e., steaming that steam generator through an ADV flow path) that has not previously been reviewed and approved by the staff for licensing basis small break LOCA analyses. Additionally, while the EFW System has been credited in past SBLOCA [small break LOCA] analyses as described in responses to NUREG–0565, actions to raise steam generator levels to the loss of subcooled margin setpoint were only assumed in the smaller SBLOCAs. These operator actions have been included in the Emergency Operating Procedure (i.e., AP/1, 2, or 3/A/1800/001) for many years.

The times for completing these operator actions (i.e., feeding a steam generator via EFW [Emergency Feedwater] and steaming that steam generator through an ADV flow path) are new to the small break LOCA analysis and the licensing basis, and are considered reasonable. Crediting the performance of these operator actions within the specified time frames in the SBLOCA analyses does not result in any substantive change to the operator's response to [an] SBLOCA.

In summary, the technical analyses described in this license amendment justify the adequacy of this specification and assure that operability of the HPI System is maintained in a manner consistent with the requirements of the design basis accidents. Therefore, it is concluded that this amendment request will not significantly increase the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any kind of accident previously evaluated:

No. The proposed changes do not involve a physical alteration of the plant. No new or different equipment is being installed, and no installed equipment is being operated in a new or different manner. No set points for parameters which initiate protective or mitigative action are being changed. As a result, no new failure modes are being introduced.

The requirements of ITS [Improved Technical Specification] 3.5.2 continue to assure that operability of the HPI System is maintained in a manner consistent with the requirements of the design basis accidents. The requirements are supported by small break LOCA analyses which demonstrate that the acceptance criteria of 10 CFR 50.46 are satisfied.

The proposed change involve crediting an additional operator action (i.e., steaming that steam generator through an ADV flow path) that has not previously been reviewed and approved by the staff for licensing basis small break LOCA analyses. Additionally, while the EFW System has been credited in past SBLOCA analyses as described in responses to NUREG–0565, actions to raise steam generator levels to the loss of subcooled margin setpoint were only assumed in the smaller SBLOCAs. These operator actions have been included in the Emergency Operating Procedure (i.e., AP/1, 2, or 3/A/1800/001) for many years.

The times for completing these operator actions (i.e., feeding a steam generator via EFW and steaming that steam generator through an ADV flow path) are new to the small break LOCA analysis and the licensing basis, and are considered reasonable. Crediting the performance of these operator actions within the specified time frames in the SBLOCA analyses does not result in any substantive change to the operator's response to [an] SBLOCA.

Therefore, this proposed amendment will not create the possibility of any new or different kind of accident.

(3) Involve a significant reduction in a margin of safety.

No. The requirements of ITS 3.5.2 continue to assure that operability of the HPI System is maintained in a manner consistent with the requirements of the design basis accidents. The requirements are supported by small break LOCA analyses which demonstrate that the acceptance criteria of 10 CFR 50.46 are satisfied. These analyses were performed in accordance with the Evaluation Model described in FTI topical report BAW–10192P.

Therefore, it is concluded that the proposed amendment request will not result in a significant decrease in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Attorney for licensee: J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC.

NRC Project Director: Herbert N. Berkow.

Duquesne Light Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: January 18, 1999

Description of amendment request: The proposed amendments would: (1) delete license condition 2.C.(3) from the Beaver Valley Power Station, Unit No. 1 (BVPS–1) operating license and delete some references to two-loop operation from BVPS–1 Technical Specifications (TSs); (2) revise BVPS–1 and Beaver Valley Power Station, Unit No. 2 (BVPS–2) TS 2.2.1, 3.3.2.1, associated tables 2.2–1 and 3.3.4, and associated bases, to use consistent format and wording between units; (3) revise BVPS–1 and BVPS–2 TS 2.2.1, 3.3.2.1, associated tables 2.2–1 and 3.3 4, and associated bases, to include revised nominal trip setpoints and allowable values which are more conservative than those currently listed; (4) delete or revise TS to reflect the current configuration of Unit 1 plant hardware; and (5) make miscellaneous editorial changes to BVPS–1 and BVPS–2 TS and associated Bases to define terms, revise formatting, modify titles, and add license numbers to pages.

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 [as modified by the NRC staff based upon information provided elsewhere in the licensee's submittal].

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

This proposed amendment includes changes to nominal Reactor Trip System (RTS) and Engineered Safety Feature Actuation System (ESFAS) trip setpoints and allowable values that have been determined with the use of an approved methodology. The new values ensure that all automatic protective actions will be initiated at or before the condition assumed in the safety analysis. This change, which includes modification of the requirements stated in Limiting Safety System Setting (LSSS) 2.2.1 and Limiting Condition for Operation (LCO) 3.3.2.1, will allow the nominal trip setpoints to be adjusted within the calibration tolerance band allowed by the setpoint methodology. There will be no adverse effect on the ability of the channels to perform their safety functions as assumed in the safety analyses. Since there will be no adverse effect on the trip setpoints or the instrumentation associated with the trip setpoints, there will be no significant increase in the probability of any accident previously evaluated.

Other changes in trip system function, content and format are proposed based on the current configuration of the trip system hardware at Beaver Valley Power Station (BVPS) Unit No. 1. Similarly, since the ability of the instrumentation to perform its safety function is not adversely affected, there will be no significant increase in the consequences of any accident previously evaluated.

Since the safety analysis is unaffected by this change there is no change in the consequences of any previously evaluated accident.

The editorial changes do not affect plant safety. The administrative change, for BVPS Unit 1 only, pertaining to two loop operation and Reactor Coolant System isolation valve position, does not affect plant safety. The Technical Specification requirements in LCOs 3.4.1.1 and 3.4.1.4.1 will continue to [prohibit two-loop operation and] ensure safe plant operation by properly controlling the operation and position of the reactor coolant loops and Reactor Coolant System isolation valves.

[The administrative change to delete line item 7.d, pertaining to Auxiliary Feedwater (AFW) Pump Auto-start on Emergency Bus Undervoltage, from BVPS–1 TS Tables 3.3–3, 3.3–4, and 4.3–2 will not affect plant safety because this function is not directly initiated by bus undervoltage. Rather, the automatic start of the motor-driven AFW pumps is accomplished by the combination of 1) Emergency Bus feed breaker opening 2) valid start signal from ESFAS, and 3) Emergency Diesel Generator (EDG) sequencer actuation. Requirements for these items are included in the ESFAS related TS, Table 3.3–3 and 3.3–4 items 7.a, 7.c, 7.e, and EDG related TS 4.8.1.1.2.b.3 (b). Therefore, since there is no change made to the plant hardware or its operation and requirements related to the AFW pump auto-start function are maintained elsewhere in the BVPS–1 TS, deleting line item 7.d from BVPS–1 TS Tables 3.3–3, 3.3–4, and 4.3–2 will not change the probability or consequences of any accident previously evaluated.]

Therefore, this change does not involve any significant increase in the probability of occurrence of any accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed amendment includes changes to the format and magnitudes of nominal trip setpoints and allowable values that preserve all safety analysis assumptions related to accident mitigation. The protection system will continue to initiate the protective actions as assumed in the safety analysis. The proposed changes to LSSS 2.2.1 and LCO 3.3.2.1 will continue to ensure that the trip setpoints are maintained consistent with the setpoint methodology and the plant safety analysis. This proposed amendment does not involve additional hardware changes. Plant operation will not be changed.

Other proposed changes are made so that the Technical Specifications more accurately reflect the plant-specific trip system hardware in BVPS Unit No. 1.

Furthermore, the proposed changes do not alter the functioning of the RTS and ESFAS. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

The proposed changes do not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The proposed RTS and ESFAS trip setpoints are calculated with an approved methodology. The proposed changes to LSSS 2.2.1 and LCO 3.3.2.1 will continue to ensure that the trip setpoints are maintained consistent with the setpoint methodology and the plant safety analysis. Therefore, the response of the RTS and ESFAS to accident transients reported in the Updated Final Safety Analysis Report is unaffected by this change. No additional hardware changes are involved. Therefore, accident analysis acceptance criteria are not affected. Other proposed changes are made so that the protection system Technical Specifications more accurately reflect the plant-specific trip system hardware in BVPS Unit No. 1.

The editorial changes do not affect plant safety. The administrative change, for BVPS Unit 1 only, pertaining to two loop operation and Reactor Coolant System isolation valve position, does not affect plant safety. The Technical Specification requirements in LCOs 3.4.1.1 and 3.4.1.4.1 will continue to [prohibit two-loop operation and] ensure safe plant operation by properly controlling the operation and position of the reactor coolant loops and Reactor Coolant System isolation valve.

[The administrative change to delete line item 7.d, pertaining to Auxiliary Feedwater (AFW) Pump Auto-start on Emergency Bus Undervoltage, from BVPS–1 TS Tables 3.3–3, 3.3–4, and 4.3–2 will not affect plant safety because this function is not directly initiated by bus undervoltage. Rather, the automatic start of the motor-driven AFW pumps is accomplished by the combination of (1) Emergency Bus feed breaker opening, (2) valid start signal from ESFAS, and (3) EDG sequencer actuation. Requirements for these items are included in the ESFAS related TS, Table 3.3–3 and 3.3–4 items 7.a, 7.c, 7.e, and EDG related TS 4.8.1.1.2.b.3 (b). Therefore, since there is no change made to the plant hardware or its operation and requirements related to the AFW pump auto-start function are maintained elsewhere in the BVPS–1 TS,

deleting line item 7.d from BVPS–1 TS Tables 3.3–3, 3.3–4, and 4.3–2 will not involve a significant reduction in a margin of safety.]

Therefore, operation of the facility in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: S. Singh Bajwa.

Entergy Gulf States, Inc., and Entergy Operations, Inc., Docket No. 50–458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: December 16, 1998.

Description of amendment request: The licensee has proposed an amendment of Facility Operating License No. NPF–47, Appendix A—Technical Specifications, Section 2.1.1.2, entitled "Reactor Core [Safety Limits]." The proposed amendment will change the two recirculation loop Minimum Critical Power Ratio (MCPR) limit from 1.13 to 1.12 and the single recirculation loop MCPR limit from 1.14 to 1.13. The revised limits are necessary to address the operation of Cycle 9 following the refueling outage which is scheduled to begin April 1999.

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 request does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The plant/cycle specific SLMCPRs have been calculated using methods identical to those used by General Electric (GE) to assess the SLMCPR for other Boiling Water Reactors (BWRs). Similar methods were used to determine the value of the SLMCPR for the previous cycle. These methods are within the existing design and licensing basis and cannot increase the probability or severity of an accident. The basis of the SLMCPR calculation is to ensure that greater than 99.9% of all fuel rods in the core avoid transition boiling and fuel damage in the event of the occurrence of Anticipated Operational Occurrences (AOO) or a postulated accident.

The SLMCPR is used to establish the Operating Limit Minimum Critical Power Ratio (OLMCPR). Neither the SLMCPR nor the OLMCPR are initiators or affect initiators of an accident previously evaluated and therefore changes to the SLMCPR do not increase the probability of any accident previously evaluated. The proposed changes involve the use of an accepted methodology in calculating the SLMCPR and, since there is no change in the definition of the SLMCPR, these changes will not affect the consequences of any accident previously evaluated. In addition, the proposed changes do not involve any change in the way the plant is operated. Existing procedures will ensure that the SLMCPR is not violated. Therefore, these changes have no effect on the consequences of an accident.

On these bases, there will be no increase in the probability or consequences of an accident previously analyzed as a result the proposed changes.

2. The request does not create the possibility of occurrence of a new or different kind of accident from any accident previously evaluated.

The proposed changes consist of SLMCPR calculated from an accepted method of analysis that has been used by many BWRs. These changes do not involve any alteration of the plant and do not affect the plant operation. Neither the SLMCPR nor the OLMCPR can initiate an event, therefore a change to the SLMCPR does not create the possibility of occurrence of a new or different kind of accident from any accident previously evaluated.

3. The request does not involve a significant reduction in the margin of safety.

The SLMCPR is a Technical Specification numerical value to ensure that 99.9% of all fuel rods in the core will avoid transition boiling if the limit is not violated. The proposed SLMCPR change results from SLMCPR analysis using the accepted methods as identified in the Attachment.

The margin of safety resides between the SLMCPR and the point at which fuel fails. Maintaining the MCPR above the proposed SLMCPR will maintain the margin of safety associated with GE's SLMCPR methodology. Existing plant procedures will continue to ensure that the SLMCPR is not violated.

Therefore, this request does not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, LA 70803.

Attorney for licensee: Mark Wetterhahn, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005.

NRC Project Director: John N. Hannon.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: December 23, 1998.

Description of amendment request: The proposed changes will modify the Limiting Condition for Operation for Technical Specifications 3.3.3.7.1 for the chlorine detection system at Waterford Steam Electric Station, Unit 3. A change in the alarm/trip setpoint from 3 parts per million (ppm) to 2 ppm is requested. Additionally, the proposed request corrects a typographical error in Table 3.3–4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: The chlorine detection system has no effect on the accidents analyzed in Chapter 15 of the Final Safety Analysis Report. Its only effect is on habitability of the control room, which will be enhanced by specifying a more conservative setpoint in the Technical Specifications (TS). Analysis using more conservative assumptions show that a setpoint of 2 parts per million (ppm) chlorine is acceptable.

Correcting the typographical error on TS page 3/4 3–19 has no effect on the probability or consequences of an accident previously evaluated.

Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: The proposed Technical Specification change in itself does not change the design or configuration of the plant. Using a more conservative setpoint performs the same function as the old setpoint, but it accomplishes this function with increased conservatism.

Correcting the typographical error on TS page 3/4 3–19 will not create the possibility of a new or different type of accident from any accident previously evaluated.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change

involve a significant reduction in a margin of safety?

Response: The chlorine detection system has no effect on a margin of safety as defined by Section 2 of the Technical Specifications. Its only effect is on habitability of the control room, which will be enhanced by a more conservative setpoint provided by this change to the Technical Specifications.

Correcting the typographical error on TS page 3/4 3–19 does not involve a significant reduction in a margin of safety.

Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn, 1400 L Street N.W., Washington, D.C. 20005–3502.

NRC Project Director: John N. Hannon.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: January 25, 1999.

Description of amendment request: The proposed change request will modify Technical Specification (TS) 3.5.1 to allow up to 72 hours to restore safety injection tank (SIT) to operable status if one SIT is inoperable due to boron concentration not within the limits or the inability to verify level and pressure. The proposed change would also allow up to 24 hours to restore SIT to operable status if one SIT is inoperable due to other reasons when Reactor Coolant System pressure is greater than or equal to 1750 psia. The ACTIONS for an inoperable SIT are being subdivided based on pressurizer pressure to be consistent with the current Waterford 3 requirements and applicability. Additionally, the Surveillance requirement to sample the SIT after a 1% volume increase is being changed to not be required if the source of the makeup is the refueling water storage pool. This amendment request is a collaborative effort of participating Combustion Engineering Owners Group members based on a review of plant operations, deterministic and design basis considerations, and plant risk, as well as previous generic studies and conclusions drawn by the NRC Staff and contained within NUREG–1366, "Improvements to Technical Specifications Surveillance Requirements," and NUREG–1432, Revision 1, "Standard Technical Specifications for Combustion Engineering (CE) Plants." TS Bases 3/4.5.1 will be revised to support above changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: 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 an increase in the probability of an accident previously evaluated.

The 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 analyses. Hence the consequences of accidents previously evaluated do not change.

In order to fully evaluate the affect of the SIT Allowed Outage Time (AOT) extension from 1 hour to 24 hours when one SIT is inoperable for reasons other than boron concentration or inability to measure level or pressure, probabilistic safety analysis (PSA) methods were utilized. The results of these analyses show no significant increase in the core damage frequency. 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."

The proposed change to extend the AOT from 1 hour to 72 hours when unable to measure level or pressure is acceptable because SIT operability is not based on instrumentation availability. Therefore, this does not involve a significant increase in the consequences of an accident as evaluated and are endorsed by the Nuclear Regulatory Commission (NRC) in NUREG–1366, "Improvements to Technical Specifications Surveillance Requirements." The inability to measure level or pressure is acceptable because the SIT instrumentation provides no safety actuation.

The AOT extension from 1 hour to 72 hours, based upon 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 acceptable because the reduced concentration effects on core subcriticality during reflood are minor.

The change in sampling requirements to not require sampling if the makeup source is of the same concentration limit as the SIT is acceptable as the concentration will remain within the TS limits.

Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: The proposed change does not alter the design or configuration of the plant. It also does not alter the mitigation capabilities of any safety system or components. This change increases the AOTs for the condition of SIT inoperability. The boron concentration is maintained by make-up from a source of water with the required concentration of the SITs.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: 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 and deterministic evaluations were used to evaluate these changes. The PSA evaluations demonstrated that the applicable changes are either risk neutral or risk beneficial. These evaluations are detailed in CE NPSD–994. The deterministic evaluations show that the SITs would be able to perform their safety function. These changes are consistent with NUREG–1366 and NUREG–1432. The margin of safety is not significantly affected by makeup from a source of the same concentration limit as the SIT or increase in the AOT for boron concentration of one SIT not within limits.

Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn, 1400 L Street N.W., Washington, D.C. 20005–3502.

NRC Project Director: John N. Hannon.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: January 25, 1999.

Description of amendment request: The proposed changes modify Technical Specifications Section 6.0 to remove certain administrative controls and instead rely on the change controls of 10 CFR 50.54(a)(3) and to add a requirement to Section 6.0 concerning the responsibilities of the General Manager Plant Operations. The requested changes are consistent with the Improved Standard Technical Specifications for Combustion Engineering plants, NUREG–1432.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: The requested changes are purely administrative in nature. The proposed changes do not affect the operation of any structures, systems, or components or the assumptions of any accident analyses. The requested changes only affect Section 6.0 of the Waterford 3 Technical Specifications which describe the administrative controls to be implemented at the site. The requested changes either add an additional administrative requirement or remove quality assurance program details from the Technical Specifications. The details are being removed from the Technical Specifications and instead rely on the change controls of 10 CFR 50.54(a)(3). This submittal makes no changes to the regulatory controls governing changes. The requested changes are purely administrative in nature.

Therefore, the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: The proposed changes to the Technical Specification requirements are purely administrative in nature and do not involve a change in plant design or affect the configuration or operation of any structure, system, or component.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: The proposed changes do not affect the operation of any structures, systems, or components or the assumptions of any accident analyses. The requested changes are purely administrative in nature.

Therefore, the proposed change will not involve a significant reduction in a margin of safety. The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn, 1400 L Street N.W., Washington, D.C. 20005–3502.

NRC Project Director: John N. Hannon.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: January 22, 1999.

Description of amendment request: The proposed amendment would revise Duane Arnold Energy Center (DAEC) Technical Specification (TS) Section 4.3, "Fuel Storage," by updating the criticality requirements (k-infinity and U–235 enrichment limits) for storage of fuel assemblies in the spent fuel racks. This change would allow for storage of nuclear fuel assemblies with new designs, including GE–12 with a 10X10 pin array.

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:

After reviewing this proposed amendment, we have concluded:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The probability of occurrence of the accident/abnormal conditions evaluated in UFSAR Section 9.1.2.3 is not significantly increased by this change because no modification in fuel handling equipment, fuel pool cooling equipment, fuel storage racks, or fuel handling practices is taking place. Only the k-infinity and enrichment limits for the stored fuel are being changed.

The postulated accident/abnormal conditions evaluated in UFSAR Section 9.1.2.3 have been re-evaluated for the proposed changes in k-infinity and enrichment limits. The results demonstrate that the consequences are negligible. The analyses performed show that the requirement to maintain K-eff less than 0.95 (substantially subcritical) is satisfied for normal and postulated abnormal conditions using methods and assumptions that are consistent with the existing UFSAR. Seismic adequacy and structural integrity of the pool and racks are not affected by the introduction of GE–12 fuel. Local and bulk pool temperatures remain bounded by the current UFSAR analysis for fuel exposures with GE–12 fuel expected through two cycles of operation (i.e., through Cycle 18 operation). Based upon a scoping study comparing the hydraulic diameters of GE–10 and GE–12 fuel, large margins to pool boiling conditions at the final discharge exposures of GE–12 fuel will be maintained. Therefore, the consequences of the accident are not significantly increased by this change.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

No new types of accidents are being introduced because no modification in fuel handling equipment, fuel pool cooling equipment, fuel storage racks or fuel handling procedures is being made. The design basis function of the spent fuel racks is to maintain the fuel configuration substantially subcritical and within allowable temperatures under both normal and postulated abnormal conditions. This design basis function will be maintained with the proposed k-infinity and enrichment limits.

3. The proposed amendment will not involve a significant reduction in a margin of safety.

The margin of safety is not significantly reduced. This margin is based on the requirement to limit the K-eff of fuel in the spent fuel racks to less than 0.95. The proposed changes in k-infinity and enrichment limits have been shown to meet this requirement, using methods and assumptions that are consistent with the existing UFSAR. Seismic adequacy and structural integrity of the pool and racks are not affected by the introduction of GE–12 fuel. Local and bulk pool temperatures remain bounded by the current UFSAR analysis for fuel exposures with GE–12 fuel expected through two cycles of operation (i.e., through Cycle 18 operation). Based upon a scoping study comparing the hydraulic diameters of GE–10 and GE–12 fuel, large margins to pool boiling conditions at the final discharge exposures of GE–12 fuel will be maintained.

Based upon the above, we have determined that the proposed amendment will not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, IA 52401.

Attorney for licensee: Jack Newman, Al Gutterman, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Project Director: Cynthia A. Carpenter.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: October 15, 1998, as supplemented on December 21, 1998.

Description of amendment request: The proposed amendment would revise the Duane Arnold Energy Center (DAEC) Technical Specifications (TS) by adding a new TS 3.7.9, "Control Building/ Standby Gas Treatment System (CB/ SBGT) Instrument Air System." The proposed amendment would also revise (TS) 3.6.1.3, "Primary Containment Isolation Valves (PCIVs)," Condition E, by adding a time limit for plant operation if a penetration flow path is isolated by a single purge valve with resilient seal.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The amendment is adding new requirements for the CB/SBGT Instrument Air System that are commensurate with the safety functions it supports and consistent with other support systems in the Technical Specifications. These requirements provide appropriate actions and time limits for plant operation with one or both CB/SBGT Instrument Air subsystems inoperable. The probability of an event while in this condition is low, and the consequences are bounded by the failure of the supported systems. The CB/SBGT Instrument Air System is not assumed to be an initiator of an analyzed event.

The amendment is also adding a time limit for plant operation if a purge valve with resilient seal is used to satisfy TS 3.6.1.3 Required Action E.1 (isolate the affected penetration flow path). While primary containment integrity is provided by the purge valve, it is prudent to limit operation in this condition due to the potential for increased leakage from a single active failure.

These additions will provide assurance that affected systems will be OPERABLE when required and as assumed in the design basis.

This change will not physically alter the plant (no new or different type of equipment will be installed). This change will not alter the operation of process variables, structures, systems, or components as described in the safety analysis. This change will not alter assumptions relative to the mitigation of an accident or transient event. This change will not increase the probability of initiating, or the consequences of an analyzed event.

(2) The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The amendment adds new requirements for the CB/SBGT Instrument Air System and adds a time limit for plant operation if a purge valve with resilient seal is used to satisfy TS 3.6.1.3 Required Action E.1.

This change will not physically alter the plant (no new or different type of equipment will be installed). This change will not alter the operation of process variables, structures, systems, or components as described in the safety analysis. Thus, a new or different kind of accident will not be created.

(3) The proposed amendment will not involve a significant reduction in a margin of safety.

The amendment is adding new requirements for the CB/SBGT Instrument Air System to provide appropriate actions and time limits for plant operation with one or both CB/SBGT Instrument Air subsystems inoperable.

The amendment is also adding a time limit for plant operation if a purge valve with resilient seal is used to satisfy TS 3.6.1.3 Required Action E.1 (isolate the affected penetration flow path). While primary containment integrity is provided by the purge valve, it is prudent to limit operation in this condition due to the potential for increased leakage from a single active failure in the remaining OPERABLE components.

This change will not physically alter the plant (no new or different type of equipment will be installed). This change will not alter the operation of process variables, structures, systems, or components as described in the safety analysis. This change will not alter assumptions relative to the primary success path for mitigation of an accident or transient event.

These additions will provide assurance that the accident mitigation functions will perform as assumed in the safety analysis. Thus, the margin of safety will not be reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, IA 52401.

Attorney for licensee: Jack Newman, Al Gutterman, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Project Director: Cynthia A. Carpenter.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: January 29, 1999.

Description of amendment request: The amendment would revise the technical specifications (TS) to relocate three cycle-specific parameter limits; shutdown margin with T_{cold}>210°F, moderator temperature coefficient, and minimum boric acid storage tank level versus concentration, to the Core Operating Limits Report (COLR).

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 safety analysis most impacted by a change to the negative Moderator Temperature Coefficient (MTC) limit is the Main Steam Line Break (MSLB) event. The Steam Line Break Cooldown curves for an MTC are calculated and then input to the cycle-specific MSLB analysis (if necessary) during the reload analysis process, using an NRC-approved methodology. The required/ acceptable Shutdown Margin (SDM) is dependent upon the core loading pattern used (i.e., cycle-specific core physics parameters) and is largely dependent on the cycle-specific MTC and available scram worth. The SDM is determined based on the analysis of the Hot Zero Power (HZP) MSLB event in which the return-to-critical and return-to-power conditions are evaluated to provide acceptable results. With the ongoing changes in MTC as a result of core loadings for FCS and higher U–235 enrichments, the end-of-cycle MTC is becoming more negative than the present Technical Specifications limit. Since the MTC is fuel cycle specific and influences the required SDM, it is appropriate to move both of these values to the COLR, consistent with Generic Letter 88–16. Note that no change to the SDM for T_{cold} ≤210°F is being proposed.

The cycle-specific reload analysis is performed for every operating cycle and the results, as incorporated into the COLR pursuant to the 10 CFR 50.59 process, are transmitted to the NRC. FCS will continue to provide COLR updates to the NRC. The relocation of the negative MTC and the "BAST level versus BAST Concentration" curves into the COLR, consistent with the NRC recommendations of Generic Letter 88–16, will not modify the methodology used in generating the limits, nor the manner in which they are implemented. These limits will continue to be determined by analyzing the same postulated events as previously analyzed. FCS will continue to operate within the limits specified in the COLR and will take the same corrective actions when or if these limits are exceeded as required by

current Technical Specifications. The potential increase of the absolute magnitude of the negative MTC with Shutdown Margin decrease is evaluated during the COLR reload analysis process in accordance with OPPD's NRC-approved topical report. Therefore, this proposed amendment is administrative in nature and has been concluded not to increase the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to FCS Technical Specifications were the result of a recommendation from a Generic Letter. Future changes to the parameters being relocated to the COLR can only be performed with approved Reload Analyses. No new or different kind of accident is created by this administrative change because the actual operation of FCS remains unchanged. Therefore the possibility of an accident or malfunction of a different type than previously evaluated in the safety analysis report would not be created.

3. The proposed change does not involve a significant reduction in a margin of safety.

As indicated above, the implementation of this proposed COLR change, consistent with the guidance of Generic Letter 88–16, makes use of the existing safety analysis methodologies and the resulting limits and setpoints for plant operation. Additionally, the safety analysis acceptance criteria for operation with this proposed amendment have not changed from the criteria used in the current reload analysis. Therefore, the margin of safety as defined in the bases of Technical Specifications is not reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

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NRC Project Director: William H. Bateman.

PECO Energy Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: January 12, 1999.

Description of amendment request: The proposed change involves revising Technical Specification (TS) Section 3/4.4.2, "Safety/Relief Valves," and TS Bases Sections B 3/4.4.2, B 3/4.5.1 and B 3/4.5.2, to increase the allowable as-found main steam Safety Relief Valve (SRV) code safety function lift setpoint tolerance from plus or minus 1% to plus or minus 3%. This change will also require the as-left SRV code safety function lift setting to be set within plus or minus 1% of the specified nominal lift setpoint prior to reinstallation in the plant. In support of this proposed TS change, the required number of OPERABLE SRVs in Operational Conditions (OPCONs) 1, 2, and 3 will be changed from 11 to 12. The number of SRVs in each lift pressure grouping will remain the same. This proposed TS change does not alter the SRV nominal lift setpoints or the SRV lift setpoint test frequency currently specified by TS Section 3/4.4.2. The proposed change does not change the SRV testing commitment specified in LGS Updated Final Safety Analysis Report (UFSAR) Chapter 5.2.2.10, "Inspection and Testing."

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 Technical Specifications (TS) changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS changes allow for an increase in the as-found main steam Safety Relief Valve (SRV) setpoint tolerance from plus or minus 1% to plus or minus 3%. The proposed changes also reduce the allowable number of SRVs to be out-of-service from three (3) to two (2). The proposed changes do not alter the SRV nominal lift setpoints or SRV lift setpoint test frequency. The actuation of an SRV is the precursor to the inadvertent opening of a SRV transient, as discussed in Updated Final Safety Analysis Report (UFSAR) Chapter 15.1.4. Increasing the allowable as-found SRV code safety function lift setpoint tolerance from plus or minus 1% to plus or minus 3% does have the potential for the minimum SRV simmer margin to be reduced from 113.3 psig to 89.9 psig. A reduction in simmer margin will not directly result in an increase of the probability on an inadvertent self actuation of an SRV. A reduction in simmer margin will reduce the seating force which may initiate leakage. However, this leakage is monitored and corrective actions can be implemented prior to progressing to the point of the potential of an inadvertent actuation. This reduction in SRV simmer margin has been evaluated by the SRV manufacturer and determined to be acceptable; therefore, the probability of an inadvertent SRV actuation remains unchanged. Actuation of an SRV is not a precursor for any other event evaluated in the Safety Analysis Report (SAR).

The proposed TS changes have been evaluated on both a generic and plant specific basis. The NRC has approved the general approach of this change; however, implementation is contingent on several plant specific evaluations. The required plant specific analyses and evaluations included transient analysis of the anticipated operational transients (AOTs); analysis of the design basis overpressurization event; evaluation of the performance of high pressure systems, motor operated valves, and vessel instrumentation and associated piping; and evaluation of the containment response during Loss-of-Coolant Accident (LOCA) and hydrodynamic loads on the SRV discharge lines and containment. In addition to the plant specific analyses and evaluations required by the NRC, the following items were also considered: ECCS/LOCA [Emergency Core Cooling System] performance, SRV simmer margin, high pressure—low pressure interfaces, i.e., High Energy Line Break (HELB), Station Blackout (SBO), and Fire Safe Shutdown (FSSD), and the short term pressurization phase of an ATWS [anticipated transient without scram] event. These analyses and evaluations show that there is adequate margin to the design core thermal limits and reactor vessel pressure limits using the plus or minus 3% SRV code safety function lift setpoint tolerance and two (2) SRVs out-of-service. The analyses and evaluations also show that the operation of the high pressure injection systems will not be adversely affected, that SRV discharge piping stresses will not be exceeded, and that the containment response during a LOCA will be acceptable.

Evaluations of the impact of the proposed change on the Equipment Important to Safety have been performed and no adverse conditions were identified. The reactor pressure vessel and attached systems and piping have been evaluated for the impact of this proposed TS change. A plant specific analysis has been performed which indicates that neither the American Society of Mechanical Engineers (ASME) Code upset limits or the TS Safety Limits for the reactor pressure vessel will be exceeded for the limiting event, i.e., Main Steam Isolation Valve (MSIV) closure with flux Scram. The reactor pressure vessel and attached piping design values will not be exceeded. The current high pressure—low pressure interface evaluation utilized nominal SRV setpoints, and therefore, is unaffected. Therefore, the probability of a malfunction of the reactor pressure vessel and attached systems and piping is not increased.

The nuclear fuel has been evaluated for the impact of the proposed change. Plant specific analyses were performed which indicate that for all abnormal operational transients adequate margin to the limiting thermal limit parameter, i.e., Minimum Critical Power Ratio (MCPR), is maintained. Emergency Core Cooling System (ECCS)/LOCA performance is maintained adequate to meet the requirements of 10CFR50.46. Therefore, the probability of the malfunction of the nuclear fuel is not increased.

The SRVs have been evaluated for the impact of the proposed TS changes. No physical changes to the SRVs will be made as a result of the proposed TS changes. Adequate simmer margin will be maintained with the increased tolerance to ensure that an inadvertent lifting of a SRV does not occur.

The increase in SRV discharge flow and reactor vessel pressure due to the potential for higher SRV lift setpoints are bounded by the SRV steam flows and reactor vessel pressure currently used in the evaluation of SRV discharge piping, quencher, quencher support, and hydrodynamic loads on the suppression pool and submerged structures; therefore, the probability of a malfunction of a SRV or associated components and structures is not increased.

The Containment response during a LOCA has been evaluated for the impact of the proposed change. The major factor in the Containment response to a LOCA is the rate of reactor vessel water inventory loss. The rate of reactor vessel water inventory loss is mainly dependent on reactor decay heat which is not affected by the proposed change. Therefore, the probability of the malfunction of the Containment is not increased.

The High Pressure Coolant Injection (HPCI) system has been evaluated for the impact of the proposed TS changes. The analysis determined that the HPCI system would not be capable of developing its design flowrate of 5600 gpm at a reactor pressure of 1205 psig (lowest SRV nominal setpoint +3% tolerance) unless the HPCI turbine/pump maximum rated speed was increased. However, increasing the HPCI turbine/pump maximum rated speed is prevented due to HPCI pump discharge piping overpressurization concerns. Further analysis has shown that the HPCI system is capable of meeting its required ECCS function design flowrate, and its required non-ECCS flowrate, without any change to the current system operating parameters. Therefore, the probability of a malfunction of the HPCI System is not increased.

The Reactor Core Isolation Cooling (RCIC) system has been evaluated for the impact of the proposed change. The analysis determined that in order for the RCIC system to be capable of injecting its design flowrate of 600 gpm at a reactor pressure of 1205 psig (lowest SRV setpoint of 1170 psig +3% tolerance) the maximum rated speed of the RCIC turbine/pump is required to be increased from 4575 rpm to 4625 rpm. This increase in the RCIC turbine/pump maximum rated speed will reduce the margin to the overspeed trip from 123% to 122.1%. This reduction in the margin to the overspeed trip is acceptable due to the implementation of plant Modification P00210, "RCIC System Startup Transient Improvement," which reduced the amount of turbine/pump speed overshoot during system startup. The RCIC overspeed trip setpoint will not be changed; therefore, a failure of the RCIC turbine/pump (missile hazard or system overpressurization) due to overspeed is not increased. All other RCIC System components will continue to operate within the currently specified design and operating limits. Therefore, the probability of a malfunction of the RCIC System is not increased.

The Standby Liquid Control (SLC) system has been evaluated for the impact of the proposed change. The SLC system capability of shutting down the reactor during a postulated event in which all or some of the control rods cannot be inserted or during a postulated Anticipated Transient Without Scram (ATWS) event is not impacted by this proposed change. Therefore, the probability of a malfunction of the SLCS is not increased.

The Control Rod Drive (CRD) system has been evaluated for the impact of the proposed change. The CRD system capability of controlling reactor power during normal plant operation and rapidly inserting control rod blades (Scram) during abnormal plant conditions is not impacted by the proposed change. Therefore, the probability of a malfunction of the CRD system is not increased.

The Reactor Vessel Instrumentation System has been evaluated for the impact of the proposed change. The Reactor Vessel Instrumentation System will continue to be operated within the current design pressure/temperature requirements; therefore, the probability of a malfunction of the Reactor Vessel Instrumentation System is not increased.

The LGS, Units 1 and 2, Generic Letter 89–10 Motor-Operated Valve (MOV) Program has been evaluated for the proposed change. The LGS MOV Program currently uses SRV nominal setpoints for differential pressure determinations for valves in which reactor pressure at the SRV setpoint is limiting. Use of nominal SRV setpoints is consistent with current industry practice. Therefore, the probability of a malfunction of a MOV is not increased.

Reducing the number of SRVs allowed to be out-of-service does not make the consequences of a malfunction of a SRV more severe, since the number of SRVs required to maintain the reactor vessel within ASME Code and TS Safety Limits will be maintained OPERABLE. The proposed change does not result in any changes to the interactions of any system, structure, or component. All systems, structures, and components will continue to function as designed.

Therefore, the proposed TS changes do not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS changes allow for an increase in the as-found SRV setpoint tolerance from plus or minus 1% to plus or minus 3%. The proposed TS changes also reduce the allowable number of SRVs to be out-of-service from three (3) to two (2). Generic and plant specific analyses and evaluations indicate that the plant response to any previously evaluated event will remain unchanged. All plant systems, structures, and components will continue to be capable of performing their required safety function as required by event analysis guidance.

The proposed TS changes do not alter the SRV nominal lift setpoints or SRV lift setpoint test frequency. The operation and response of the affected Equipment Important to Safety is unchanged. All systems, structures, and components will continue to be operated within acceptable operating and/or design parameters. No system, structure, or component will be subjected to a condition that has not been evaluated and determined to be acceptable using the guidance required for specific event analysis.

Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

The proposed TS changes allow for an increase in the as-found SRV setpoint tolerance from plus or minus 1% to plus or minus 3%. The proposed TS changes also reduce the allowable number of SRVs to be out-of-service from three (3) to two (2). The proposed TS changes do not alter the SRV nominal lift setpoints or SRV lift setpoint test frequency. The operation and response of the affected Equipment Important to Safety is unchanged. All systems, structures, and components will continue to be operated within acceptable operating and/or design parameters. While the calculated peak reactor vessel pressure for the ASME overpressure event and the ATWS Pressure Regulator Failure-Open (PREGO) event are higher than those calculated without the increase in setpoint tolerance, both are still within the respective licensing acceptance limits associated with these events. These licensing acceptance limits have been determined by the NRC to provide a sufficient margin of safety.

The increase in the RCIC system turbine/pump maximum rated speed is within the capability of the system design. The reduction in the margin to the overspeed trip is not a reduction in the margin of safety, since the operation of the RCIC System has demonstrated minimal speed overshoot on system initiation due to the installation of plant Modification P00210, "RCIC System Startup Transient Improvement."

The inability of the HPCI system to be capable of injecting 5600 gpm at a reactor pressure of 1205 psig (lowest SRV nominal setpoint of 1170 psig +3% tolerance) is not a reduction in the margin of safety, since analysis for events that would result in high reactor vessel pressure indicate that the HPCI System is capable of providing adequate coolant injection.

The increase in SRV steam flow and reactor vessel pressure does not reduce the margin of safety associated with the SRVs and associated components and structures since the increased SRV steam flow rate and reactor vessel pressure are bounded by the current design analysis.

The margin of safety for fuel thermal limits and 10CFR50.46 limits is unaffected by the proposed change.

The margin of safety for the Containment is unaffected by the proposed change.

The capability of the SLC system to perform its safety function during all required events, using the required guidance for event analysis, is maintained. Therefore, the proposed changes do not reduce the margin of safety provided by the SLC system.

Therefore, these proposed TS changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this

review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, PA 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, PA 19101.

NRC Project Director: William M. Dean.

PECO Energy Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: January 25, 1999.

Description of amendment request: The proposed Technical Specification (TS) Change Request revises the TS Surveillance Requirement frequencies for Sections 4.8.1.1.2.e.1, 4.8.1.1.2.e.8.a, and 4.8.1.1.2.e.8.b for the Emergency Diesel Generator maintenance inspection outages, the 24-hour endurance run, and for the hot restart test from 18 to 24 months.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed Technical Specifications (TS) changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The maintenance inspection interval change and the corresponding interval change for the associated 24 hour endurance test and hot restart test which are normally performed in conjunction with the diesel preventive maintenance overhaul inspections, as well as the programmatic improvements addressed here do not involve physical changes that would affect the ability of the EDGs [emergency diesel generators] to perform their safety function. The Emergency Diesel Generator System is not an accident initiator.

The Surveillance Testing requirements of Technical Specification Section 3/4.8 will continue to verify the operability and reliability of the Emergency Diesel Generator system.

The proposed changes do not affect the ability of the EDGs to mitigate the consequences of an accident, including the Loss of Coolant Accident (LOCA) coupled with Loss Of Offsite Power accident analyses as presented in Chapter 15 of the LGS [Limerick Generating Station] UFSAR [Updated Final Safety Analysis Report]. EDG unavailability due mostly to outage inspections is more than 2 times higher than EDG unplanned unavailability. An extension of the outage inspection frequency to 24 months will result in increased EDG availability to mitigate the consequences of a potential accident. When this program is taken in its entirety the extended maintenance intervals coupled with the defined enhancements is judged to result in an overall increase in EDG availability and reliability. Therefore, the probability or consequences of an accident previously evaluated is not increased.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The Emergency Diesel Generator system is not an accident initiator. The operation and design of the onsite emergency power system (including the EDGs) is not being changed; only the overhaul inspection interval coupled with the program improvements and the corresponding interval change for the associated 24 hour endurance test and hot restart test, (which are normally performed in conjunction with the diesel preventive maintenance overhaul inspections), are changed. The EDG system meets the single failure criteria at the EDG unit level, i.e., the SAR [safety analysis report] states that with one EDG failed or out-of-service, the standby AC system is capable of furnishing sufficient power for the minimum Class 1E load demand, assuming a limiting design basis accident has occurred. The proposed changes involve a routine preventive maintenance and inspection time interval change along with the corresponding surveillance test interval changes, and also include programmatic improvements to reduce the likelihood of a failure of an individual EDG unit; the proposed changes do not involve any physical design or operational changes that could create a malfunction extending beyond an individual EDG nor do they increase the potential for a common-mode EDG failure. Therefore, it is not possible to create a new or different type of accident through implementation of these changes.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

The changes to bring the frequencies of the EDG overhaul, the 24 hour endurance test and the associated hot restart test into alignment with the current 2 year operating cycle, and the detailed programmatic changes to achieve conformance with the FMOG [Fairbanks Morse Owners Group] recommended maintenance program, will increase the reliability and availability of the EDG system. This will enhance the margin of safety as the amount of time the EDGs are out-of-service will decrease and the system will be single-failure proof for more clock hours when the nuclear reactor(s) are operating. The changes discussed here do not result in operation of the emergency diesel generator system nor any other plant system in a manner beyond their original design basis, and thus does not reduce any explicit or implicit Technical Specification margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, PA 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, PA 19101.

NRC Project Director: William M. Dean.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: February 12, 1997.

Brief description of amendment: The proposed amendment would delete a portion of the Trojan site from the 10 CFR 50 license when that portion of the site, designated for use as an independently licensed spent fuel storage installation (ISFSI), receives a part 72 license.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensees' analysis against the standards of 10 CFR 50.92(c). The licensee's analysis is summarized below:

The proposed changes would not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change is administrative in nature and has no impact on the probability or consequences of accidents previously evaluated. The physical structures, systems, and components of the Trojan Nuclear Plant and the operating procedures for their use are unaffected by this proposed change. The proposed action would eliminate the ISFSI area from the Part 50 license when the Part 72 license is issued. The 10 CFR 72 licensing controls for the area will assure an adequate level of safety for the area during normal operation of the ISFSI and during abnormal events or accidents. Therefore the proposed Part 50 amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes would not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed action would eliminate the ISFSI area from the Part 50 license when the Part 72 license is issued. The proposed change is administrative in

nature and has no impact on plant systems, structures, or components or on any procedures for operating the plant equipment. The ISFSI will be separately licensed under Part 72 and physically separated from the Part 50 licensed structures and equipment. Therefore, the proposed change does not create the possibility of a new or different kind of accident from those previously evaluated.

The proposed changes do not involve reduction in the margin of safety. The Trojan Permanently Defueled Technical Specifications (PDTS) contain four limiting conditions of operation that address: 1) Spent Fuel Water Level, 2) Spent Fuel Pool Boron Concentration, 3) Spent Fuel Pool Temperature, and 4) Spent Fuel Pool load restrictions. These PDTS will remain in effect as long as spent fuel is stored in the Spent Fuel Pool, which is in accordance with their applicability statements. The ISFSI area is physically separated from the Spent Fuel Pool area and the Fuel Building and will have no effect on spent fuel water level, spent fuel pool boron concentration, spent fuel pool temperature, or loads over the Spent Fuel Pool. The proposed change is administrative and does not affect plant equipment, operating parameters, or procedures. Based on the above, the proposed change will not reduce the margin of safety.

Based on a staff review of the licensee's analysis, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207.

Attorney for licensees: Leonard A. Girard, Esq., Portland General Electric Company, 121 S. W. Salmon Street, Portland, Oregon 97204.

NRR Project Director: Seymour H. Weiss.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: January 7, 1999.

Brief description of amendment: The proposed amendment would allow loading and handling of spent fuel transfer and storage casks in the Trojan Fuel Building.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensees' analysis against the standards of 10 CFR 50.92(c). The licensee's analysis is summarized below:

The proposed changes would not involve a significant increase in the probability or consequences of an accident previously evaluated. With the permanent cessation of operations, the number of potential accidents was reduced to those types of accidents associated with the storage of irradiated fuel and radioactive waste storage and handling. Additional events were postulated for decommissioning activities due to the difference in the types of activities that were to be performed. The postulated accidents in the Defueled Safety Analysis Report (DSAR) are generally classified as: (1) radioactive release from a subsystem or component, (2) fuel handling accident and, (3) loss of spent fuel decay heat removal capability. The postulated events described in the Decommissioning Plan are grouped as: (1) decontamination, dismantlement, and materials handling events, (2) loss of support systems (offsite power, cooling water, and compressed air), (3) fire and explosions, and (4) external events (earthquake, external flooding, tornadoes, extreme winds, volcanoes, lightning, toxic chemical release). These types of accidents are discussed below.

Radioactive release from a subsystem or component involves failure of a radioactive waste gas decay tank (WGDT) or failure of a chemical and volume control system holdup tank (HUT). For a failure of a WGDT, the radioactive contents are assumed to be principally the noble gases krypton and xenon, the particulate daughters of some of the krypton and xenon isotopes and trace quantities of halogens. For the failure of a HUT, the assumptions were full power operations with 1-percent failed fuel, 40 weeks elapsed since power operation, and 60,000 gallons of 120° F liquid released over a 2-hour period. However, the WGDT's and HUT's are no longer active and have been emptied. Therefore, cask loading and transfer activities cannot increase the probability of occurrence of a failure or the consequence of a failure of the WGDT's or HUT's.

The fuel handling accident involves a stuck or dropped fuel assembly that results in damage of the cladding of the fuel rods in one assembly and the release of gaseous fission products. Spent fuel handling and loading will involve moving the spent fuel assemblies one by one, from the Spent Fuel Pool to the baskets which will be located in the Cask Loading Pit. The fuel handling equipment will be the same as had been previously analyzed with the exception of special tools which will be used to manipulate failed fuel. These special tools will be similar in size and weight to the existing tools used for underwater manipulation and therefore will not present a new hazard. In addition, the same administrative controls and physical limitations imposed on any fuel handling operation will be used for spent fuel loading and handling. The potential release, 100 percent of gap noble gas, from a fuel assembly is not affected (although the fission product inventory in a fuel assembly continues to decrease with time). Thus there is no increase in the probability of occurrence or consequences of a fuel handling accident over what would be expected for any routine fuel handling operation.

The loss of spent fuel decay heat removal capability involves the loss of forced spent fuel cooling with and without concurrent Spent Fuel Pool inventory loss. The only requirement to assure adequate decay heat removal capability for the spent fuel is to maintain the water level in the Spent Fuel Pool so that the fuel assemblies remain covered (i.e. the capability to make up water to the Spent Fuel Pool must be available when required). The potential events which could result in a loss of spent fuel decay heat removal include external events (explosions, toxic chemical, fires, ship collision with intake structure, oil or corrosive liquid spills in the river, cooling tower collapse, seismic events, severe meteorological events), and internal events including Spent Fuel Pool makeup water system malfunctions (Service Water System, electrical power, instrument air). Spent fuel loading and handling will not require the use of explosive materials (the gases used for electric arc welding are inert), toxic chemicals or flammable materials (routine use of contamination control materials is not considered to present a significant hazard). The probability of other external events (e.g. cooling tower collapse) is not effected by the spent fuel handling and loading activities inside the Fuel Building. Spent fuel loading and handling activities will not directly interface with the Spent Fuel Pool makeup water systems, therefore does not affect their probability of failure. (The Cask Loading Pit will be filled with borated water from the Spent Fuel Pool that will be cooled by the Spent Fuel Cooling System, but use of this water in the Cask Loading Pit does not increase the failure probability of

the Spent Fuel Pool or makeup water systems.) As described in the licensees' safety evaluation, the safe load path and handling height limitations will ensure that a load drop does not adversely affect the Spent Fuel Pool or the makeup water systems. Therefore there is no significant increase in the probability or consequences of a loss of spent fuel decay heat removal capability.

The events postulated in the Decommissioning Plan are similar to the DSAR with the exception of the decontamination, dismantlement, and materials handling events. Decontamination events involve gross liquid leakage from in-situ decontamination equipment (e.g. tanks) or accidental spraying of liquids containing concentrated contamination. Dismantlement events involve segmentation of components and structures, or removal of concrete by rock splitting, explosives, or electric and/or pneumatic hammers. Dismantlement events potentially result in airborne contamination. Material handling events involve the dropping of contaminated components, concrete rubble, filters, or packages of particulate materials. Licensee administrative controls will be implemented to ensure that spent fuel loading and handling activities and decommissioning activities will not be performed concurrently if they interact with each other and could increase the probability or consequences of a postulated event of accident. Therefore, neither the probability nor the consequences of decontamination, dismantlement, and materials handling events will not be significantly increased.

The proposed changes would not create the possibility of a new or different kind of accident from any accident previously evaluated. As described in the licensees' safety evaluation the potential accidents associated with fuel handling and loading were similar to fuel handling accidents, material handling events and pressurized line break previously analyzed. Additionally the potential consequences were a small fraction of Environmental Protection Agency (EPA) Protective Action Guides (PAG's). Therefore, fuel loading and handling does not present new or different types of accidents.

The proposed changes do not involve a significant reduction in the margin of safety. The Trojan Permanently Defueled Technical Specifications (PDTS) contain four limiting conditions of operation that address: (1) Spent fuel water level, (2) spent fuel pool boron concentration, (3) spent fuel pool temperature, and (4) spent fuel pool load restrictions. These PDTS will remain in effect as long as spent fuel is stored in the Spent Fuel Pool, which is in accordance with their applicability statements. The spent fuel loading and handling activities will not affect these PDTS or their bases.

The Cask Loading Pit, where the spent fuel will be loaded into the basket, is immediately adjacent to the Spent Fuel Pool. The gate between the Cask Loading Pit and Spent Fuel Pool will be open to allow transfer of spent fuel assemblies from storage racks in the Spent Fuel Pool to the basket in the Cask Loading Pit. Opening the gate between them will allow free exchange of water between the Cask Loading Pit and the Spent Fuel Pool. The Cask Loading Pit will be filled with borated water at approximately the same concentration and temperature as the Spent Fuel Pool prior to opening the gate. This will maintain the limiting conditions for operation for Spent Fuel Pool boron concentration, temperature, and water level and the margin of safety will not be affected.

Spent fuel loading and handling activities will involve lifting and moving heavy loads (e.g. transfer cask, basket). Loads that will be carried over fuel in the Spent Fuel Pool racks and the heights at which they will be carried will be limited to preclude impact energies over 240,000 in-lbs if the loads were dropped. This is in accordance with limiting condition for operation 3.1.4 "Spent Fuel Pool Load Restrictions." With this precaution, the limiting condition for operation pertaining to load restrictions over the Spent Fuel Pool will be satisfied and the margin of safety will be unaffected. The safe load paths for heavy loads being lifted outside the Spent Fuel Pool will be sufficiently far from the Spent Fuel Pool so as to not have an interaction in the unlikely event of a load drop. In addition mechanical stops and electrical interlocks on the Fuel Building overhead crane will provide additional assurance that heavy loads are not carried over the Spent Fuel Pool racks.

Based on the above, the spent fuel loading and handling activities will not reduce the margin of safety.

Based on a staff review of the licensee's analysis, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207.

Attorney for licensees: Leonard A. Girard, Esq., Portland General Electric Company, 121 S. W. Salmon Street, Portland, Oregon 97204.

NRR Project Director: Seymour H. Weiss.

Portland General Electric Company, et l., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: January 27, 1999.

Brief description of amendment: The proposed amendment would allow unloading of spent fuel transfer casks in the Trojan Fuel Building.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The licensee's analysis is summarized below:

The proposed changes would not involve a significant increase in the probability or consequences of an accident previously evaluated. With the permanent cessation of operations, the number of potential accidents was reduced to those types of accidents associated with the storage of irradiated fuel and radioactive waste storage and handling. Additional events were postulated for decommissioning activities due to the difference in the types of activities that were to be performed. The postulated accidents in the Defueled Safety Analysis Report (DSAR) are generally classified as: (1) Radioactive release from a subsystem or component, (2) fuel handling accident and, (3) loss of spent fuel decay heat removal capability. The postulated events described in the Decommissioning Plan are grouped as: (1) Decontamination, dismantlement, and materials handling events, (2) loss of support systems (offsite power, cooling water, and compressed air), (3) fire and explosions, and (4) external events (earthquake, external flooding, tornadoes, extreme winds, volcanoes, lightning, and toxic chemical release). These types of accidents are discussed below.

Radioactive release from a subsystem or component involves failure of a radioactive waste gas decay tank (WGDT) or failure of a chemical and volume control system holdup tank (HUT). For a failure of a WGDT, the radioactive contents are assumed to be principally the noble gases krypton and xenon, the particulate daughters of some

of the krypton and xenon isotopes and trace quantities of halogens. For the failure of a HUT, the assumptions were full power operations with 1-percent failed fuel, 40 weeks elapsed since power operation, and 60,000 gallons of 120° F liquid released over a two hour period. However, the WGDT's and HUT's are no longer active and have been emptied. Therefore, cask loading and transfer activities cannot increase the probability of occurrence of a failure or the consequence of a failure of the WGDT's or HUT's.

The fuel handling accident involves a stuck or dropped fuel assembly that results in damage of the cladding of the fuel rods in one assembly and the release of gaseous fission products. Spent fuel cask unloading will involve moving the spent fuel assemblies one by one, from the baskets which will be located in the cask loading pit to the spent fuel pool. The fuel handling equipment will be the same as had been previously analyzed. In addition, the same administrative controls on physical limitations imposed on fuel handling and fuel loading operations will be used for fuel unloading. The potential release, 100 percent of noble gases within the gap, from a fuel assembly is not affected (although the inventory in a radioactive stored fuel assembly continues to decrease with time). Thus, there is no increase in the probability of occurrence or consequences of a fuel handling accident over what would be expected for any routine fuel handling operation or loading of fuel into a cask.

The loss of spent fuel decay heat removal capability involves the loss of forced spent fuel cooling with and without concurrent spent fuel pool inventory loss. The only requirement to assure adequate decay heat removal capability for the spent fuel is to maintain the water level in the spent fuel pool so that the fuel assemblies remain covered (i.e., the capability to make up water to the spent fuel pool must be available when required). The potential events that could result in a loss of spent fuel decay heat removal include external events (explosions, toxic chemical, fires, ship collision with intake structure, oil or corrosive liquid spills in the river, cooling tower collapse, seismic events, and severe meteorological events), and internal events including spent fuel pool makeup water system malfunctions (service water system, electrical power, and instrument air). Spent fuel cask unloading will not require the use of explosive materials, toxic chemicals or flammable materials (routine use of contamination control materials is not considered to present a significant hazard). The probability of other external events (e.g. cooling tower collapse) is not effected by the spent fuel unloading activities inside the fuel building. Spent fuel cask unloading activities will not directly interface with the spent fuel pool makeup water systems, and therefore does not affect their probability of failure. (The cask loading pit will be filled with borated water from the spent fuel pool that will be cooled by the spent fuel cooling system, but use of this water in the cask loading pit does not increase the failure probability of the spent fuel pool or makeup water systems). As described in the licensees' safety evaluation, the safe load path and handling height limitations will ensure that a load drop does not adversely affect the spent fuel pool or the makeup water systems. Therefore, there is no significant increase in the probability or consequences of a loss of spent fuel decay heat removal capability.

The events postulated in the Decommissioning Plan are similar to the DSAR with the exception of the decontamination, dismantlement, and materials handling events. Decontamination events involve gross liquid leakage from in-situ decontamination equipment (e.g. tanks) or accidental spraying of liquids containing concentrated contamination. Dismantlement events involve segmentation of components and structures, or removal of concrete by rock splitting, explosives, or electric and/or pneumatic hammers. Dismantlement events potentially result in airborne contamination. Material handling events involve the dropping of contaminated components, concrete rubble, filters, or packages of particulate materials. Licensee administrative controls will be implemented to ensure that spent fuel cask unloading activities and decommissioning activities will not be performed concurrently if they interact with each other and could increase the probability or consequences of a postulated event of accident. Therefore, neither the probability nor the consequences of decontamination, dismantlement, and materials handling events will be significantly increased.

The proposed changes would not create the possibility of a new or different kind of accident from any accident previously evaluated. As described in the licensee's safety evaluation the potential accidents associated with fuel cask unloading were similar to fuel handling accidents, material handling events and pressurized line break previously analyzed. Additionally the potential consequences were a small fraction of Environmental Protection Agency (EPA) Protective Action Guides (PAGs). Therefore, fuel loading and handling does not present new or different types of accidents.

The proposed changes do not involve a significant reduction in the margin of safety. The Trojan Permanently Defueled Technical Specifications (PDTS) contain four limiting conditions of operation that address: (1) spent fuel pool water level, (2) spent fuel pool boron concentration, (3) spent fuel pool temperature, and (4) spent fuel pool load restrictions. These PDTS will remain in effect as long as spent fuel is stored in the spent fuel pool, which is in accordance with their applicability statements. The spent fuel cask unloading activities will not affect these PDTS or their bases.

The cask loading pit, where the spent fuel will be unloaded from basket, is immediately adjacent to the spent fuel pool. The gate between the cask loading pit and spent fuel pool will be open to allow transfer of spent fuel assemblies from the basket in the cask loading pit to the storage racks in the spent fuel pool. Opening the gate between them will allow free exchange of water between the cask loading pit and the spent fuel pool. The cask loading pit will be filled with borated water at approximately the same concentration and temperature as the spent fuel pool prior to initial cask loading. This will maintain the limiting conditions for operation for spent fuel pool boron concentration, temperature, and water level and the margin of safety will not be affected.

Spent fuel cask unloading activities may involve lifting and moving heavy loads (e.g. transfer cask, basket). Loads that will be carried over fuel in the spent fuel pool racks and the heights at which they will be carried will be limited to preclude impact energies over 240,000 in-lbs if the loads were dropped. This is in accordance with limiting condition for operation 3.1.4 "Spent Fuel Pool Load Restrictions." With this precaution, the limiting condition for operation pertaining to load restrictions over the spent fuel pool will be satisfied and the margin of safety will be unaffected. The safe load paths for heavy loads being lifted outside the spent fuel pool will be sufficiently far from the spent fuel pool so as to not have an interaction in the unlikely event of a load drop. In addition, mechanical stops and electrical interlocks on the fuel building overhead crane will provide additional assurance that heavy loads are not carried over the spent fuel pool racks.

Based on the above, the spent fuel cask unloading activities will not reduce the margin of safety.

Based on a staff review of the licensee's analysis, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207.

Attorney for licensees: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRR Project Director: Seymour H. Weiss.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: October 16, 1998, as supplemented January 28, 1999.

Description of amendment request: This application for amendment to the Indian Point 3 (IP3) Technical Specifications (TSs) proposes to relocate the Chemical Volume and Control System (CVCS) TS 3.2 from the TSs to the IP3 Operational Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously analyzed?

Response: Relocation (i.e., removal from TS) of TS 3.2, the bases and the associated surveillances in Table 4.1–1 (items 12, 26, and 27), Table 4.1–2 (item 2), and Table 4.1–3 (item 12) will not involve a significant increase [in] the probability or consequences of an accident since the relocation of the Technical Specifications to administrative controls governed by 10 CFR 50.59 does not affect the availability or function of charging and boric acid flow paths. CVCS is not an initiator of an accident (the dilution event is equipment malfunction that is manually terminated) and the proposed change does not alter overall system operation, physical design, system configuration, or operational setpoints. There will be no significant increase in the consequences of an accident because the required boration flow paths will continue to be available for boration to the reactor coolant system.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: Relocation (i.e., removal from TS) of TS 3.2, the bases and the associated surveillances in Table 4.1–1 (items 12, 26, and 27), Table 4.1–2 (item 2), and Table 4.1–3 (item 12) will not create the possibility of a new or different kind of accident from any previously evaluated since it does not alter the overall system operation, physical design, system configuration, or operational setpoints. The plant systems for boration are operated in the same manner as before and, consequently, the relocation does not introduce any new accident initiators or failure mechanisms and does not invalidate the existing dilution event response. The boration function is not an accident initiator.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response: Relocation (i.e., removal from TS) of TS 3.2, the bases and the associated surveillances in Table 4.1–1 (items 12, 26, and 27), Table 4.1–2 (item 2), and Table 4.1–3 (item 12) will not involve a significant reduction in margin of safety. The relocation is a change to the administrative controls that are used to assure system availability and those administrative controls are governed by 10 CFR 50.59. The manner in which the system is operated does not change and there is no change to physical design, system configuration, or operational setpoints. Previous analyses of system malfunction remain unchanged. The current Technical Specification does not meet the criteria in 10 CFR 50.36(c)(2)(ii) for inclusion in the technical specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. David E. Blabey, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: S. Singh Bajwa, Director.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: December 30, 1998.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Limiting Condition for Operation (LCO) 3.7.3 and Table 3.7.3–1. The proposed changes would modify the flood protection actions required during periods of elevated river water level.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS revisions related to flood protection TS Action Statements involve no hardware changes and no changes to existing structures, systems or components. The proposed changes to the flood protection TS Action Statements ensure that the supported systems can perform their required safety functions under worst case design basis conditions, consistent with limitations imposed by other TS. The proposed flood protection TS ACTION Statements ensure that the plant is directed to enter a safe shutdown condition whenever the capability to withstand worst case design basis conditions is affected. Since the flood protection changes will still ensure that the plant remains capable of meeting applicable design basis requirements and retains the capability to mitigate the consequences of accidents described in the [Hope Creek] HC [Updated Final Safety Analysis Report] UFSAR, the proposed changes were determined to be acceptable. As a result, these changes will neither increase the probability of an accident previously evaluated nor increase the radiological dose consequences of an accident previously evaluated.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to the flood protection TS contained in this submittal will not adversely impact the operation of any safety related component or equipment. Since the proposed changes involve no hardware changes and no changes to existing structures, systems or components, there can be no impact on the potential occurrence of any accident due to new equipment failure modes. The resulting operational limits imposed by the flood protection LCO ensure that the plant can either perform its design basis safety functions or an appropriately conservative shutdown action statement is entered. Furthermore, there is no change in plant testing proposed in this change request that could initiate an event. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes for the flood protection TS retain the plant's continued capability to withstand worst case design basis conditions. The proposed flood protection TS ACTION Statements ensure that the plant is directed to: (1) enter a safe shutdown condition whenever the capability to withstand worst case design basis conditions is lost; or (2) enter a conservatively short period of continued operation when supported system redundancy is reduced. Since the plant will still remain capable of meeting all applicable design basis requirements and retaining the

capability to withstand worst case design basis events described in the HC UFSAR, the proposed changes were determined to not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070.

Attorney for licensee: Jeffrie J. Keenan, Esquire, Nuclear Business Unit—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Project Director: William M. Dean.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Description of amendment request: The proposed changes revise the descriptive details of Technical Specification 4.7.1.2.1.a, regarding performance testing of the Auxiliary Feedwater (AFW) pumps, to more closely adhere to NUREG–1431, Improved Standard Technical Specifications for Westinghouse Plants. This involves relocating the surveillance-required numerical values for the AFW pump performance test discharge pressure and flow rate to the South Texas Project Updated Final Safety Analysis Report (UFSAR).

Date of amendment request: January 20, 1999.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change, which relocates descriptive details (i.e., numerical values for AFW pump discharge pressure and flow rate) of the surveillance testing applicable to the AFW pumps, does not involve a significant increase in the probability or consequences of an accident previously evaluated. The affected AFW pump testing pressure and flow descriptive details that are being removed from SRs 4.7.1.2.1.a.1 and 4.7.1.2.1.a.2 are not related to any assumed initiators of analyzed events and are not assumed to mitigate accident or transient events. The requirement to perform testing on a monthly, staggered basis is not altered by the proposed change, and will remain in the Technical Specifications. The descriptive details of the surveillance testing will be relocated from the Technical Specifications to the USFAR and will be maintained pursuant to 10CFR50.59. The proposed revised wording of SRs 4.7.1.2.1.a.1 and 4.7.1.2.1.a.2 (i.e., to verify the developed head of each pump is greater than or equal to the required developed head) and the relocation of pump testing details to the UFSAR is consistent with the AFW pump test requirements in NUREG–1431. In addition, the surveillance testing details are addressed in existing surveillance procedures that are also controlled by 10CFR50.59 and subject to the change control provisions imposed by plant administrative procedures, which endorse applicable regulations and standards. Therefore, this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change relocates descriptive details (i.e., numerical values for AFW pump discharge pressure and flow rate) of surveillance testing applicable to the AFW pumps, which do not meet the criteria for inclusion in Technical Specifications as identified in 10CFR50.36(c)(3). The requirement to perform testing on a monthly, staggered basis is not altered by the proposed change, and will remain in the Technical Specifications. Additionally, relocation of the descriptive testing details is consistent with the wording of the AFW pump test requirements in NUREG–1431, which does not specify minimum numerical pressure and flow limits. The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or make changes in the methods governing normal plant operation. The change will not impose different requirements, and any future changes to these relocated surveillance testing details or to the applicable surveillance procedures will be evaluated per the requirements of 10CFR50.59. This change will not alter assumptions made in the safety analysis and licensing basis. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed change, which relocates descriptive details (i.e., numerical values for AFW pump discharge pressure and flow rate) of the surveillance testing applicable to the AFW pumps, will not reduce a margin of safety since it has no impact on any safety analysis assumptions. The requirement to perform AFW pump testing on a monthly, staggered basis will not be altered by the proposed change, and will remain in the Technical Specifications. Furthermore, the proposed change will not affect the operability requirements of the AFW system as delineated in Specification 3.7.1.2. Since any future changes to these relocated surveillance testing details or to the applicable surveillance procedures will be evaluated per the requirements of 10CFR50.59, there is no reduction in a margin of safety. Finally, this proposed change is also consistent with NUREG–1431, previously approved by the NRC Staff. Revising the Technical Specifications to reflect the approved NUREG–1431 content ensures no significant reduction in the margin of safety. Therefore, this proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, N.W., Washington, DC 20036–5869.

NRC Project Director: John N. Hannon.

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: January 15, 1999 (TS 98–07).

Brief description of amendments: The proposed amendments would change the Sequoyah (SQN) Technical Specification (TS) requirements by adding a new action statement to TS 3.1.3.2, "Position Indicating Systems—Operating," that eliminates the need to enter TS 3.0.3 whenever two or more individual rod position indicators (RPIs) may be inoperable per bank, while maintaining the appropriate overall level of protection and adding flexibility to the initial determination of the position of the non-indicating rod(s).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), Tennessee Valley Authority (TVA), the licensee, has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to TS 3.1.3.2 does not involve a significant increase in the probability or consequences of an accident previously evaluated. The potential for the new action statement to impact the probability or consequences of the safety analyses for the plant lies only in the area of operator-exacerbated reactivity events due to

a loss of RCCA [rod control cluster assembly] position indication.

RCCA events such as: One or more dropped RCCAs, a dropped RCCA bank or a RCCA ejection (FSAR [Final Safety Analysis Report] Sections 15.2.3 and 15.4.6, respectively) are not impacted since the new action statement does not involve a design change. Events such as: Uncontrolled RCCA bank withdrawal at power, statically misaligned RCCA or withdrawal of a single RCCA (FSAR Sections 15.2.2, 15.2.3, and 15.3.6, respectively) involve, or potentially involve, operator action and are of interest. The uncontrolled RCCA bank withdrawal at power is an ANS [American Nuclear Society] Condition II transient that has been analyzed using a positive reactivity insertion rate greater than that for the simultaneous withdrawal of the two control banks having the maximum combined worth at maximum speed. Whether the event is caused by a failure in the rod control system or by operator error has no effect on the positive reactivity insertion rate assumed in the analysis. The protection systems assumed in the analysis are unaffected since there is no change to the design. Loss of the RPIS would not result in more frequent control rod movement by plant operators. Therefore, the new action statement would not affect the analysis of this event and departure from nucleate boiling ratio (DNBR) design basis would still be met.

The most severe misalignment situation, with respect to DNBR, arises from cases in which one RCCA is fully inserted or where Bank D is fully inserted to its insertion limits with one RCCA fully withdrawn. For these cases, as discussed in FSAR Section 15.2.3.2, the DNBR remains above the safety analysis limit values. Also, the control bank insertion limit alarms remain available to warn operators that bank insertion limits have been reached.

A compensatory action associated with this new action statement, placing the control rods under manual control, addresses concerns associated with automatic rod motion due to the rod control system and inadvertent operator contribution to these events.

The worst-case event of those described above, the withdrawal of a single RCCA, is an ANS Condition III event. It has been analyzed in FSAR Section 15.3.6, assuming that operators ignore RCCA position indication or that multiple rod control system failures occur. No single electrical or mechanical failure in the rod control system could cause the accidental withdrawal of a single RCCA from an inserted bank at full power operation. The operator could deliberately withdraw a single RCCA in the control bank. This feature is necessary in order to retrieve an accidentally dropped rod. This new action statement does not change the plant design; therefore, there would be no change in the probability of the event being induced by the unlikely, simultaneous electrical failures (FSAR Section 7.7.2.2).

The change in the time to determine the position of the non-indicating rods, indirectly with the movable incore detectors, does not involve a design change nor does it affect the immediate response of the operator to the event, therefore, it does not affect the results of the analyses described above.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Since there is no change to the design associated with the proposed change, it does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change involves a loss of the RPIS [Rod Position Indication System] and establishes compensatory measures to maintain control rod position consistent with the assumptions used in the existing accident and transient analyses. The new action statement provides sufficient time for troubleshooting while avoiding unnecessary plant shutdowns per TS 3.0.3.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed change to TS 3.1.3.2 does not involve a significant reduction in a margin of safety. As discussed in Section IV.A above, the results of the FSAR Chapter 15 safety analyses for the applicable events, are not affected by the proposed changes. Therefore, the safety margins demonstrated by these analyses remain unchanged. The additional time to obtain the flux maps is consistent with the 12-hour time frame allowed to verify shutdown margin when a rod is misaligned from its group step counter height by more than plus or minus 12 steps in TS 3.1.3.1 and remains within a shiftly basis. Therefore, it does not reduce the margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Project Director: Cecil O. Thomas.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: January 29, 1999 (TSCR 211).

Description of amendment request: The proposed amendments reflect changes to sections 15.6 and 15.7 of the Point Beach Nuclear Plant (PBNP), Units 1 and 2, Technical Specifications (TS). The proposed changes are considered administrative in nature and reflect personnel title changes, an increase in minimum operating crew shift staffing, relocation of the Manager's Supervisory Staff composition and functional requirements to owner controlled documents, and revisions to the procedure review and approval process.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments will not result in a significant increase in the probability or consequences of an accident previously evaluated.

These changes are administrative and therefore do not involve a significant increase in the probability of an accident previously evaluated because no such accidents are affected by the proposed revisions. The proposed TS changes do not introduce any new accident initiators since no accidents previously evaluated have as their initiators anything related to the administrative changes described above.

In addition, initiating conditions and assumptions are unchanged and remain as previously analyzed for accidents in the PBNP Final Safety Analysis Report. The proposed TS changes do not involve any physical changes to systems or components, nor do they alter the typical manner in which the systems or components are operated. All Limiting Conditions [for] Operation, Limiting Safety System Settings, and Safety Limits specified in the TS remain unchanged. Therefore, these changes do not increase the probability of previously evaluated accidents.

These changes do not involve a significant increase in the consequences of an accident previously evaluated because the source term, containment isolation or radiological releases are not being changed by these proposed revisions. Existing system and component redundancy and operation is not being changed by these proposed changes. The assumptions used in evaluating the radiological consequences in the PBNP Final Safety Analysis Report are not invalidated; therefore, these changes do not affect the consequences of previously evaluated accidents.

2. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated.

These changes do not introduce nor increase the number of failure mechanisms of a new or different type than those previously evaluated since there are no physical changes being made to the facility. The design and design basis of the facility remain unchanged. The plant safety analyses remain unchanged. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated is not introduced.

3. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments does not involve a significant reduction in a margin of safety.

The proposed changes do not involve a significant reduction in the margin of safety because existing component redundancy is not being changed by these proposed changes. There are no new or significant changes to the initial conditions contributing to accident severity or consequences, and safety margins established through the design and facility license including the Technical Specifications remain unchanged. Therefore, there are no significant reductions in a margin of safety introduced by [these] proposed amendment[s].

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: The Lester Public Library, 1001 Adams Street, Two Rivers, Wisconsin 54241.

Attorney for licensee: John H. O'Neill, Jr., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Cynthia A. Carpenter.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: December 29, 1998.

Description of amendment request: This amendment would revise the Wolf Creek Technical Specification (TS) Figures 3.4–2, 3.4–3, and 3.4–4 to incorporate revised reactor coolant system heatup and cooldown limit curves and a revised cold overpressure mitigation system (COMS) power operated relief valve (PORV) setpoint limit curve.

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.

Incorporating the revised heatup and cooldown pressure/temperature limit curves and the COMS PORV setpoint limit curve into the WCGS Technical Specifications does not affect the probability or consequences of an accident previously evaluated.

The revised limit curves are calculated using the most limiting RT_{NDT} for the reactor vessel components and include a radiation-induced shift corresponding to the end of the period for which the curves are generated. The COMS PORV Setpoint Limit Curve is calculated using the most limiting mass injection transient, taking into account operation of the NCP [normal charging pump] during shutdown modes. The changes do not affect the basis, initiating events, chronology, or availability/operability of safety related equipment required to mitigate transients and accidents analyzed for WCGS.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Adopting the revised limit curves redefines the range of acceptable operation for the Reactor Coolant System. This redefinition is a result of the analysis of reactor vessel surveillance specimens removed from the reactor in a continuing surveillance program which monitors the effects of neutron irradiation on the WCGS reactor vessel materials under actual operating conditions. Included in the revised limit curves is consideration for NCP operation during shutdown modes. Incorporating these revised curves does not create the possibility of an accident of a different type from any previously evaluated for WCGS.

3. The proposed change does not involve a significant reduction in a margin of safety.

The revision of these limit curves continues to maintain the margin of safety required for prevention of non-ductile failure of the WCGS reactor vessel during low temperature operation as required by 10 CFR 50, Appendices G and H. The revised curves primarily affect RCS [reactor coolant system] operation below 350°F by limiting the available pressure/temperature window for heatup and cooldown. The revised limit curves compensate for the in-service radiation induced embrittlement of the reactor vessel and accounts for the requirement that the closure flange region temperature must exceed the nil-ductility temperature by at least 120°F when pressure exceeds 20% of the preservice hydrostatic test pressure.

The revised COMS PORV Setpoint Limit Curve, which includes consideration of NCP operation during shutdown modes, ensures overpressure protection of the RCS and reactor vessel.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

NRC Project Director: William H. Bateman.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: January 12, 1999.

Description of amendment request: This license amendment request proposes to revise Wolf Creek Generating Station (WCGS) Technical Specification 3/4.7.5, Ultimate Heat Sink, to add a new action statement. Specifically, the new action statement will require verification of operability of the two residual heat removal (RHR) trains, or initiation of power reduction with only one RHR train operable, when the plant inlet water temperature is between 90 and 94 degrees Farenheit. The current TS requires shutdown when plant inlet water temperature exceeds 90 degrees Farenheit.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not involve any physical alteration of plant systems, structures or components. The proposed change provides an allowed time for the plant to continue operation with plant inlet water temperature in excess of the current technical specification limit of 90 degrees Fahrenheit, up to 94 degrees Fahrenheit, which is less than the design limit of 95 degrees Fahrenheit for plant components. The plant inlet water temperature is not assumed to be an initiating condition of any accident analysis evaluated in the updated safety analysis report (USAR). Therefore, the allowance of a limited time for the water temperature to be in excess of the current limit does not involve an increase in the probability of an accident previously evaluated in the USAR. The UHS [ultimate heat sink] supports operability of safety related systems used to mitigate the consequences of an accident. Plant operation for brief periods with plant inlet water temperature greater than 90 degrees Fahrenheit up to 94 degrees Fahrenheit will not adversely affect the operability of these safety-related systems and will not adversely impact the ability of these systems to perform their safety-related functions. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated in the USAR.

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 does not involve any physical alteration of plant systems,

structures or components. The temperature of the plant inlet water being greater than 90 degrees Fahrenheit but less than or equal to 94 degrees Fahrenheit for a short period does not introduce new failure mechanisms for systems, structures or components not already considered in the USAR. Therefore, the possibility of a new or different kind of accident from any accident previously evaluated is not created.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change will allow an increase in plant inlet water temperature above the current technical specification limit of 90 degrees Fahrenheit for the Ultimate Heat Sink, and delay the requirement to shutdown the plant when the plant inlet water system temperature limit is exceeded for 12 hours. The proposed change does not alter any safety limits, limiting safety system settings, or limiting conditions for operation, and the proposed temperature increase will remain below the design limit cooling water input value for safety-related equipment, except for the unlikely event of a combination of a worst dam failure occurring with a loss of coolant accident during a period of severe meteorological conditions. Thus, the proposed change does not involve a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, D.C. 20037.

NRC Project Director: William H. Bateman.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: January 22, 1999.

Brief description of amendment: The amendment would revise Technical Specification Surveillance Requirement 3.8.1.7 to better match plant conditions during diesel generator (DG) testing by clarifying which voltage and frequency limits are applicable during the transient and steady state portions of the DG start.

Date of publication of individual notice in **Federal Register**: February 1, 1999 (64 FR 4902).

Expiration date of individual notice: March 3, 1999.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, IA 52401.

Illinois Power Company, Docket, No. 50–461, Clinton Power Station, DeWitt County, Illinois

Date of application for amendment: January 20, 1999.

Brief description of amendment request: The proposed amendment requests changes to the Technical Specification degraded voltage relay setpoints.

Date of publication of individual notice in **Federal Register**: January 28, 1999 (64 FR 4474).

Expiration date of individual notice: March 1, 1999.

Local Public Document Room location: Vespasian Warner Public Library, 310 N. Quincy Street, Clinton, IL 61727.

PP&L, Inc., Docket No. 50–388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: November 23, 1998.

Brief description of amendment request: The requested changes would change the allowable values for both the core spray system and the low pressure coolant injection system reactor steam dome pressure-low functions.

Date of publication of individual notice in **Federal Register**: February 1, 1999 (64 FR 4904).

Expiration date of individual notice: March 3, 1999.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois; Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: November 30, 1998, as supplemented by letter dated January 8, 1999.

Brief description of amendments: The amendments relocate the requirement for removal of the Reactor Protection System (RPS) shorting links to the Updated Final Safety Analysis Report (UFSAR).

Date of issuance: February 8, 1999.

Effective date: Immediately, to be implemented within 60 days.

Amendment Nos.: 170; 165 & 183; 180.

Facility Operating License Nos. DPR–19, DPR–25, DPR–29 and DPR–30: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 7, 1999. (64 FR 1032).

The January 8, 1999, submittal provided additional clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 8, 1999.

No significant hazards consideration comments received: No.

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.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: March 27, 1998 (NRC–98–0033).

Brief description of amendment: The amendment revises technical specifications (TS) 3.5.2 and 3.5.3 and the associated Bases, raising the minimum water level for the core spray system in the condensate storage tank (CST). The amendment also removes incorrect information from TS 3.5.3 regarding water inventory in the CST reserved for the high pressure coolant injection and reactor core isolation cooling systems.

Date of issuance: February 8, 1999.

Effective date: February 8, 1999, with full implementation within 90 days.

Amendment No.: 131.

Facility Operating License No. NPF–43. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: April 22, 1998 (63 FR 19967).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 8, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: March 25, 1998, as supplemented by letter dated November 30, 1998.

Brief description of amendment: The amendment changes the Appendix A Technical Specifications (TSs) by modifying TS 3.9.8.1, "Shutdown Cooling and Coolant Circulation-High water Level," and TS 3.9.8.2, "Shutdown Coolant Circulation-Low Water Level," to change the minimum water level above the fuel assemblies seated in the reactor vessel at which the Shutdown Cooling System (SDC) is required to be maintained operable, or be in operation. Also TS 3.8.1.2, "Electric Power Systems A.C. Sources Shutdown," and appropriate Bases are revised to make wording consistent with the TS 3.9.8.1 and 3.9.8.2.

Date of issuance: February 2, 1999.

Effective date: This license amendment is effective as of its date of issuance, to be implemented within 60 days.

Amendment No.: 148.

Facility Operating License No. NPF–38: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 6, 1998 (63 FR 25109).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 2, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: October 27, 1998.

Brief description of amendment: This amendment revises TS 3/4.8.2.3, "Electrical Power Systems—DC Distribution—Operating," and the associated bases. The surveillance requirements for battery testing have been revised.

Date of issuance: February 9, 1999.

Effective date: February 9, 1999.

Amendment No.: 229.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 18, 1998 (63 FR 64125).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 9, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of application for amendment: June 30, 1998, as supplemented on December 9, 1998.

Brief description of amendment: This amendment revised Technical Specification 3.1.7, "Standby Liquid Control System," by increasing the boron concentration in the Standby Liquid Control System for Cycle 8 fuel design.

Date of issuance: February 8, 1999.

Effective date: February 8, 1999.

Amendment No.: 97.

Facility Operating License No. NPF–58: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 29, 1998 (63 FR 40562).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 8, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, OH 44081.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: October 27, 1998.

Brief description of amendments: The amendments revised Turkey Point Units 3 and 4 Technical Specifications to add the qualifications for the multi-discipline supervisor.

Date of issuance: February 3, 1999.

Effective date: February 3, 1999.

Amendment Nos.: 199 and 193.

Facility Operating Licenses Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 16, 1998 (63 FR 69341).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 3, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Florida International

University, University Park, Miami, Florida 33199.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: July 21, 1998, as supplemented October 6, December 16, and December 31, 1998.

Brief description of amendment: The amendment changes various Reactor Protection System (RPS) and Engineered Safety Feature Actuation System setpoints and allowable values; corrects the specified maximum reactor power level limited by the high power level RPS trip; adds a new Technical Specification associated with the automatic isolation of steam generator blowdown; and makes several editorial changes to correct various errors and to provide needed clarification. The amendment also makes changes to the applicable Bases pages and expands the Bases to discuss the new requirements for the automatic isolation of steam generator blowdown. However, the staff has not completed its evaluation of the requested change in the trip setpoint and allowable values for the steam generator water level. This portion of the request will be addressed later.

Date of issuance: February 8, 1999.

Effective date: As of the date of issuance to be implemented within 60 days from the date of issuance.

Amendment No.: 226.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 12, 1998 (63 FR 43208).

The October 6, December 16, and December 31, 1998, letters provided clarifying information that did not change the scope of the July 21, 1998, 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 February 8, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: March 3, 1998, as supplemented May 7, 1998.

Brief description of amendment: The amendment revises the Millstone Unit 3 licensing basis by eliminating the requirement to have the recirculation spray system directly inject into the reactor coolant system following a design-basis accident, with the exception of loss-of-coolant accident (LOCA) scenarios involving a long-term passive failure. The Millstone Unit 3 licensing basis maintains the direct injection requirement for scenarios, as a contingency, for situations where it may be needed—as in the case of a LOCA with a long-term passive failure or for beyond design-basis scenarios.

Date of issuance: January 20, 1999.

Effective date: As of the date of issuance, to be implemented within 60 days from the date of issuance.

Amendment No.: 165.

Facility Operating License No. NPF–49: Amendment revised the Millstone Unit 3 licensing basis.

Date of initial notice in **Federal Register**: March 25, 1998 (63 FR 14487).

The May 7, 1998, letter provided clarifying information that did not change the scope of the March 3, 1998, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment and final no significant hazards consideration determination are contained in a Safety Evaluation dated January 20, 1999.

No significant hazards consideration comments received: No public comments received.

A petition to intervene was received from the Citizens Regulatory Commission that was dismissed and terminated by the NRC Atomic Safety Licensing Board.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Power Authority of the State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: April 16, 1998.

Brief description of amendment: The amendment changes the Technical Specifications to modify a testing requirement for the emergency diesel generators.

Date of issuance: February 9, 1999.

Effective date: February 9, 1999.

Amendment No.: 187.

Facility Operating License No. DPR–64: The amendment revises the Technical Specifications.

Date of initial notice in **Federal Register**: October 21, 1998, (63 FR 56256).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 9, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: June 16, 1998.

Brief description of amendment: The amendment revises Technical Specification (TS) Section 6 to relocate the Safety Review Committee Reviews, Audits and Records from TS to the Quality Assurance Program Section of the Final Safety Analysis Report.

Date of issuance: February 8, 1999.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 251.

Facility Operating License No. DPR–59: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: July 15, 1998 (63 FR 38204).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 8, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: October 19, 1998.

Brief description of amendment: This amendment eliminates restrictions imposed by Technical Specification (TS) 3.0.4 for the Filtration, Recirculation and Ventilation System

during fuel movement and CORE ALTERATION activities. Specifically, TS Limiting Conditions for Operation 3.6.5.3.1 and 3.6.5.3.2 have been revised to add a note stating that the provisions of TS 3.0.4 are not applicable for initiation of handling of irradiated fuel in the secondary containment and CORE ALTERATIONS provided that the plant is in OPERATIONAL CONDITION 5, with reactor water level equal to or greater than 22 feet 2 inches.

Date of issuance: February 4, 1999.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 113.

Facility Operating License No. NPF–57: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 18, 1998 (63 FR 4121).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 4, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: September 8, 1998, as supplemented December 8, 1998.

Brief description of amendment: This amendment revised Appendix C, "Additional Conditions," and will allow the performance of single cell charging and the use of non-Class 1E single cell battery chargers, with proper electrical isolation, for charging connected cells in OPERABLE Class 1E batteries. The single cell chargers will be used to restore individual cell parameters to the normal limits specified in Technical Specification Table 4.8.2.1–1.

Date of issuance: February 9, 1999.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 114.

Facility Operating License No. NPF–57: This amendment revised Appendix C of the license.

Date of initial notice in **Federal Register**: October 7, 1998 (63 FR 53954).

The December 8, 1998, supplement provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 9, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: April 28, 1998, as supplemented September 29, 1998, and December 8, 1998.

Brief description of amendment: The amendment revises Technical Specification (TS) 3.4.2.1 to replace the ±1% setpoint tolerance limit for safety/relief valves (SRVs) with a ±3% setpoint tolerance limit. In addition, the amendment revises TS 4.4.2.2 to state that all SRVs will be re-certified to meet a ±1% tolerance prior to returning the valves to service after setpoint testing.

Date of issuance: February 10, 1999.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 115.

Facility Operating License No. NPF–57: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 17, 1998 (63 FR 33108).

The September 29, 1998, and December 8, 1998, supplements provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 10, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: June 25, 1998, as supplemented August 25, 1998, and December 15, 1998.

Brief description of amendment: The amendment revised Technical Specification (TS) Surveillance Requirement 4.5.1.d.2.b by deleting the requirement to perform in-situ functional testing of the Automatic Depressurization System safety relief valves (SRVs) during startup testing activities. The amendment also revised TS Surveillance Requirement 4.4.2.1 such that the 18-month channel calibration for the SRV acoustic monitors will no longer require an exception to the provisions of TS 4.0.4, nor adjustments to SRV full open noise levels.

Date of issuance: February 10, 1999.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 116.

Facility Operating License No. NPF–57: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: August 12, 1998 (63 FR 43212).

The August 25, 1998, and December 15, 1998, supplements provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the scope of the original **Federal Register** notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 10, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, NJ 08070.

Public Service Electric & Gas Company, Docket No. 50–311, Salem Nuclear Generating Station, Unit No. 2, Salem County, New Jersey

Date of application for amendment: October 12, 1998.

Brief description of amendment: This amendment allowed a one-time extension of the Technical Specification (TS) surveillance interval to the end of fuel Cycle 10 for certain TS surveillance requirements (SRs). Specifically, the amendment extended the surveillance interval in (a) SR 4.3.2.1.3 for the instrumentation response time testing of each engineered safety features actuation system function, (b) SRs 4.8.2.3.2.f and 4.8.2.5.2.d for service testing of the 125-volt DC and the 28-volt DC distribution system batteries, respectively, and (c) SR 4.8.2.5.2.c.2 for verification that the 125-volt DC battery connections are clean, tight, and coated with anti-corrosion material. Because of the length of the last outage and delays in restart, the SRs would have become overdue prior to reaching the next refueling outage (2R10). The SRs are to be completed during the 2R10 outage, prior to returning the unit to Mode 4 (hot shutdown) upon outage completion.

Date of issuance: February 1, 1999.

Effective date: As of date of issuance, to be implemented within 60 days.

Amendment No.: 198.

Facility Operating License No. DPR–75: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: November 4, 1998 (63 FR 59594).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 1, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, NJ 08079.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: November 14, 1997, as supplemented by letters dated March 13, 1998, and November 10, 1998.

Brief description of amendments: The amendments would revise the licensing basis as described in Section 3.5, "Missile Protection," of the Updated Final Safety Analysis Report to allow the use of NUREG–0800, "Standard Review Plan" methodology in evaluating tornado-generated missiles.

Date of issuance: February 9, 1999.

Effective date: February 9, 1999, to be implemented in the next periodic update of the Updated Final Safety Analysis Report (UFSAR) in accordance with 10 CFR 50.71(e) that occurs after 60 days of the date of issuance.

Amendment Nos.: Unit 2—148; Unit 3—140.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the UFSAR.

Date of initial notice in **Federal Register**: December 31, 1997 (62 FR 68315).

The March 13, 1998, and November 10, 1998, supplemental letters provided additional clarifying information and did not change the original no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 9, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Southern Nuclear Operating Company, Inc., et al. Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: June 26, 1998, as supplemented by letters dated September 18 and November 30, 1998.

Brief description of amendments: The amendments revise the Technical Specifications (TS) as follows: (1) The Applicability of Limiting Condition for Operation (LCO) 3.3.6, "Containment Ventilation Isolation Instrumentation," is revised to refer to TS Table 3.3.6–1; the TS table is revised to add a column entitled "Applicable Modes or Other Specified Conditions." Then, the applicable modes for Manual Initiation, Automatic Actuation Logic and Actuation Relays, and Safety Injection are revised to include only Modes 1, 2, 3, and 4. Consistent with this change, LCO 3.3.6, Condition C and Required Action C.2 are revised to reflect that system level manual initiation and automatic actuation are not required during core alterations and/or during movement of irradiated fuel assemblies within containment. Appropriate Bases changes are included to reflect the TS changes. (2) LCO 3.9.4 is revised to allow the emergency air lock to be open during core alterations and/or during movement of irradiated fuel assemblies within containment. In addition, the LCO statement is revised to reflect that containment ventilation isolation (CVI) would be accomplished by manually closing the individual containment purge supply and exhaust isolation valves as opposed to a system level manual or automatic initiation, consistent with the proposed change to LCO 3.3.6. Surveillance Requirement (SR) 3.9.4.2 is revised to reflect the change to CVI. Appropriate Bases changes are included to reflect the TS changes. (3) LCO 3.7.6 is revised to delete the words "Redundant CSTs" from the title and LCO 3.7.6a is deleted. Appropriate Bases changes are included to reflect the changes.

Date of issuance: January 29, 1999.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1—105; Unit 2—83.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revise the Technical Specifications.

Date of initial notice in **Federal Register**: October 7, 1998 (63 FR 53955). The supplement dated November 30, 1998, provided clarifying information that did not change the scope of the 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 January 29, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia.

Southern Nuclear Operating Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: July 13, 1998, as supplemented by letters dated December 16, 1998, and January 13, 1999.

Brief description of amendments: The amendments revise Technical Specification Section 1.1, Definitions, for "Engineered Safety Feature [ESF] Response Time" and "Reactor Trip System [RTS] Response Time" to provide for verification of response time for selected components provided that the components and the methodology for verification have been previously reviewed and approved by the NRC.

Date of issuance: February 8, 1999.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment Nos.: 106 and 84.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 7, 1998 (63 FR 53957).

The December 16, 1998, and January 13, 1999, letters provided clarifying information that did not change the scope of the July 13, 1998, 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 February 8, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: October 29, 1998.

Brief description of amendments: Relocates portions of Technical Specification 4.8.1.1.2.g requirements regarding maintenance of the diesel generator fuel oil storage tank to the Technical Requirements Manual.

Date of issuance: February 8, 1999.

Effective date: The license amendment is effective as of its date of issuance, to be implemented within 30 days of issuance.

Amendment Nos.: Unit 1—Amendment No. 102; Unit 2—Amendment No. 89.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: December 16, 1998 (63 FR 69347).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 8, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: November 16, 1998.

Brief description of amendments: The amendments revise the Sequoyah Nuclear Plant Technical Specification (TS) emergency diesel generator surveillance requirements. The U.S. Nuclear Regulatory Commission staff has found the proposed changes to be acceptable.

Date of issuance: February 9, 1999.

Effective date: As of the date of issuance to be implemented no later than 45 days after issuance.

Amendment Nos.: 242 and 232.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the TSs.

Date of initial notice in **Federal Register**: December 2, 1998 (63 FR 66603).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 9, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Yankee Atomic Electric Company, Docket No. 50–29, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: August 20, 1998.

Brief description of amendment: Revises Technical Specifications (TS) through deletion of definition of SITE BOUNDARY, moves site map from TS to Final Safety Analysis Report and deletion of an uneeded reference to the site map.

Date of issuance: February 3, 1999.

Effective date: February 3, 1999.

Amendment No.: 150.

Possession Only License No. DPR–3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: October 7, 1998 (63 FR 53962). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 3, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Dated at Rockville, Maryland, this 17th day of February 1999.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–4391 Filed 2–23–99; 8:45 am]

BILLING CODE 7590–01–P

PRESIDIO TRUST

Notice of Public Meeting

AGENCY: The Presidio Trust.

ACTION: Notice of public meeting.

SUMMARY: In accordance with § 103(c)(6) of the Presidio Trust Act, 16 U.S.C. 460bb note, Title I of Pub. L. 104–333, 110 Stat. 4097, and in accordance with the Presidio Trust's bylaws, notice is hereby given that a public meeting of the Presidio Trust Board of Directors will be held from 10:00 a.m. to 12:00 p.m. (PST) on Wednesday, March 24, 1999, at the Presidio Golden Gate Club, Fisher Loop, Presidio of San Francisco, California. The Presidio Trust was created by Congress in 1996 to manage approximately eighty percent of the former U.S. Army base known as the Presidio, in San Francisco, California.

The purposes of this meeting are: (i) to consider presentations from the four finalists for the ground lease and development of the Letterman Complex and, possibly, (ii) to present an update regarding restoration activities at Crissy Field. Public comment on these topics will be received and memorialized in accordance with the Trust's Public Outreach Policy.

TIME: The meeting will be held from 10:00 a.m. to 12:00 p.m. (PST) on Wednesday, March 24, 1999.

ADDRESSES: The meeting will be held at the Presidio Golden Gate Club, Fisher Loop, Presidio of San Francisco.

FOR FURTHER INFORMATION CONTACT: Karen A. Cook, General Counsel, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, California 94129–0052, Telephone: (415) 561–5300.

Dated: February 18, 1999.

Karen A. Cook,

General Counsel.

[FR Doc. 99–4510 Filed 2–23–99; 8:45 am]

BILLING CODE 4310–4R–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting Notice

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [64 FR 7930–7931, February 17, 1999].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: February 17, 1999.

CHANGE IN THE MEETING: Deletion.

The following item was not considered at the closed meeting held on Thursday, February 18, 1999, at 11:00 a.m.:

Formal order of investigation.

Commissioner Carey, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary (202) 942–7070.

Dated: February 19, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–4700 Filed 2–22–99; 12:12 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Golden Mountain, Inc.; Order of Suspension of Trading

[File No. 500–1]

February 22, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current, adequate and accurate information concerning the securities of Golden Mountain, Inc., a Nevada shell

corporation that purports to have acquired certain unnamed chemical and polyester companies. Questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things, the business prospects of Golden Mountain, Inc. and the identity of the persons in control of the operations of the company.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above listed company is suspended for the period from 9:30 a.m. EST, February 22, 1999, through 11:59 p.m. EST, on March 5, 1999.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc 99–4698 Filed 2–22–99; 12:30 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Metro Match, Inc.; Order of Suspension of Trading

February 22, 1999.

It appears to the Securities and Exchange Commission that there is a lack of current, adequate and accurate information concerning the securities of Metro Match, Inc., a Nevada shell corporation that purports to have acquired certain unnamed steel and metallurgical companies. Questions have been raised about the adequacy and accuracy of publicly disseminated information concerning, among other things, the business prospects of Metro Match, Inc. and the identity of the persons in control of the operations of the company.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above listed company is suspended for the period from 9:30 a.m. EST, February 22, 1999, through 11:59 p.m. EST, on March 5, 1999.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–4699 Filed 2–22–99; 12:30 pm]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice No. 2993]

Office of Mexican Affairs; Notice of Receipt of Application for a Presidential Permit for a Bridge To Be Constructed and Maintained on the Borders of the United States

AGENCY: Department of State.

Notice is hereby given that the Department of State has received an application from The City of San Diego, California, for a Presidential Permit, pursuant to Executive Order 11423 of August 16, 1968, as amended by Executive Order 12847 of May 17, 1993, seeking authorization to construct a pedestrian toll bridge between San Diego, California, and Tijuana, Baja California, Mexico. The proposed bridge will be incorporated in the reconstruction and reopening of the Port of Entry at Virginia Avenue/El Chaparral, formerly used as a commercial border crossing. The new Port of Entry, the "International Gateway of the Americas," will incorporate retail, office, entertainment, and hotel/conference facilities.

As required by E.O. 11423, the Department of State is circulating this application to concerned agencies for comment.

Interested parties may submit comments regarding this application in writing by March 26, 1999 to Mr. David E. Randolph, Coordinator, U.S.-Mexico Border Affairs, Office of Mexican Affairs, Room 4258, Department of State, Washington, D.C. 20520. The application and related documents made part of the record to be considered by the Department of State in connection with this application are available for inspection in the Office of Mexican Affairs during normal business hours.

FOR FURTHER INFORMATION CONTACT: David E. Randolph, Coordinator, U.S.-Mexico Border Affairs, at the above address, by telephone at (202) 647–8529 or by fax at (202) 647–5752.

Dated: February 18, 1999.

David E. Randolph,

Coordinator, U.S.-Mexico Border Affairs.

[FR Doc. 99–4562 Filed 2–23–99; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collections of information were published on November 25, 1998, [65277–65278].

DATES: Comments must be submitted on or before March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Deborah Boothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW., Washington, DC 20590–0001, Telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION:

Research and Special Programs Administration (RSPA)

Title: Inspection and Testing of Portable Tanks and Intermediate Bulk Containers.

OMB Control Number: 2137–0018.

Type of Request: Extension of a currently approved collection.

Abstract: This information collection consolidates provisions for documenting qualifications, inspections, tests and approvals pertaining to the manufacture and use of portable tanks and intermediate bulk containers under various provisions of the Hazardous Materials Regulations (49 CFR Parts 171–180). It is necessary to ascertain whether portable tanks and intermediate bulk containers have been qualified, inspected and retested in accordance with the HMR. The information is used to verify that certain portable tanks and intermediate bulk containers meet required performance standards prior to their being authorized for use and to document periodic requalification and testing to ensure the packagings have not deteriorated due to age or physical abuse to a degree that would render them unsafe for the transportation of hazardous materials.

Applicable sections are as follows: § 173.32—retest, retest marking, and record retention for portable tanks; § 173.32a—approval of IM portable tanks; § 173.32b—periodic inspections and testing for IM portable tanks; § 178.245–6—certification markings for DOT–51 portable tanks; § 178.245–7—manufacturer's data report for DOT–51 portable tanks: § 178.255–14—certification markings for DOT–60 portable tanks; § 178.255–15—manufacturer's data report for DOT–60 portable tanks; § 178.270–14—certification marking of IM portable tanks; § 178.801—testing, retesting and recordkeeping for intermediate bulk containers; and § 180.352—periodic retests and inspections for intermediate bulk containers.

Affected Public: Manufacturers and owners of portable tanks and intermediate bulk containers.

Annual Burden Hours: 51,340.

Title: Testing, Inspection and Marking Requirements for Cylinders.

OMB Control Number: 2137–0022.

Type of Request: Extension of a currently approved collection.

Abstract: Requirements in § 173.34 for qualification, maintenance and use of cylinders require that cylinders be periodically inspected and retested to ensure continuing compliance with packaging standards. Information collection requirements address registration of retesters and marking of cylinders by retesters with their identification number and retest date following conduct of tests. Records showing the results of inspections and retests must be kept by the cylinder owner or designated agent until expiration of the retest period or until the cylinder is reinspected or retested, whichever occurs first. These requirements are intended to ensure that retesters have the qualifications to perform tests and to identify to cylinder fillers and users that cylinders are qualified for continuing use. Information collection requirements in § 173.303 require that fillers of acetylene cylinders keep, for at least 30 days, a daily record of the representative pressure to which cylinders are filled.

Affected Public: Fillers, owners, users and retesters of reusable cylinders.

Annual Estimated Burden Hours: 168,431.

Title: Hazardous Materials Incident Reports.

OMB Control Number: 2137–0039.

Type of Request: Extension of a currently approved collection.

Abstract: This collection is applicable upon occurrence of incidents as prescribed in §§ 171.15 and 171.16. Basically, a Hazardous Materials Incident Report, DOT Form F5800.1, must be completed by a carrier of hazardous materials when a hazardous material transportation incident occurs, such as a release of materials, serious accident, evacuation or highway shutdown. Serious incidents meeting criteria in § 171.15 also require a telephonic report by the carrier. This information collection enhances the Department's ability to evaluate the effectiveness of its regulatory program, determine the need for regulatory changes, and address emerging hazardous materials transportation safety issues. The requirements apply to all interstate and intrastate carriers engaged in the transportation of hazardous materials by rail, air, water, and highway.

Affected Public: Carriers of hazardous materials.

Annual Estimated Burden Hours: 33,811.

Title: Flammable Cryogenic Liquids.

OMB Control Number: 2137–0542.

Type of Request: Extension of a currently approved collection.

Abstract: Provisions in § 177.818 require the carriage on a motor vehicle of written procedures for venting flammable cryogenic liquids and for responding to emergencies. Paragraph (h) of § 177.840 specifies certain safety procedures and documentation requirements for drivers of these motor vehicles. These requirements are intended to ensure a high level of safety when transporting flammable cryogenics due to their extreme flammability and high compression ratio when in a liquid state.

Affected Public: Carriers of cryogenic materials.

Annual Estimated Burden Hours: 1,213.

Title: Approvals for Hazardous Materials.

OMB Control Number: 2137–0557.

Type of Request: Extension of a currently approved collection.

Abstract: Without these requirements there is no means to: (1) determine whether applicants who apply to become designated approval agencies are qualified to evaluate package design, test packages, classify hazardous materials, etc.; (2) verify that various containers and special loading requirements for vessels meet the requirements of the HMR; and (3) assure that regulated hazardous materials pose no danger to life and property during transportation.

Affected Public: Businesses and other entities who must meet the approval requirements in the HMR.

Annual Estimated Burden Hours: 18,302.

Title: Testing Requirements for Non-bulk Packaging (Formerly entitled Testing Requirements for Packaging).

OMB Control Number: 2137–0572.

Type of Request: Extension of a currently approved collection.

Abstract: Detailed packaging manufacturing specifications have been replaced by a series of performance tests that a non-bulk packaging must be capable of passing before it is authorized to be used for transporting hazardous materials. The HMR require proof that packagings meet these testing requirements. Manufacturers must retain records of design qualification tests and periodic retests. Manufacturers must notify, in writing, persons to whom packagings are transferred of any specification requirements that have not been met at the time of transfer. Subsequent distributors, as well as manufacturers must provide written notification. Performance-oriented packaging standards allow manufacturers and shippers much greater flexibility in selecting more economical packagings.

Affected Public: Each non-bulk packaging manufacturer that tests packagings to ensure compliance with the HMR.

Annual Estimated Burden Hours: 30,000.

Title: Container Certification Statement.

OMB Control Number: 2137–0582.

Type of Request: Extension of a currently approved collection.

Abstract: Shippers of explosives, in freight containers or transport vehicles by vessel, are required to certify on shipping documentation that the freight container or transport vehicle meets minimal structural serviceability requirements. This requirement is intended to ensure an adequate level of safety for transport of explosives aboard vessel and ensure consistency with similar requirements in international standards.

Affected Public: Shippers of explosives in freight containers or transport vehicles by vessel.

Annual Estimated Burden Hours: 13,989.

Title: Hazardous Materials Public Sector Training and Planning Grants.

OMB Control Number: 2137–0586.

Type of Request: Extension of a currently approved collection.

Abstract: Part 110 of 49 CFR sets for the procedures for reimbursable grants for public sector planning and training in support of the emergency planning and training efforts of States, Indian tribes and local communities to deal with hazardous materials emergencies, particularly those involving

transportation. Sections in this part address information collection and recordkeeping with regard to applying for grants, monitoring expenditures, reporting and requesting modifications. Affected Public: State and local governments, Indian tribes.

Annual Estimated Burden Hours: 4,082.

Title: Response Plans for Shipments of Oil.

OMB Control Number: 2137–0591.

Type of Request: Extension of a currently approved collection.

Abstract: In recent years several major oil discharges damaged the marine environment of the United States. Under authority of the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990, RSPA issued regulations in 49 CFR Part 130 that require preparation of written spill response plans. Affected Public: Carriers that transport oil in bulk, by motor vehicle or rail.

Annual Estimated Burden Hours: 10,560.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention RSPA Desk Officer.

Comments Are Invited On

Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC on February 17, 1999.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 99–4516 Filed 2–23–99; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on March 10, 1998 [63 FR 11705–11706].

DATES: Comments must be submitted on or before March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry L. Robin, Transportation Specialist, Research Division, Office of Motor Carrier Research and Standards, (202) 366–2986, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Federal Highway Administration

Title: Truck Stop Fitness Facilities Utilization Study.

OMB Number: 2125–NEW.

Type of Request: Extension of a currently approved collection.

Affected Public: Approximately 500 tractor-trailer drivers.

Abstract: Conference Report 104–286 to accompanying H.R. 2002 to the Department of Transportation Appropriations Bill (Pub. L. 104–50) directed the FHWA to contract, during FY 1996, with the American Trucking Associations Foundations', Transportation Research Institute to perform applied research to address a number of highway safety issues, such as: driver fatigue and alertness, the application of emerging technologies to ensure safety, productivity and regulatory compliance; and commercial driver licensing, training and education. Truck stop fitness utilization information will be collected via an automated telephone interview at the driver's 6 and 11 month marks in the research project. The call will be toll-free for the drivers to respond to the survey. A standardized questionnaire will ask the drivers a number of questions pertaining to their frequency and duration of use of the truck stop fitness facilities. Additional topic areas to be explored include: what type of exercise equipment the truck drivers prefer (aerobic or weight-resistance equipment), whether the drivers generally feel better since beginning an exercise program, have they made any other lifestyle changes, do they feel more alert/less stressed when driving, are they getting other drivers to start an exercise program, and how can truck stop fitness facilities be improved to better meet the needs of the truck driver and the trucking industry.

The results of the information collections will be documented in a report for dissemination to the trucking and truck stop industries as well as other interested organizations and agencies including the Department of Labor, Department of Health and Human Services (Center for Disease Control) and the Occupational Safety and Health Administration. Note: Rolling Strong Co. is a private corporation. The government does not endorse Rolling Strong Co. And did not fund the design or construction of their fitness facilities. The FHWA is only evaluating the concept of truck stop fitness.

Estimated Total Annual Burden: 333.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer.

Comments are Invited on

Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC, on February 16, 1999.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 99–4519 Filed 2–23–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collections(ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the proposed "Customer Service Surveys" information collection was published on September 4,1998, [63 FR 47343–47344] and on 2133–0024 "Subsidy Voucher—Operating Differential Subsidy" information collection was published on November 23, 1998 [64755–64756].

DATES: Comments must be submitted on or before March 26, 1999.

FOR FURTHER INFORMATION CONTACT: [on Customer Service Surveys] James J. Zok, Associate Administrator for Ship Financial Assistance and Cargo Preference, MAR–50, Room 8126,400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0364 or FAX 202–366–7901. [on Subsidy Voucher—Operating Differential Subsidy] Michael P. Ferris, Director, Office of Cost and Rates, 400 7th Street, SW., Room 8117, Washington, DC 20590. Copies of the collection can also be obtained from those offices.

SUPPLEMENTARY INFORMATION:

Maritime Administration (MARAD)

Title: Customer Service Surveys.

OMB Control Number: 2133–NEW.

Type of Request: Approval of a new information collection.

Affected Public: Individuals/Entities directly served by MARAD.

Form(s): MA–1016; MA–1017.

Abstract: Executive Order 12862 requires agencies to survey customers to determine the kind and quality of services they want and the level of their satisfaction with existing services. This collection covers MARAD forms used to carry out such surveys covering MARAD programs and services. (1) Responses to the Customer Service Questionnaire are needed to obtain prompt customer feedback on the quality of specific services/products provided to the customer by MARAD. The information provided will be used to ascertain the customer's level of satisfaction. (2) Responses to the Program Performance Survey are needed to obtain customers' views on MARAD's major programs and activities with which the customers were involved during the preceding year. The information provided will be used by MARAD's senior management and MARAD's program managers to monitor the overall level of customer satisfaction and to identify areas for improvement in program service or product delivery.

Annual Estimated Burden Hours: 256.

Title: Subsidy Voucher—Operating Differential Subsidy (Bulk & Liner Cargo Vessels).

OMB Control Number: 2133–0024.

Type of Request: Approval of a currently approved information collection.

Affected Public: Bulk and Liner Vessel Operators.

Form(s): MA–790, SF–1034 and Supporting Schedules.

Abstract: In accordance with the Merchant Marine Act, 1936, the Secretary of Transportation is authorized to provide financial aid in te operation of contract vesels for bulk or liner cargo carrying services that help promote, develop, expand and maintain the foreign commerce of the United States and for national defense and other national requirements. The information data will be prepared by subsidized bulk and liner operators and submitted to the Maritime Administration (MARAD). MARAD will utilize the information to determine subsidy payable to operators for voyages performed in accordance with their Operating-Differential Subsidy (ODS) Agreements.

Annual Estimated Burden Hours: 240.

Addressee: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC on February 16, 1999.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 99–4520 Filed 2–23–99; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on December 7, 1998, [63 FR 67504].

DATES: Comments must be submitted on or before March 26, 1999.

FOR FURTHER INFORMATION CONTACT: Judith Street, ABC–100; Federal Aviation Administration; 800 Independence Avenue, SW., Washington, DC 20591; Telephone number (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: General Operating and Flight Rules—FAR 91.

OMB Control Number: 2120–0005.

Type of Request: Extension of currently approved collection.

Affected Public: Individual airmen, state or local governments and businesses.

Abstract: Part A of Subtitle VII of the Revised Title 49 USC authorizes the

issuance of regulations governing the use of navigable airspace. The reporting and recordkeeping requirements of 14 CFR Part 91 prescribes rules governing the operation of aircraft (other than moored balloons, kites, rockets and unmanned free balloons) within the United States. The reporting and recordkeeping requirements prescribed by various sections of Part 91 are necessary for FAA to ensure compliance with these provisions.

Annual Estimated Burden Hours: 231,064.

Addressee: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC on February 16, 1999.

Vanester M. Williams,

Clearance Officer, Department of Transportation.

[FR Doc. 99–4547 Filed 2–23–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–5042]

Agency Information Collection Activities Under OMB Review; Correction

AGENCY: Coast Guard, DOT.

ACTION: Request for comments; correction.

SUMMARY: This document contains a correction to the request for comments published on page 5851 of the Friday, February 5, 1999 issue of the **Federal Register**. That document requested public comments on Information Collection Requests (ICR) that the Coast Guard intends to submit to the Office of Management and Budget (OMB). The **ADDRESSES** section and the Request for Comments Section of that document contained an incorrect docket number to reference when mailing comments to the docket management facility. The correct docket number is (USCG–1999–5042). This document corrects that error by removing the incorrect docket numbers and replacing them with the correct ones.

DATES: This correction is effective on February 24, 1999.

ADDRESSES: The public docket for this document is maintained at the Docket Management Facility, (USCG–1999–5042), U.S. Department of Transportation, Room PL–104, 400 Seventh Street, SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document. Should there be questions on the docket, contact Dorothy Walker, Chief, Documentary Services Transportation, 202–366–9330.

Correction

In the request for comments FR Doc. 99–2828 (USCG–1999–5042), published February 5, 1999, in the second column of page 5851, in the first sentence of the **ADDRESSES** section, correct "(USCG–199–)" to read "(USCG–1999–5042)" and in the third column of page 5851, in second sentence of the Request for Comments section, correct "(USCG–1999–)" to read "(USCG–1999–5042)."

Dated: February 12, 1999.

G.N. Naccra,

Rear Admiral, U.S. Coast Guard, Director of Information and Technology.

[FR Doc. 99–4591 Filed 2–23–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice: Receipt of Noise Compatibility Program and Request for Review; Rickenbacker International Airport, Columbus, OH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Rickenbacker Port Authority for Rickenbacker International Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Rickenbacker International Airport under Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before July 21, 1999.

DATES: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is January 22, 1999. The public comment period ends March 23, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Jagiello, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Rickenbacker International Airport are in compliance with applicable requirements of Part 150, effective January 22, 1999. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before July 21, 1999. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the

prevention of the introduction of additional noncompatible uses.

The Rickenbacker Port Authority submitted to the FAA on April 17, 1998, noise exposure maps, descriptions and other documentation which were produced during the FAR Part 150 Noise Compatibility Study dated February, 1998. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the Rickenbacker Port Authority. The specific maps under consideration are Exhibits 1–1 (existing conditions) and 1–3 (future conditions) on pages 1–4 and 1–22, respectively, in the submission. The FAA has determined that these maps for Rickenbacker International Airport are in compliance with applicable requirements. This determination is effective on January 22, 1999. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detail overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutory required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Rickenbacker International Airport, also effective on January 22, 1999. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before July 21, 1999.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111

Rickenbacker Port Authority, Rickenbacker International Airport, 7400 Alum Creek Drive, Columbus, Ohio 43217–1232

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Belleville, Michigan, on January 22, 1999.

Dean C. Nitz,

Manager, Detroit Airports District Office, FAA Great Lakes Region.

[FR Doc. 99–4525 Filed 2–19–99; 1:55 p.m.]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–5116; Notice 1]

Johnston Sweeper Company; Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 105

We are asking for public comment on the application by Johnston Sweeper Company of Chino, California ("JSC"), for an exemption until March 1, 2002, from requirements of Motor Vehicle Safety Standard No. 105, *Hyraulic and Electric Brake Systems,* that are effective March 1, 1999. JSC has applied on the basis that "compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard." 49 CFR 555.6(a).

We are publishing this notice of receipt of the application in accordance with our regulations on temporary exemptions. This action does not represent any judgment by us about the merits of the application. The discussion that follows is based on information contained in JSC's application.

Why JSC Needs a Temporary Exemption

On and after March 1, 1999, S5.5 of Standard No. 105 requires any motor vehicle with a GVWR greater than 10,000 pounds, except for a vehicle that has a speed attainable in 2 miles of 30 mph or less, to be equipped with an antilock brake system ("ABS"), as specified in S5.5.1 of the standard. JSC manufactures street sweepers. One of these, the Model M4000, is a "truck" as defined by our regulations. The M4000 is hydrostatically driven, and has two braking systems: hydrostatic braking and hydraulically-braked front and rear axles. Both axles are specifically manufactured for JSC by proprietary axle manufacturers who produce customized versions of existing conventional vehicle axles, in order to make them economically viable. As far as JCS can ascertain, it is unique in producing a hydrostatically-driven vehicle that can achieve highway speeds of up to 60 mph. A supplier had promised axles by August 1998 that would be compatible with ABS control systems leading JSC to expect that it could conform with the new requirements of Standard No. 105 effective March 1, 1999. However, for the reasons discussed below, the supplier is unable to fulfill its commitment to JCS in a timely manner.

Why Compliance Would Cause JSC Substantial Economic Hardship

JSC produced 303 sweepers in 1998. Its net losses over the past three fiscal years have averaged $1,690,815 annually. It estimates that "the loss of sales by not being granted an exemption would result in 20% less turnover." JSC stated that it employs 170 persons and contributes more than $30,000,000 to the American economy, and, if its application is denied, this would have a measurable effect on its employment force and the company's economic contributions.

JCS stated that it believes it will need 18 to 24 months to complete compliance work after receipt of prototype axles, in order to assure the reliability and endurance of its vehicles when the system is put into production.

How JSC Has Tried To Comply With the Standard in Good Faith

During 1997, JSC concluded a long search to find a manufacturer prepared to design and manufacture economically-viable front and rear axle and brake assemblies compatible with ABS control systems. Its supplier promised to provide axles by August 1998. According to JSC, "the supplier subsequently acquired another axle manufacturer and instigated a rationalization review of the resulting combined product ranges." As a result, the supplier has decided not to produce the original axle design. JCS does not expect suitable prototypes to be available until mid to late 1999. The company has approached other axle manufacturers but has not yet located a better alternative. After it receives prototype axles, significant testing will be required to integrate the ABS with hydrostatic braking and to ensure the reliability and durability of the axles and braking system.

Why Exempting JSC Would Be Consistent With the Public Interest and Objectives of Motor Vehicle Safety

JCS said that it is a leading provider of road sweepers to municipalities, airports, and the like, which benefits the public by helping to reduce health hazards ("air borne, on the ground and in run-off water"). The company believes that the fact that its sweepers are reliable, durable, and cost effective is also in the public interest.

The sweepers operate at average speeds of from 2 to 8 mph for approximately 80 to 90 percent of the time, "well below the limit requiring ABS brakes." JSC stated that its sweepers "have inherently safe braking (hydrostatic) since the retardation force applied is proportional to the tractive effort being applied, at the time."

How To Comment on JSC's Application

If you would like to comment on JSC's application, send two copies of your comments, in writing, to: Docket Management, National Highway Traffic Safety Administration, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590, in care of the docket and notice number shown at the top of this document.

We shall consider all comments received before the close of business on the comment closing date stated below. To the extent possible, we shall also consider comments filed after the closing date. You may examine the docket in Room PL–401, both before and after that date, between 10 a.m. and 5 p.m.

When we have reached a decision, we shall publish it in the **Federal Register**.

Comment closing date: March 16, 1999.

Authority: 49 U.S.C. 30113; delegations of authority at 49 CFR 1.50 and 501.4.

Issued on: February 18, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–4521 Filed 2–23–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–17]

Extension of Customs Approval of Oil Inspections USA, Incorporated, as a Commercial Gauger

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of extension of approval of Oil Inspections USA, Inc., Aston, Pennsylvania, as a commercial gauger.

SUMMARY: Oil Inspections USA, Inc., of Wallington, New Jersey, an approved Customs gauger, has applied to U.S. Customs to extend its approval to gauge petroleum and petroleum products under Part 151.13 of the Customs Regulations (19 CFR 151.13) to their Aston, Pennsylvania facility. Customs has determined that this office meets all of the requirements for approval as a commercial gauger. Therefore, in accordance with Part 151.13(f) of the Customs Regulations, Oil Inspections USA, Inc., of Aston, Pennsylvania is approved to gauge the products named above in all Customs ports.

LOCATION: Oil Inspections USA, Inc. approved site is located at: 4009A Market Street, Aston, Pennsylvania 19014.

EFFECTIVE DATE: February 9, 1999.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Chief Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Room 5.5–B, Washington, D.C. 20229 at (202) 927–1060.

Dated: February 17, 1999.

George D. Heavey,

Director, Laboratories and Scientific Service.

[FR Doc. 99–4535 Filed 2–23–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–18]

Extension of Customs Approval of Accutest Services Incorporated as a Commercial Gauger

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Extension of Approval of Accutest Services, Inc., Corpus Christi, Texas, as a Commercial Gauger.

SUMMARY: Accutest Services, Inc., of Corpus Christi, Texas, an approved Customs gauger, has applied to U.S. Customs to extend its approval to gauge petroleum and petroleum products under Part 151.13 of the Customs Regulations (19 CFR 151.13) to their Houston, Texas facility. Customs has determined that this office meets all of the requirements for approval as a commercial gauger. Therefore, in accordance with Part 151.13(f) of the Customs Regulations, Accutest Services Inc., Houston, Texas, is approved to gauge the products named above in all Customs ports.

LOCATION: Accutest Services, Inc. approved site is located at: 411 Allen-Genoa Road, Houston, Texas.

EFFECTIVE DATE: February 9, 1999.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Chief Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Room 5.5–B, Washington, D.C. 20229, at (202) 927–1060.

Dated: February 17, 1999.

George D. Heavey,

Director, Laboratories and Scientific Service.

[FR Doc. 99–4536 Filed 2–23–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–19]

Extension of Customs Approval of Commodity Control Services Incorporated as a Commercial Gauger

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Extension of Approval of Commodity Control Services Inc., Bellmawr, New Jersey, as a Commercial Gauger.

SUMMARY: Commodity Control Services Inc. (Comtrol Services), of Clark, New Jersey, an approved Customs gauger, has applied to U.S. Customs to extend its approval to gauge petroleum and petroleum products under Part 151.13 of the Customs Regulations (19 CFR 151.13) to their Bellmawr, New Jersey facility. Customs has determined that this office meets all of the requirements for approval as a commercial gauger. Therefore, in accordance with Part 151.13(f) of the Customs Regulations, Commodity Control Services Inc., of Bellmawr, New Jersey is approved to gauge the products named above in all Customs ports.

LOCATION: Commodity Control Services Inc. approved site is located at: 641 Creek Road, Bellmawr, New Jersey 08031.

EFFECTIVE DATE: February 9, 1999.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Chief Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Room 5.5–B, Washington, DC 20229 at (202) 927–1060.

Dated: February 17, 1999.

George D. Heavey,

Director, Laboratories and Scientific Service.

[FR Doc. 99–4537 Filed 2–23–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–20]

Revocation of Ray A. Bergeron as a Customs Approved Gauger

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Revocation of Ray A. Bergeron as a Customs Approved Gauger.

SUMMARY: Ray A. Bergeron, of Channelview, Texas, a Customs approved gauger, under Section 151.13 of the Customs Regulations (19 CFR 151.13), was found in violation of CFR 151.13 of the Customs Regulations. Specifically, Ray A. Bergeron does not have a valid bond filed with Customs as required under Section 151.13(b)(8) of the Customs Regulations and did not notify Customs that he is going out of business. Accordingly, pursuant to 151.13(k) of the Customs Regulations, notice is hereby given that the Customs commercial gauger approval of Ray A. Bergeron has been revoked with prejudice.

EFFECTIVE DATE: February 9, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Ira Reese, Chief Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1300 Pennsylvania Ave., NW, Suite 5.5–B, Washington, DC 20229 at (202) 927–1060.

Dated: February 17, 1999.

George D. Heavey,

Director, Laboratories and Scientific Services.

[FR Doc. 99–4538 Filed 2–23–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–14]

Bonds; Approval To Use Authorized Facsimile Signatures and Seals

The use of facsimile signatures and seals on Customs bonds by the following corporate surety has been approved effective this date:

Insurance Company State of Pennsylvania, Authorized facsimile signature on file for: Christine L. Wolfe, Attorney-in-Fact

The corporate surety has provided the Customs Service with a copy of the signature to be used, a copy of the corporate seal, and a certified copy of the corporate resolution agreeing to be bound by the facsimile signatures and seals. This approval is without prejudice to the surety's right to affix signatures and seals manually.

Dated: February 18, 1999.

Jerry Laderberg,

Chief, Entry Procedures and Carriers Branch.

[FR Doc. 99–4532 Filed 2–23–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–16]

Bonds; Approval To Use Authorized Facsimile Signatures and Seals

The use of facsimile signatures and seals on Customs bonds by the following corporate surety has been approved effective this date:

National Union Fire Insurance Company, Authorized facsimile signature on file for: Christine L. Wolfe, Attorney-in-Fact

The corporate surety has provided the Customs Service with a copy of the signature to be used, a copy of the corporate seal, and a certified copy of the corporate resolution agreeing to be bound by the facsimile signatures and seals. This approval is without prejudice to the surety's right to affix signatures and seals manually.

Dated: February 18, 1999.

Jerry Laderberg,

Chief, Entry Procedures and Carriers Branch.

[FR Doc. 99–4533 Filed 2–23–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–15]

Bonds; Approval To Use Authorized Facsimile Signatures and Seals

The use of facsimile signatures and seals on Customs bonds by the following corporate surety has been approved effective this date:

American Home Assurance Company, Authorized facsimile signature on file for: Christine L. Wolfe, Attorney-in-Fact

The corporate surety has provided the Customs Service with a copy of the signature to be used, a copy of the corporate seal, and a certified copy of the corporate resolution agreeing to be bound by the facsimile signatures and seals. This approval is without prejudice to the surety's right to affix signatures and seals manually.

Dated: February 18, 1999.

Jerry Laderberg,

Chief Entry Procedures and Carriers Branch.

[FR Doc. 99–4534 Filed 2–23–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the Measurement Survey: Examination Standards.

DATES: Submit written comments on or before April 26, 1999.

ADDRESSES: Send comments to: Manager, Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, DC 20552, Attention 1550–0087. Hand deliver comments to the Manager, Dissemination Branch, Basement, 1700 G Street, N.W., from 9:00 a.m. to 5:00 p.m., on business days. Send facsimile transmissions to FAX Number (202) 906–7755 or (202) 906–6956 (if the comment is over 25 pages). E-mail to public.info@ots.treas.gov and include your name and telephone number. Interested persons may inspect comments in the OTS Reading Room, Basement, 1700 G Street, N.W., from 9:00 a.m. until 4:00 p.m., on business days. Interested persons may also obtain copies via OTS PubliFax at (202) 906–5660.

FOR FURTHER INFORMATION CONTACT: Daniel R. Bagus, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, IL 60606, (312) 917–5008.

SUPPLEMENTARY INFORMATION:

Title: Measurement Survey: Examination Standards.

OMB Number: 1550–0087.

Form Number: 1603.

Abstract: This information collection will survey those institutions which recently have undergone an OTS examination. The purpose is to determine the effectiveness of the examination process.

Current Actions: OTS proposes to renew this information collection with revision.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 1,302.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 325 hours.

Request for Comments: The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Celia Winter,

Acting Director, Information Management and Services.

[FR Doc. 99–4595 Filed 2–23–99; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain copies of the submission by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW, Washington, D.C. 20552.

OMB Number: 1550–0088.

Form Number: Not Applicable.

Type of Review: Extension without revision.

Title: Loans in Areas Having Special Flood Hazards.

Description: A lending institution is required by statute and OTS implementing regulations to use the standard flood hazard determination form developed by FEMA when determining whether the property securing the loan is or will be located in a special flood hazard area, and is required to retain a copy of the completed form. The OTS uses this record to verify compliance.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Recordkeepers: 1,131.

Estimated Burden Hours Per Recordkeeper: 26 minutes on average.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 29,689 hours.

Clearance Officer: Mary Rawlings-Milton, (202) 906–6028, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Celia Winter,

Acting Director, Information Management Services.

[FR Doc. 99–4594 Filed 2–23–99; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Minority Veterans, Notice of Availability of Annual Report

Under section 10(d) of Public Law 92–462 (Federal Advisory Committee Act) notice is hearby given that the 4th Annual Report of the Department of Veterans Affairs' Advisory Committee on Minority Veterans (Report) for Fiscal Year 1998 has been issued. The Report summarizes activities of the Committee on matters relative to the administration of benefits, medical care services, and outreach as it relates to minority group veterans by the Department. The Report discusses the Committee's mission, goals and objectives, and makes recommendations to the Secretary. This Report focuses on the Committee's review of medical care and benefits processing at the Temple and Waco VA Medical Centers and the Waco Regional Office. It is available for public inspection at two locations:

Federal Document Section, Exchange and Gifts Division, LM 632, Library of Congress, Washington, DC 20540
and
Department of Veterans Affairs, Center for Minority Veterans, VACO Suite 700, 810 Vermont Avenue, NW, Washington, DC 20420

Dated: February 11, 1999.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 99–4526 Filed 2–23–99; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 64, No. 36
Wednesday, February 24, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket 94-129; FCC 98-334]

Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Unauthorized Changes of Consumers' Long Distance Carriers

Correction

In rule document 99–3657, beginning on page 7746 in the issue of Tuesday, February 16, 1999, in the first column, in the **DATES:** section, in the second line, "April 29, 1999" should read "April 27, 1999".

[FR Doc. C9–3657 Filed 2–23–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F-0187]

Monsanto Co.: Filing of Food Additive Petition

Correction

In notice document 99–2851 appearing on page 6100 in the issue of Monday, February 8, 1999, make the following corrections:

1. In the first column, under **DATES**, in the third line "April 10, 1999" should read "March 10, 1999".

2. In the second column, in the sixth line "April 10, 1999" should read "March 10, 1999".

[FR Doc. C9–2851 Filed 2–23–99; 8:45 am]

BILLING CODE 1505–01–D

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2, 19, 20, 21, 30, 40, 51, 60, 61, and 63

RIN 3150-AG04

Disposal of High-Level Radioactive Wastes in a Proposed Geologic Repository at Yucca Mountain, Nevada

Correction

In proposed rule document 99–4022 beginning on page 8640 in the issue of Monday, February 22, 1999, make the following correction(s):

On page 8640, in the first column, in the **DATES** section, "May 30, 1999" should read "May 10, 1999".

[FR Doc. C9–4022 Filed 2–23–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Wednesday
February 24, 1999

Part II

Department of Commerce

Economic Development Administration

Economic Development Assistance Programs—Availability of Funds Under Pub. L. 105–393; Notice

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 981228325–8325–01]

RIN 0610–ZA07

Economic Development Assistance Programs—Availability of Funds Under Pub. L. 105–393

AGENCY: Economic Development Administration (EDA), Department of Commerce (DoC).

ACTION: Notice.

SUMMARY: The Economic Development Administration (EDA) announces its policies and application procedures under the Economic Development Administration Reform Act from the effective date, (see below) through the end of fiscal year 1999 to support projects designed to alleviate conditions of substantial and persistent unemployment and underemployment in economically-distressed areas and regions of the Nation, to address economic dislocations resulting from sudden and severe job losses, and to administer the Agency's programs.

DATES: This announcement is effective for applications considered under Pub. L. 105–393 through the end of fiscal year 1999. Unless otherwise noted below, applications are accepted on a continuous basis and will be processed as funds are available. Normally, two months are required for a final decision after the receipt of a completed application that meets all EDA requirements.

Effective Date of Pub. L. 105–393:

Pub. L. 105–393, effective February 11, 1999 replaces and amends the Public Works and Economic Development Act of 1965, as amended (PWEDA). EDA's interim final rule to implement Pub. L. 105–393 was published in the FR (64 FR 5347, February 3, 1999), as separate Part II.

Appropriations Under Pub. L. 105–277:

Under EDA's fiscal year 1999 appropriation, Pub. L. 105–277, October 22, 1998, EDA's program funds total $368,379,000. Of this amount $248,796,000 is available through June 15, 1999.

ADDRESSES: Interested parties should contact the EDA office in their area, or in Washington, DC, as appropriate (see Section XII).

FOR FURTHER INFORMATION CONTACT: See information in Section XII for the EDA regional office and Economic Development Representative (EDR), or for programs handled out of Washington, DC, as appropriate.

SUPPLEMENTARY INFORMATION:

I. General Policies

In light of its limited resources and the demonstrated widespread need for economic development, EDA encourages only project proposals that will significantly benefit areas experiencing or threatened with substantial economic distress. EDA will focus its scarce financial resources on communities with the highest economic distress. Distress may exist in a variety of forms, including, but not limited to, high levels of unemployment, low income levels, large concentrations of low-income families, significant decline in per capita income, substantial loss of population because of the lack of employment opportunities, large numbers (or high rates) of business failures, sudden major layoffs or plant closures, military base closures, natural disasters, depletion of natural resources, and/or reduced tax bases.

Potential applicants are responsible for demonstrating to EDA, by providing statistics and other appropriate information, the nature and level of the distress their project efforts are intended to alleviate. In the absence of evidence of high levels of distress, EDA funding is unlikely.

EDA's strategic funding priorities are intended to implement Pub.L. 105–393 and to serve as a continuation of the general goals in place over the past five fiscal years, refined to reflect the priorities of the U. S. Department of Commerce. Unless otherwise noted below, the funding priorities, as listed below, will be applied by the Selecting Official (depending upon the program, either the Regional Director or Assistant Secretary) after completion of a project proposal's review based upon evaluation criteria described in EDA's regulations published in the FR (64 FR 5347, February 3, 1999), as separate Part II. During FY 1999, EDA is interested in receiving projects that support the priorities of the U.S. Department of Commerce, including:

- The construction and rehabilitation of essential public works infrastructure and economic development facilities that are necessary to achieve long-term growth and provide stable and diversified local economies in the Nation's distressed communities.
- Assistance to communities suffering job losses and/or plant closings resulting from changing trade patterns. This may include, but is not limited to, projects for export promotion, identification of new markets and products, increased productivity, and diversification of the local economic base.
- The commercialization and deployment of technology; particularly information technology and telecommunications, and efforts that support technology transfer, application and deployment for community economic development. Also included under this category would be projects that support the development of new environmental technologies and techniques (e.g., innovative material recycling or reuses, pollution control or treatment processes, and flood mitigation) that significantly enhance an area's economic development potential;
- Sustainable development which will provide long-term economic development (e.g., diversification of natural resource dependent economies, eco-industrial parks, aquaculture facilities, and brownfields' redevelopment) benefits without compromising the environment for future generations;
- Entrepreneurial development, especially local capacity building, and including small business incubators and community financial intermediaries (e.g., revolving loan funds);
- Economic adjustment, especially in response to military base and Federal laboratory closures and downsizing, defense industry downsizing, and post-disaster, long-term economic recovery;
- Infrastructure and economic development facilities located in federally authorized and designated rural and urban Enterprise Communities and Empowerment Zones and state enterprise zones;
- Projects that demonstrate innovative approaches to economic development;
- Projects that support the economic development of Indian country, including Alaska Native Villages; and/or
- Projects that support locally created partnerships that focus on regional solutions for economic development will be given priority over proposals that are more limited in scope. For example, projects that evidence collaboration in fostering an increase in regional (multicounty and/or multistate) productivity and growth will be considered to the extent that such projects demonstrate a substantial benefit to economically distressed areas of the region.

To the degree that one or more funding priorities are included (or packaged together) in the proposal, your ability to obtain EDA assistance would be enhanced.

II. Other Information and Requirements

• See EDA's regulations published in the FR (64 FR 5347, February 3, 1999), as separate Part II.

• Additional information and requirements are as follows:

All manuals/guidelines referred to in EDA's regulations are available from EDA offices.

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 (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. This notice involves a collection of information requirement subject to the provisions of the PRA and has been approved by OMB under Control Number 0610–0094.

All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying," and the following explanations are hereby provided:

Prospective participants (as defined at 15 CFR Part 26, section 105) "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies;

Grantees (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, "Drug-Free Workplace Requirements (Grants)" and the related section of the certification form prescribed above applies;

Persons (as defined at 15 CFR Part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DoC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DoC in accordance with the instructions contained in the award document.

No award of Federal funds will be made to an applicant who has an outstanding delinquent Federal debt until either:

1. The delinquent account is paid in full;

2. A negotiated repayment schedule is established and at least one payment is received; or

3. Other arrangements satisfactory to DoC are made.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Applicants should be aware that a false statement on the application is grounds for denial of the application or termination of the grant award and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Applicants are hereby notified that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

Applicants seeking an early start, i.e., to begin a project before EDA approval, must obtain a letter from EDA allowing such early start. The letter allowing the early start will be null and void if the project is not subsequently approved for funding by the grants officer. Approval of an early start does not constitute project approval. Applicants should be aware that if they incur any costs prior to an award being made they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DoC to cover preaward costs. Additionally, EDA also requires that compliance with environmental regulations, in accordance with the National Environmental Policy Act (NEPA), be completed before construction begins.

If an application is selected for funding, EDA has no obligation to provide any additional future funding in connection with an award. Renewal of an award to increase funding or extend the period of performance is at the sole discretion of EDA.

Unless otherwise noted below, eligibility, program objectives, application procedures, selection procedures, evaluation criteria and other requirements for all programs are set forth in EDA's regulations published in the FR (64 FR 5347, February 3, 1999), as separate Part II. Eligibility, grant rates, selection criteria and other requirements will be in accordance with EDA's interim-final rule to implement Pub. L. 105–393 (64 FR 5347).

Be apprised that any designation of a Redevelopment Area made before the effective date of the Economic Development Administration Reform Act of 1998 (Pub. L. 105–393) shall be of no effect after that effective date (which will be not later than February 11, 1999). For the new criteria for determining the eligibility and designation of areas see EDA's interim final rule (64 FR 5347) and/or contact the appropriate EDR or RO listed in Section XII. All applications approved after the effective date of Pub. L. 105–393 must comply with the new requirements.

Note: EDA is not authorized to provide any financial assistance directly to individuals for the purpose of starting a new business or expanding an existing business.

Special Need

An area is eligible, pursuant to Special Need, if the area meets one of the following criteria:

A. Substantial out-migration or population loss. Applicants seeking eligibility under this criteria will be asked to present appropriate and compelling economic and/or demographic need to demonstrate the special need.

B. Underemployment, that is, employment of workers at less than full time or at less skilled tasks than their training or abilities permit. Applicants seeking eligibility under this criteria will be asked to present appropriate and compelling economic and/or demographic need to demonstrate the special need.

C. Military base closures or realignments, defense contractor reductions-in-force, or Department of Energy defense-related funding reductions.

1. A military base closure refers to a military base that was closed or is schedule for closure or realignment pursuant to a Base Realignment and Closure Act (BRAC) process or other Defense Department process. The area is eligible from the date of Defense Department recommendation for closure until five years after the actual date of

closing for the installation, provided that the closure recommendation is not sooner canceled,

2. A defense contractor reduction-in-force refers to a defense contractor(s) experiencing defense contract cancellations or reductions resulting from official DoD announcements and having aggregate value of at least $10 million per year. Actual dislocations must have occurred within one year of application to EDA and threatened dislocations must be anticipated to occur within two years of application to EDA. Defense contracts that expire in the normal course of business will not be considered in meeting this criteria,

3. A Department of Energy defense-related funding reduction refers to a Department of Energy facility that has or will experience a reduction of employment resulting from its defense mission change. The area is eligible from the date of the Department of Energy announcement of reductions until five years after the actual date of reduced operations at the installation, provided that the reduction is not sooner canceled.

D. Natural or other major disasters or emergencies An area that has received one of the following disaster declarations is eligible for EDA assistance for a period of one year after the date of declaration, unless further extended by the Assistant Secretary:

1. A Presidential Disaster Declaration authorizing FEMA Public Assistance pursuant to the Robert T. Stafford and Emergency Assistance Act, as amended (Public Law 93–288), or

2. A Federally Declared Disaster pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, (Pub. L. 94–265) as amended by the Sustainable Fisheries Act (Pub. L. 104–297), or

3. A Federal Declaration pursuant to the Consolidated Farm and Rural Development Act, as amended (Public Laws 92–419, 96–438, 97–35, 98–258, 99–198, 100–233, 100–387, and 101–624), or

4. A Federally Declared Disaster pursuant to the Small Business Act, as amended (Pub. L. 85–536)

E. Extraordinary depletion of natural resources; EDA presently recognizes the following conditions of extraordinary natural resource depletion:

1. Fisheries.

2. Coal.

3. Timber.

Assistant Secretary modifications to the above listing of conditions of extraordinary natural resource depletion, as they may occur, will be announced in subsequent public notices.

F. Closure or restructuring of industrial firms, essential to area economies; an area that has experienced closure or restructuring of firms resulting in sudden job losses and meeting the following criteria:

1. For areas over 100,000 population, the actual or threatened dislocation is 500 jobs, or 1 percent of the civilian labor force (CLF), whichever is less.

2. For areas up to 100,000 population, the actual or threatened dislocation is 200 jobs, or 1 percent of the civilian labor force (CLF), whichever is less.

Actual dislocations must have occurred within one year of application to EDA and threatened dislocations must be anticipated to occur within two years of application.

G. Destructive impacts of foreign trade. An area certified as eligible by the North American Development Bank (NADBank) Program or the Community Adjustment and Investment Program (CAIP) .

H. Other special need—the area is experiencing other special and/or extraordinary economic adjustment need as determined by the Assistant Secretary. The applicant will be asked to present appropriate economic or demographic statistics to demonstrate a special need. Eligibility is determined at the time that EDA invites an application and is based on the most recent Federal data available for the area where the project will be located or where the substantial direct benefits will be received. If no Federal data are available to determine eligibility, an applicant must submit to EDA the most recent data available through the government of the State in which the area is located. A project must be eligible at time of award.

EDA will reject any documentation of eligibility that it determines is inaccurate.

III. Funding Availability

Under EDA's fiscal year 1999 appropriation, Pub.L. 105–277, October 22, 1998, EDA's program funds total $368,379,000. Of this amount $248,796,000 is available through June 15, 1999. EDA has already received and begun processing requests for funding under its programs during fiscal year 1999. New requests submitted that require approval during this fiscal year will face substantial competition. Potential applicants are encouraged to contact first the appropriate EDR for their area and then, if necessary, the appropriate regional or headquarters office listed in Section XII of this Notice.

IV. Authority

The authority for programs listed in Parts V through X is the Public Works and Economic Development Act of 1965, (Pub.L. 89–136, 42 U.S.C. 3121–3246h), as amended, and as further amended by Pub.L. 105–393 (PWEDA). The authority for the program listed in Part XI is Title II Chapters 3 and 5 of the Trade Act of 1974, as amended, (19 U.S.C. 2341–2355; 2391) (Trade Act), as amended by Pub. L. 105–119.

V. Program: Public Works and Development Facilities Assistance

(Catalog of Federal Domestic Assistance: 11.300 Economic Development-Grants for Public Works and Infrastructure)

Funding Availability

Funds in the amount of $205,850,000 have been appropriated for this program ($138,400,000 available through June 15, 1999). The average funding level for a grant last fiscal year was $836,000.

VI. Program: Technical Assistance-Local Technical Assistance; National Technical Assistance; and University Centers

(Catalog of Federal Domestic Assistance: 11.303 Economic Development-Technical Assistance)

Funding Availability

Funds in the amount of $9,100,000 have been appropriated for this program ($4,742,000 available through June 15, 1999). The average funding level for a local Technical Assistance (TA) grant last fiscal year was $27,000; for university centers it was $95,000; and for national TA it was $176,000. Most funds are expected to be used for support of existing University Centers, if they meet criteria established under EDA's regulations published in the FR (64 FR 5347, February 3, 1999), as separate part II.

A separate FR Notice will set forth the specific funding priorities, application process, and time frames for National Technical Assistance projects.

VII. Program: Planning—Planning Assistance for Economic Development Districts and Indian Tribes, Planning Assistance for States

(Catalog of Federal Domestic Assistance: 11.302 Economic Development—Support for Planning Organizations; 11.305 Economic Development—State Economic Development Planning)

Funding Availability

Funds in the amount of $24,000,000 have been appropriated for this program ($22,544,000 available through June 15, 1999). The funding levels for planning grants range from $10,000 to $200,000.

VIII. Program: Research and Evaluation

(Catalog of Federal Domestic Assistance: 11.312 Economic Development—Research and Evaluation Program)

Funding Availability

Funds in the amount of $500,000 have been appropriated for this program. The average funding level for a grant last fiscal year was $171,000.

A separate FR Notice will set forth the specific funding priorities, application process, and time frames for research and evaluation projects.

IX. Program: Economic Adjustment Assistance

(Catalog of Federal Domestic Assistance: 11.307 Economic Development and Adjustment Assistance Program)

Funding Availability

Funds in the amount of $34,629,000 have been appropriated for this program ($17,947,000 available through June 15, 1999). Of this amount, $12,000,000 is available for economic adjustment projects located in regions impacted by coal industry downsizing and timber industry issues with an additional $2,579,000 available for disaster mitigation uses.

The $2,579,000 of the disaster mitigation allocation will be available to support selected hazard prone communities including Project Impact communities, designated by Federal Emergency Management Agency (FEMA), for capacity building and mitigation activities in areas that are EDA eligible. In addition to the eligibility criteria set forth in EDA's regulation's published in the FR (64 FR 5347, February 3, 1999), in separate Part II., the communities must have experienced a natural disaster or be located in natural hazard prone areas.

The average funding level for a regular economic adjustment grant last year was $243,000.

X. Program: Defense Economic Conversion

(Catalog of Federal Domestic Assistance: 11.307 Economic Development and Adjustment Assistance Program; 11.300 Economic Development Grants; 11.303 Economic Development-Technical Assistance; 11.302 Economic Development—Support for Planning Organizations); 11.305 Economic Development—State and Other Area Economic Development Planning; 11.312 Economic Development—Research and Evaluation Program and 11.313 Economic Development—Trade Adjustment Assistance)

Funding Availability

Funds in the amount of $84,800,000 have been appropriated for this program ($54,563,000 available through June 15, 1999). The average funding level for a grant last year was $1,180,000.

XI. Program: Trade Adjustment Assistance

(Catalog of Federal Domestic Assistance: 11.313 Economic Development—Trade Adjustment Assistance)

Funding Availability

Funds in the amount of $9,500,000 have been appropriated for this program. The typical funding level for a grant last year was $791,000.

XII. EDA Regional Offices, Economic Development Representatives and Washington, DC Offices

The EDA regional and field offices, states covered and the economic development representatives (EDRs), and Washington, DC offices are listed below.

EDA Regional Offices

William J. Day, Jr., Regional Director, Atlanta Regional Office, 401 West Peachtree Street, NW, Suite 1820 Atlanta, Georgia 30308–3510, Telephone: (404) 730–3002, Fax: (404) 730–3025, Internet Address: wday1@doc.gov

Economic Development Representatives and States Covered

PATTERSON, Gilbert, 401 West Peachtree Street, NW, Suite 1820, Atlanta, GA 30308, Telephone: (404) 730–3000, Internet Address: gpatters@doc.gov—Mississippi

HUNTER, Bobby D., 771 Corporate Drive, Suite 200, Lexington, KY 40503–5477, Telephone: (606) 224–7426, Internet Address: bhunter@doc.gov—Kentucky, North Carolina (Western)

DIXON, Patricia M., U.S. Department of Commerce—EDA, P.O. Box 1707, Lugoff, SC 29078, Telephone: (803) 408–2513, Internet Address: pdixon@doc.gov—South Carolina, North Carolina (Eastern)

DENNIS, Bobby, 401 West Peachtree Street, NW, Suite 1820, Atlanta, GA 30308–3510, Telephone: (404) 730–3020, Internet Address: bdennis@doc.gov—Alabama

TAYLOR, Willie C., 401 West Peachtree Street, NW, Suite 1820, Atlanta, GA 30308–3510, Telephone: (404) 730–3032, Internet Address: wtaylor5@doc.gov—Florida

PELLEGRINO, Thomas, 401 West Peachtree Street, NW, Suite 1820, Atlanta, Georgia 30308–3510, Telephone: (404) 730–3028, Internet Address: tpellegrino@doc.gov—Georgia

REED, Tonia, 401 West Peachtree Street, NW, Suite 1820, Atlanta, Georgia 30308–3510, Telephone: (404) 730–3026, Internet Address: treed@doc.gov—Tennessee

Pedro R. Garza, Regional Director, Austin Regional Office, Thornberry Building, Suite 121, 903 San Jacinto Boulevard, Austin, Texas 78701, Telephone: (512) 916–5595, Fax: (512) 916–5613, Internet Address: pgarza1@doc.gov

Note: Effective March 1, 1999 the Austin address will change. The telephone numbers will remain the same. The new address will be: 327 Congress Avenue, Suite 200, Austin, Texas 78701–4037.

Regional Office Contacts and States Covered

FRERKING, Sharon T., Austin Regional Office, Thornberry Building, Suite 121, 903 San Jacinto Boulevard, Austin, Texas 78701, Telephone: (512) 916–5217, Internet Address: sfrerking@doc.gov—Oklahoma, New Mexico, Texas (North)

LEE, Ava J., Austin Regional, Thornberry Building, Suite 121, 903 San Jacinto Boulevard, Austin, TX 78701, Telephone: (512) 916–5824, Internet Address: alee6@doc.gov—Louisiana, Arkansas, Texas (South)

C. Robert Sawyer, Regional Director, Chicago Regional Office, 111 North Canal Street, Suite 855, Chicago, IL 60606, Telephone: (312) 353–7706, Fax: (312) 353–8575, Internet Address: rsawyer@doc.gov

Economic Development Representatives and States Covered

ARNOLD, John B. III, 104 Federal Building, 515 West First Street, Duluth, MN 55802, Telephone: (1–888) 865–5719 (Illinois), (218) 720–5326 (Minnesota), Internet Address: jarnold@doc.gov—Illinois, Minnesota

HICKEY, Robert F., Federal Building, Room 740, 200 North High Street, Columbus, Ohio 43215, Telephone: (1–800) 686–2603) (Indiana) (614–469–7314) (Ohio), Internet Address: rhickey@doc.gov—Ohio, Indiana

PECK, John E., P.O. Box 517, Acme, Michigan 49610–0517, Telephone: (616) 938–1712, Internet Address: jpeck@doc.gov— Michigan, Wisconsin

John Woodward, Regional Director, Denver Regional Office, 1244 Speer Boulevard, Room 670, Denver, Colorado 80204, Telephone: (303) 844–4715, Fax: (303) 844–3968, Internet Address: jwoodwa2@doc.gov

Economic Development Representatives and States Covered

ZENDER, John P., 1244 Speer Boulevard, Room 632, Denver, CO 80204, Telephone: (303) 844–4902, Internet Address: jzender@doc.gov—Colorado, Kansas

CECIL, Robert, Federal Building, Room 593A, 210 Walnut Street, Des Moines, IA 50309, Telephone: (515) 284–4746, Internet Address: bcecil@doc.gov—Iowa, Nebraska

HILDEBRANDT, Paul, Federal Building, Room B–2, 608 East Cherry Street, Columbia, MO 65201, Telephone: (573) 442–8084, Internet Address: phildeb1@doc.gov—Missouri

ROGERS, John C., Federal Building, Room 196, 301 South Park Ave., Drawer 10074, Helena, MT 59626, Telephone: (406) 441–1175, Internet Address: jrogers6@doc.gov—Montana

JUNGBERG, Cip, Post Office/Courthouse, 102 4th Ave., Room 216, P.O. Box 190, Aberdeen, South Dakota 57401, Telephone: (605) 226–7315, Internet Address: cjungberg@doc.gov—South Dakota, North Dakota

OCKEY, Jack, Federal Building, Room 2105, 125 South State Street, Salt Lake City, UT 84138, Telephone: (801) 524–5119, Internet Address: jockey@doc.gov—Utah, Wyoming

Paul M. Raetsch, Regional Director, Philadelphia Regional Office, Curtis Center, Independence Square West, Suite 140 South, Philadelphia, PA 19106, Telephone: (215) 597–4603, Fax: (215) 597–6669, Internet Address: PRaetsch@doc.gov

Economic Development Representatives and States Covered

GOOD, William A., Acting, Philadelphia Regional Office, The Curtis Center-Suite 140 South, Independence Square West, Philadelphia, PA 19106, Telephone: (215) 597–0405, Internet Address: wgood@doc.gov—Delaware, District of Columbia

AUBE, Michael W., 48 Highland Avenue, Bangor, ME 04401–4656, Telephone: (207) 945–6985, Internet Address: MAube@doc.gov—Connecticut, Maine, Rhode Island

POTTER, Rita V., 143 North Main Street, Suite 209, Concord, NH 03301–5089, Telephone: (603) 225–1624, Internet Address: rpotter@doc.gov—New Hampshire, Massachusetts

HUMMEL, Edward, Philadelphia Regional Office, The Curtis Center-Suite 140 South, Independence Square West, Philadelphia, PA 19106, Telephone: (215) 597–6767, Internet Address: ehummel@doc.gov—New Jersey, New York City (Long Island)

MARSHALL, Harold J. II, 620 Erie Boulevard West, Suite 104, Syracuse, NY 13204–2442, Telephone: (315) 448–0938, Internet Address: hmarshal@doc.gov—New York, Vermont

PECONE, Anthony M., 525 North Broad Street, West Hazleton, PA 18201–1107, Telephone: (717) 459–6861, Internet Address: apecone@doc.gov—Pennsylvania

CRUZ, Ernesto L., IBM Building, Room 620, 654 Munoz Rivera Avenue, Hato Rey, PR 00918–1738, Telephone: (787) 766–5187, Internet Address: ecruz@doc.gov—Puerto Rico, Virgin Islands

NOYES, Neal E., Room 474, 400 North 8th Street, P.O. Box 10229, Richmond, VA 23240–1001, Telephone: (804) 771–2061, Internet Address: nnoyes@doc.gov—Virginia, Maryland

DAVIS, R. Byron, 405 Capital Street, Room 141, Charleston, WV 25301, Telephone: (304) 347–5252, Internet Address: bdavis3@doc.gov—West Virginia

A. Leonard Smith, Regional Director, Seattle Regional Office, Jackson Federal Building, Room 1856, 915 Second Avenue, Seattle, Washington 98174, Telephone: (206) 220–7660, Fax: (206) 220–7669, Internet Address: LSmith7@doc.gov.

Economic Development Representatives and States Covered

RICHERT, Bernhard E. Jr., 605 West 4th Avenue, Room G–80, Anchorage, AK 99501–7594, Telephone: (907) 271–2272, Internet Address: brichert@doc.gov—Alaska

SOSSON, Deena R., 801 I Street, Suite 411, Sacramento, CA 95814, Telephone: (916) 498–5285, Internet Address: dsosson@doc.gov—California (Central)

CHURCH, Dianne V.—280 South First St., #135–B, San Jose, CA 95113, Telephone: (408) 535–5550, Internet Address: dchurch@doc.gov—California (Central Coastal)

FUJITA, Gail S., P.O. Box 50264, 300 Ala Moaana Blvd, Federal Building, Room 4106, Honolulu, HI 96850, Telephone: (808) 541–3391, Internet Address: gfugita@doc.gov—Hawaii, Guam, American Samoa, Marshall Islands, Micronesia, Northern Marianas

AMES, Aldred F., Borah Federal Building, Room 441, 304 North 8th Street, Boise, ID 83702, Telephone: (208) 334–1521 (Idaho), (1–888) 693–1370 (Nevada), Internet Address: aames@doc.gov—Idaho, Nevada

BERBLINGER, Anne S., One World Trade Center, 121 SW Salmon Street, Suite 244, Portland, OR 97204, Telephone: (503) 326–3078, Internet Address: aberblin@doc.gov—Oregon, California, (Northern)

SVENDSEN, David E., Seattle Regional Office, Jackson Federal Building, 915 Second Avenue, Room 1856, Seattle, WA 98174, Telephone: (206) 220–7703, Internet Address: dsvendse@doc.gov—California, (Southern)

KIRRY, Lloyd P., Seattle Regional Office, Jackson Federal Building, 915 Second Avenue, Room 1856, Seattle, WA 98174, Telephone: (206) 220–7682, Internet Address: lkirry@doc.gov—Washington

MACIAS, Jacob, Seattle Regional Office, Jackson Federal Building, 915 Second Avenue, Room 1856, Seattle, WA 98174, Telephone: (206) 220–7666, Internet Address: jmacias@doc.gov—Arizona

Washington, DC Offices

For Trade Adjustment Assistance (only): Coordinator, Trade Adjustment and Technical Assistance, Planning and Development Assistance Division, Economic Development Administration, Room 7317, U.S. Department of Commerce, Washington, DC 20230, Telephone: (202) 482–2127

For National Technical Assistance and Research (only), National Technical Assistance and Research Division, Economic Development Administration, Room 7019, U.S. Department of Commerce, Washington, DC 20230, Telephone: (202) 482–2309

For general information on EDA contact the appropriate Regional Office listed above or EDA's Office of Congressional Liaison and Program Research and Evaluation at 202–482–2309.

Dated: February 18, 1999.

Phillip A. Singerman,

Assistant Secretary for Economic Development.

[FR Doc. 99–4493 Filed 2–23–99; 8:45 am]

BILLING CODE 3510–24–P

Federal Register

Wednesday
February 24, 1999

Part III

Department of Education

Even Start Statewide Family Literacy Initiative Grants; Notices

DEPARTMENT OF EDUCATION

[CFDA NO.: 84.314B]

Even Start Statewide Family Literacy Initiative Grants

AGENCY: Department of Education.

ACTION: Notice of Final Priority for Fiscal Year 1999.

SUMMARY: The Secretary announces an absolute priority for competitive grants awarded under the Even Start Statewide Family Literacy Initiative grants for Fiscal Year (FY) 1999. Under this priority, the Department will support only Even Start Statewide Family Literacy Initiatives for any State applicant that includes in its application (1) indicators of program quality as described in Section 1210 of the Elementary and Secondary Education Act (ESEA) (as amended by the Reading Excellence Act) that the State has developed for Even Start Family Literacy projects; or (2) a plan and timeline for the development of those indicators within a reasonable time period, not to exceed one year from the date of the grant award. The law requires States to base these program quality indicators on the best available research and evaluation data. Upon development, the law requires States to use these quality indicators in evaluating Even Start projects' program performance and improvement for the purpose of continued funding.

Note: This notice of final priority does not solicit applications. A notice inviting applications under the FY1999 competition for Even Start Statewide Family Literacy Initiative Grants is published in a separate notice in this issue of the **Federal Register**.

EFFECTIVE DATE: February 24, 1999.

WAIVER OF PROPOSED RULEMAKING: It is the Secretary's practice, in accordance with the Administrative Procedure Act (5 U.S.C. 553), to offer interested parties the opportunity to comment on proposed priorities that are not taken directly from statute. Ordinarily, this practice would have applied to the absolute priority in this notice. Section 437(d)(1) of the General Education Provisions Act (GEPA), however, exempts from this requirement rules that apply to the first competition under a new or substantially revised program. The Reading Excellence Act, as enacted by Public Law 105–277, greatly expanded the funds available for these grants and added new substantive requirements, making this grant authority a "substantially revised program." The Secretary, in accordance with section 437(d)(1) of GEPA, has decided to forego public comment with respect to the absolute priority in order to ensure timely awards. The absolute priority will apply only to the FY 1999 grant competition, which is being conducted in two stages.

FOR FURTHER INFORMATION CONTACT: Mary LeGwin, U. S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202–6132. Telephone (202) 260–2499. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Absolute Priority:

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to any State applicant that includes in its application (1) indicators of program quality, as described in Section 1210 of the Elementary and Secondary Education Act (ESEA) (as amended by the Reading Excellence Act) that the State has developed for Even Start family literacy projects; or (2) a plan and timeline for the development of those indicators within a reasonable time period, not to exceed one year.

States are required to develop these indicators by Section 1210 of the ESEA. The law requires these indicators to be based upon the best available research and evaluation data. Once developed, the law requires States to use the indicators in evaluating Even Start projects' program performance and improvement for the purpose of continued funding. To improve family literacy outcomes for adults and children, performance indicators must provide data to identify areas in which the programs are working well and areas in which improvement is needed. Even Start quality indicators will provide a measure of accountability to assess the extent to which overall program goals and objectives are being achieved and provide the basis for continuous improvement of local family literacy projects.

The indicators of performance quality as described in Section 1210 of the ESEA must include the following:

(1) With respect to eligible participants in a program who are adults—

(A) Achievement in the areas of reading, writing, English language acquisition, problem solving, and numeracy;

(B) Receipt of a high school diploma or a general equivalency diploma;

(C) Entry into a postsecondary school, job retraining program, or employment or career advancement, including the military; and

(D) Such other indicators as the State may develop.

(2) With respect to eligible participants in a program who are children—

(A) Improvement in ability to read on grade level or reading readiness;

(B) School attendance;

(C) Grade retention and promotion; and

(D) Such other indicators as the State may develop.

The Secretary funds under the FY 1999 competition for these grants only applicants that meet this absolute priority.

Electronic Access To This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
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To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G-Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

You may view information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official

application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 6362(c).

Dated: February 19, 1999.

Judith Johnson,

Acting Assistant Secretary, Elementary and Secondary Education.

[FR Doc. 99–4553 Filed 2–23–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.314B]

Even Start Statewide Family Literacy Initiative Grants

AGENCY: Department of Education.

ACTION: Notice inviting State applications for new awards for fiscal year (FY) 1999 funds for Even Start Statewide Family Literacy Initiative grants.

Note to Applicants: This notice is a complete application package. Together with the statute authorizing these grants, and the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition. These grants are authorized by Section 1202(c) of the Elementary and Secondary Education Act (ESEA), as amended by the Reading Excellence Act (REA) (enacted as Title VIII of the Labor-Health and Human Services-Education Appropriations Act, 1999 by Section 101(f) of Public Law 105–277, the Omnibus Appropriations Act for FY 1999).

Summary of Program: Even Start Statewide Family Literacy Initiative grants are awarded to States for planning and implementing Statewide family literacy initiatives, consistent with the Even Start Family Literacy Program (Part B of Title I of the ESEA). The purpose of Even Start is to help break the cycle of poverty and illiteracy by improving the educational opportunities of the Nation's low-income families by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified family literacy program. These initiatives coordinate and, where appropriate, integrate existing Federal, State, and local literacy resources to strengthen and expand family literacy services in the State.

States must conduct Even Start Statewide family literacy initiative activities through a consortium that includes at least the following State-level programs:

- Title I of the ESEA, Part A (LEA grants);
- Even Start (Title I, Part B);
- Migrant Education Program (Title I, Part C);
- Comprehensive School Reform Demonstration Program (Title I, Part E, Section 1502);
- Head Start;
- Adult Education and Family Literacy Act; and
- All other State-funded preschool programs and State-funded programs providing literacy services to adults.

The State must include in its application a plan developed by the consortium to use a portion of the State's resources (monetary or non-monetary, or both) from one or more of the programs required to be in the consortium, to strengthen and expand family literacy services in the State. The consortium also may include other programs, such as programs for infants and toddlers with disabilities under Part C of the Individuals with Disabilities Act (IDEA), and programs for children with disabilities under Sections 611 and 619 of the IDEA.

The law specifically requires the programs listed above to be part of the consortium that conducts the initiative's activities. The law also requires the consortium to coordinate and integrate activities and resources from specified programs. Please note that these programs differ slightly from the State-level programs required to be part of the consortium.

The initiative must coordinate and integrate resources and activities from, at least, the following programs: Part A of Title I of the ESEA (LEA grants); Even Start (Title I, Part B); the Adult Education and Family Literacy Act; Head Start; and the State's block grant under Part A of Title IV of the Social Security Act for Temporary Assistance for Needy Families (TANF). The law also requires the consortium to coordinate its activities with the activities of the reading and literacy partnership for the State established under Section 2253(d) of the REA if the State Educational Agency receives a reading and literacy grant under the REA. The consortium is encouraged to coordinate and integrate resources and appropriate activities from other programs as well, such as programs for infants and toddlers with disabilities and children with disabilities under the IDEA, and programs included in the consortium such as Migrant Education (Title I, Part C), Comprehensive School Reform Demonstration (Title I, Part E), and State-funded preschool and adult literacy programs.

Eligible Applicants: One State office or agency from each State, the District of Columbia, and Puerto Rico.

Deadline for Transmittal of Applications: States will have two opportunities to submit their applications under this competition for FY 1999 funds. Transmittal deadline for the first stage of applications: April 26, 1999. Transmittal deadline for the second stage of applications: August 20, 1999.

Deadline for Intergovernmental Review: First stage: April 30, 1999. Second stage: September 3, 1999.

Applications Available: February 24, 1999.

Available Funds: $10,000,000.

Note: The Secretary intends to reserve about $328,000 from these funds to provide technical assistance to the Even Start Statewide Family Literacy Initiative.

Matching and Use of Funds Requirements: A State receiving a grant for an Even Start Statewide Family Literacy Initiative must make available non-Federal contributions (cash or in-kind) in an amount at least equal to the Federal funds awarded under the grant. These non-Federal contributions may be from State or local resources, or both. Grantees may not use these grant funds for indirect costs, either as a direct charge or as part of the matching requirement.

Estimated Range of Awards: $75,000–$250,000 for each of two years.

Estimated Average Size of Awards: $186,000 for 52 grants.

Estimated Number of Awards: 40–52.

Note: This Department is not bound by any estimates in this notice. The Secretary expects that the amount of available funds will be sufficient for all States with high-quality applications to receive awards. Funding for each stage of this competition will be based initially on the estimated average size of awards ($186,000) multiplied by the number of approved applicants (grantees) in each stage. If the sum total of the approved application budgets in either stage exceeds the total funding available for that stage of the competition, all of the budgets will be reduced proportionately. If there are remaining funds at the end of the second stage, each grantee's budget will be increased proportionately up to the amount of the approved budget.

Project Period: 24 months (comprised of two one-year budget periods).

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) as follows:

- 34 CFR Part 75 (Direct Grant Programs).
- 34 CFR Part 77 (Definitions that Apply to Department Regulations).

• 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).
• 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).
• 34 CFR Part 81 (General Education Provisions Act—Enforcement).
• 34 CFR Part 82 (New Restrictions on Lobbying).
• 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

Absolute Priority: The Secretary has published elsewhere in this issue of the **Federal Register** a notice of final priority, which establishes an absolute priority for applicants for these grants. The absolute priority is for any State applicant that includes in its application (1) indicators of program quality as described in Section 1210 of the ESEA (as amended by the Reading Excellence Act) that the State has developed for Even Start family literacy projects; or (2) a plan and timeline for the development of those indicators within a reasonable time period, not to exceed one year from the date of the grant award. The law requires States to base these program quality indicators on the best available research and evaluation data. Once developed, the law requires States to use the indicators in evaluating Even Start projects' program performance and improvement for the purpose of continued funding. The Secretary will fund under this competition only applicants that meet this priority (34 CFR 75.105(c)(3)).

Invitational Priorities: The Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets an invitational priority does not receive competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Invitational Priorities—Statewide family literacy initiatives that propose any or all of the following activities:

• Adopting and implementing recommendations and findings from the best available research on reading and literacy, such as the following: those reported in two publications by the National Research Council (NRC), *Preventing Reading Difficulties in Young Children* and NRC's practitioner's guide, *Starting Out Right, A Guide to Promoting Children's Reading Success* (National Academy Press, 1998) (www.nap.edu); reading research pertaining to persons with learning disabilities and limited English proficiency, such as *Educating Language-minority Children* (www.nap.edu); and research reflected in the joint position statement by the National Association for the Education of Young Children and International Reading Association (www.naeyc.org/about/position/psread1.htm). Information on reading and literacy research is also available from the National Institute for Literacy (www.nifl.gov).
• Implementing a professional development plan, for staff working in family literacy programs, based upon the best available research on emerging literacy, language development, and reading instruction, especially for families who are limited English proficient, migrant or homeless and adults and children with disabilities.
• Strategies to increase the intensity of local family literacy activities for school-age children through seven years old through before- and after-school, weekend, and summer literacy activities, including family literacy activities for families who are limited English proficient, migrant or homeless and adults and children with disabilities.
• Strategies to strengthen local evaluations for Even Start family literacy projects (required by Section 1205(10) of the ESEA) so that those evaluations generate data that can be used for continuous improvement efforts, including improved literacy outcomes for adults and children.

SUPPLEMENTARY INFORMATION: This two-stage FY 1999 competition is designed to allow all interested States adequate time to submit high-quality applications, including States that have existing statewide family literacy plans and those that are developing those plans.

States that received Even Start Statewide Family Literacy Initiative grants in the two previous competitions in 1996 and 1998 are eligible to apply under this competition. However, 1998 grant recipients must propose to use the funds under this competition for activities that are different than for which they are using their current Even Start Statewide Family Literacy Initiative grant funds, which were awarded under a previous authority.

To receive a grant, the consortium established by a State must create a plan to use a portion of the State's resources (monetary or non-monetary), derived from one or more of the required programs in the consortium, to strengthen and expand the State's family literacy services. The law requires the consortium to include the following programs: Part A of Title I of the ESEA (LEA grants); Even Start (Title I, Part B); Migrant Education Program (Title I, Part C); Comprehensive School Reform Demonstration Program (Title I, Part E, Section 1502); Head Start; the Adult Education and Family Literacy Act; and all other State-funded preschool programs and State-funded programs providing literacy services to adults. The State may include in the consortium other programs and resources as well, such as programs for infants and toddlers with disabilities and for children with disabilities under the IDEA. The programs that the law requires to be in the consortium differ slightly from the programs that the law requires the consortium to coordinate and integrate. The State, in forming its consortium and planning its coordination of activities and resources, may expand the two sets of programs so that they are identical, such as by adding the State-level TANF program to the consortium, and including all of the programs in the consortium in coordination and integration activities.

Two specific statutory definitions apply to these grants: "family literacy services" and "scientifically-based reading research." The law defines "family literacy services" as services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

• Interactive literacy activities between parents and their children.
• Training for parents regarding how to be the primary teacher for their children and full partners in their children's education.
• Parent literacy training that leads to economic self-sufficiency.
• An age-appropriate education to prepare children for success in school and life experiences. (Section 1202(e)(3) of the ESEA.)

In addition, Statewide family literacy initiatives that receive grant awards must base reading instruction on "scientifically-based reading research," as that term is defined in Section 2252 of the REA.

The Secretary will review applications on the basis of the absolute priority and the selection criteria included in this notice. All funded projects must meet the absolute priority. However, applicants have discretion in determining how best to address that priority. The absolute priority requires that States receiving these grants include in their applications indicators of program quality for Even Start family literacy projects, or a plan and timeline to develop those indicators within a

reasonable period, not to exceed one year. These indicators of program quality, which States are required to develop under Section 1210 of the ESEA (Even Start), must be based upon the best available research and evaluation data. Once developed, the law requires States to use the indicators in evaluating Even Start projects' program performance and improvement for the purpose of continued funding. Even Start quality indicators will provide a measure of accountability to assess the extent to which overall program goals and objectives are being achieved and provide the basis for continuous improvement of local family literacy projects.

Indicators of Program Quality. Section 1210 of the ESEA requires these Even Start indicators of program quality to include:

(1) With respect to eligible participants in a program who are adult—

- achievement in the areas of reading, writing, English language acquisition, problem solving, and numeracy;
- receipt of a high school diploma or a general equivalency diploma;
- entry into a postsecondary school, job retraining program, or employment or career advancement, including the military; and
- such other indicators as the State may develop.

(2) With respect to eligible participants in a program who are children—

- improvement in ability to read on grade level or reading readiness;
- school attendance;
- grade retention and promotion; and
- such other indicators as the State may develop.

When developing specific State measures of performance for Even Start indicators for family literacy projects, States may wish to coordinate these quality indicators with the objectives and performance indicators in the Even Start Family Literacy Program Performance Plan that the Department has developed in accordance with the Government Performance and Results Act (GPRA). The GPRA indicators, included with this application notice, have been approved by the Office of Management and Budget and shared with the Congress. GPRA indicators may be used to guide local family literacy projects in strengthening their local evaluations.

Selection Criteria:

The Secretary uses the following selection criteria to evaluate applications for grants under this competition. The word "project," as used in the selection criteria, refers for the purposes of this grant competition to the proposed Statewide family literacy initiative.

(1) The maximum composite score for all of these criteria is 100 points. To ensure the quality of funded submissions, applications must receive a total of at least 70 points to qualify for funding.

(2) The maximum score for each criterion is indicated in parentheses, and further divided between each subcriterion.

(a) *Meeting the purposes of the authorizing statute.* (10 points). The Secretary considers how well the project will meet the purpose of Section 1202(c) of the ESEA (Even Start Statewide family literacy initiative grants). In making this determination, the Secretary considers how well the project will enable the State to plan and implement a Statewide family literacy initiative that will strengthen and expand the State's family literacy services, and coordinate and integrate existing Federal, State, and local literacy resources, consistent with the purpose of the Even Start Family Literacy Program (Part B of Title I of the ESEA).

(**Note:** As required by Section 1202(c)(2) of the ESEA, the initiative must be conducted through a consortium that includes representatives from the following programs: Part A of Title I of the ESEA (LEA grants); Even Start (Title I, Part B), Migrant Education Program (Title I, Part C); Comprehensive School Reform Demonstration Program (Title I, Part E, Section 1502); Head Start; the Adult Education and Family Literacy Act; and all other State-funded preschool programs and State-funded programs providing literacy services to adults. In addition, the State's application must include a plan developed by the consortium to use a portion of the State's resources (monetary or non-monetary) from one or more of those programs to strengthen and expand family literacy services in the State. The consortium also may include representatives from other programs, such as programs for infants and toddlers with disabilities and children with disabilities under the IDEA.)

(b) *Need for project.* (10 points). The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project will focus on serving or otherwise addressing the needs of low-income families. (5 points).

(**Note:** The Secretary invites applicants to describe any existing State initiatives that promote family literacy for families with economic and educational needs.)

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed initiative, including the nature and magnitude of those gaps or weaknesses. (5 points).

(c) *Significance.* (20 points). The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The likelihood that the proposed project will result in system change or improvement. (5 points).

(ii) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population. (15 points).

(d) *Quality of the project design.* (20 points). The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students. (10 points).

(ii) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, State, and Federal resources. (10 points).

(**Note:** The proposed initiative must coordinate and, where appropriate, integrate existing Federal, State, and local literacy resources, consistent with the purpose of the Even Start Family Literacy Program (Part B of Title I of the ESEA). These must include resources, monetary or non-monetary, from the following programs: the Adult Education and Family Literacy Act; Head Start; Part A of Title I of the ESEA (LEA Grants); Even Start (Title I, Part B), and the State's block grant for Temporary Assistance for Needy Families (TANF) (Part A of Title IV of the Social Security Act). In addition, the consortium must coordinate its activities with the activities of the reading and literacy partnership for the State established under Section 2253(d) of the REA if the State Educational Agency receives a reading and literacy grant under the REA. The consortium is encouraged to coordinate and integrate resources and appropriate activities from other programs as well, such as programs for infants and toddlers with disabilities and children with disabilities under the IDEA and other programs represented in the consortium such as Migrant Education and Comprehensive School Reform Demonstration programs, and State-funded preschool and adult literacy programs.

Applicants may address this criteria in any way that is reasonable. In addressing an initiative's proposed coordination efforts, the Secretary encourages applicants to describe how the initiative will coordinate and ensure compatibility among (to the extent possible)

the different performance indicators and standards being developed for literacy-related programs, such as the Even Start indicators of program quality required under Section 1210 of the ESEA and the absolute priority in this competition, the Adult Education and Family Literacy Act performance indicators required under Section 212 of that Act, and the Head Start quality performance standards required under Section 641A (a) of the Head Start Act.)

(e) *Quality of project personnel.* (10 points). The Secretary considers the quality of the personnel who will carry out the proposed project. (1) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (2) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of key project personnel. (5 points).

(ii) The qualifications, including relevant training and experience, of project consultants or subcontractors. (5 points).

(f) *Adequacy of resources.* (10 points). The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project. (5 points).

(**Note**: "Partner" in the context of this grant competition refers to the programs comprising the consortium that conducts the Statewide family literacy initiative activities. That consortium must include representatives from the following programs at the State level: Part A of Title I of ESEA (LEA grants); Even Start (Title I, Part B); Migrant Education (Title I, Part C); Comprehensive School Reform Demonstration Program (Title I, Part E, Section 1502); the Head Start Act; the Adult Education and Family Literacy Act; and all other State-funded preschool programs and State-level programs providing literacy services to adults. The consortium must plan to use a portion of the State's resources (monetary or non-monetary), derived from one or more of those programs, to strengthen and expand family literacy services in the State. The consortium also may include representatives from other programs, and resources from those programs, such as programs for infants and toddlers with disabilities and for children with disabilities under the IDEA.)

(ii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (5 points).

(g) *Quality of the management plan.* (10 points). The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factor:

How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

(h) *Quality of project evaluation.* (10 points). The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (5 points).

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (5 points).

(**Note**: In accordance with 34 CFR 75.118 and 80.40 of EDGAR, grant recipients in this competition must submit an annual performance report at the end of the first budget period to the Secretary to support a continuation award, and a final performance report at the completion of the project. This is in contrast to former Even Start Statewide Family Literacy Initiative grants that were awarded through a single award cycle and required only a final performance report. Consistent with administrative practice, the Department will provide specific instructions on what information must be addressed in the annual performance report.)

Even Start Family Literacy Program Performance Plan

Objectives and Indicators

Objective 1. The literacy of participating families will improve.

1.1 *Adult literacy achievement.* By fall 2001, 40 percent of Even Start adults will achieve significant learning gains on measures of math skills and 30 percent of adults will achieve such gains on measures of reading skills. *In 1995–96, 24% of adults achieved a moderate- to large-sized gain between pretest and posttest on a test of math achievement, and 20% on a test of reading achievement.*

1.2 *Adult educational attainment.* By fall 2001, 25 percent of adult secondary education (ASE) Even Start participants will obtain their high school diploma or equivalent. *In 1995–96, 18% of all ASE/GED participants earned a GED.*

1.3 *Children's language development and reading readiness.* By fall 2001, 60 percent of Even Start children will attain significant gains on measures of language development a and reading readiness. *In 1995–96, 81% of children made better than expected gains on a test of school readiness, and 50% achieved moderate to large gains on a test of language development.*

1.4 *Parenting skills.* Increasing percentages of parents will show significant improvement on measures of parenting skills, home environment, and expectations for their children. *In 1995–96, 41% of parents scored 75% or higher correct on the posttest measuring the quality of cognitive stimulation and emotional support provided to children in the home.*

Objective 2. Even Start projects will reach their target population of families that are most in need of services.

2.1 *Recruitment of most in need.* The projects will continue to recruit low-income, disadvantaged families with low literacy levels. *In 1996–97, 90% of families had incomes at or substantially below the federal poverty level and 45% of parents had less than a ninth grade education at intake.*

Objective 3. Local Even Start projects will provide comprehensive instructional and support services of high quality to all families in a cost-effective manner.

3.1 *Service hours.* By fall 2001, half of projects will offer at least 60 hours of adult education per month, at least 20 hours of parenting education per month, and at least 65 hours of early childhood education per month. *In 1995–96, half of projects offered 32 hours or more of adult education per month, 13 hours or more of parenting education per month, and 34 hours or more of early childhood education per month.*

3.2 *Participation, retention and continuity.* Projects will increasingly improve retention and continuity of services. By fall 2001, at least 60 percent of all families will stay in the program for more than one year. *Of all families participating in Even Start in 1994–95 38 percent stayed in the program for more than one year. Of new families entering in 1995–96, 41 percent stayed for more than one year.*

Objective 4. The Department of Education will provide effective guidance and technical assistance and will identify and disseminate reliable information on effective approaches.

4.1 *Federal technical assistance.* An increasing percentage of local project

directors will be satisfied with technical assistance and guidance. *Baseline to be determined.*

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Executive Order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Points of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive Order. The addresses of individual State Single Point of Contact are in the Appendix to this notice.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA #84.314B, U.S. Department of Education, Room 7E200, 400 Maryland Avenue, SW, Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Eastern Standard Time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Instructions for transmittal of applications:

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: Mary LeGwin (CFDA #84.314B), Compensatory Education Programs, Room 3633, Regional Office Building #3, 7th and D Streets, SW, Washington, DC 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: Mary LeGwin (CFDA #84.314B), Compensatory Education Programs, Room 3633, Regional Office Building #3, 7th and D Streets, SW, Washington, DC 20202–4725.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If any application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this application is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. The State should organize and submit its application in the same manner in which these parts and additional materials are organized. The parts and additional materials are as follows:

Part I: Application for Federal Education Assistance (ED 424 (approved OMB 1875–0106, exp. 06/30/2001) and instructions.

Part II: Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

Part III: Application Narrative.

Additional Materials

- Estimated Public Reporting Burden.
- Assurances—Non-Construction Programs (Standard Form 424).
- Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).
- Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions. (NOTE: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)
- Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A). (See amendments by 61 FR 1412 (1/19/96).
- Notice to all Applicants (Section 427 of the General Education Provisions Act).

An applicant may submit information on photostatic copies of the application, budget forms, assurances, and certifications. However, the application form, assurances, and certifications must each have an original signature. No grant may be awarded unless a completed application form, including the signed assurances and certifications, has been received.

FOR FURTHER INFORMATION CONTACT: Mary LeGwin, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202–6132. Telephone (202) 260–2499. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable

document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

You may view information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. Section 6362(c).

Dated: February 19, 1999.

Judith Johnson,

Acting Assistant Secretary, Elementary and Secondary Education.

BILLING CODE 4000–01–P

Application for Federal Education Assistance

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address

Legal Name:

Address:

Organizational Unit

City | State | County | ZIP Code + 4

2. Applicant's D-U-N-S Number

3. Catalog of Federal Domestic Assistance #: 8 4 → Title:

4. Project Director:

Address:

City | State | ZIP Code + 4

Tel. #: ( ) - Fax #: ( ) -

E-Mail Address:

5. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)

6. Type of Applicant *(Enter appropriate letter in the box.)*

A State	H Independent School District
B County	I Public College or University
C Municipal	J Private, Non-Profit College or University
D Township	K Indian Tribe
E Interstate	L Individual
F Intermunicipal	M Private, Profit-Making Organization
G Special District	N Other *(Specify)*:

7. Novice Applicant ☐ Yes ☐ No

Application Information

8. Type of Submission:

—PreApplication	—Application
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

9. Is application subject to review by Executive Order 12372 process?

☐ Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/_____

☐ No *(If "No," check appropriate box below.)*

☐ Program is not covered by E.O. 12372.

☐ Program has not been selected by State for review.

10. Proposed Project Dates:

Start Date:	End Date:
___/___/_____	___/___/_____

11. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No

a. If "Yes," Exemption(s) #:

OR

b. Assurance of Compliance #:

c. IRB approval date: _____ ☐ Full IRB or ☐ Expedited Review

12. Descriptive Title of Applicant's Project:

Estimated Funding

13a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

14. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative

b. Title

c. Tel. #: ( ) - Fax #: ( ) -

d. E-Mail Address:

e. Signature of Authorized Representative | Date: ___/___/_____

ED 424

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

4. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

5. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

6. **Type of Applicant.** Enter the appropriate letter in the box provided.

7. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

8. **Type of Submission.** Self-explanatory.

9. **Executive Order 12372.** Check "Yes" if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check "No."

10. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

11. **Human Subjects.** Check "Yes" or "No". If research activities involving human subjects are not planned at any time during the proposed project period, check "No." **The remaining parts of item 11 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, are planned at any time during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If all the research activities are designated to be exempt under the regulations, enter, in item 11a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 11a, are appropriate. **Provide this narrative information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 11.**

    If some or all of the planned research activities involving human subjects are covered (nonexempt), skip item 11a and continue with the remaining parts of item 11, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 11b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 11c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 11c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 11b and skip 11c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

12. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

13. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 13.

14. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 14e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106.** The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH
(Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 11 on the application "Yes" and designated exemptions in 11a, **(all research activities are exempt)**, provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 11 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt)**, address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as*

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1880--0538

Expiration Date: 10/31/99

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e):
For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f):
Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e):
Show the total budget request for each project year for which funding is requested.

Line 12, column (f):
Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e):
For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f):
Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e):
Show the total matching or other contribution for each project year.

Line 12, column (f):
Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

INSTRUCTIONS FOR PART III: APPLICATION NARRATIVE

Before preparing the Application Narrative, an applicant should read carefully the description of the program and the selection criteria the Secretary will use to evaluate applications for this grant competition.

The narrative must encompass each function or activity for which funds are being requested and must --

1. Begin with a one-page Abstract summarizing the proposed Statewide family literacy initiative;

2. Describe how the applicant meets the absolute priority;

3. Describe the proposed project in light of the selection criteria in the order in which the criteria are listed in this application package; and

4. Include the plan developed by the consortium established by the State to use a portion of the State's resources to strengthen and expand family literacy services in the State. The consortium must include representatives from the following State-level programs: Part A of Title I of the ESEA (LEA grants); Even Start (Title I, Part B); Migrant Education (Title I, Part C); Comprehensive School Reform Demonstration Program (Title I, Part E, Section 1502); Head Start; the Adult Education and Family Literacy Act; and all other State-funded preschool programs and State-funded programs providing literacy services to adults. States are encouraged to include in the plan —

- A list of the programs that are part of the consortium;
- A description of how the Statewide initiative will strengthen and expand family literacy services in the State;

- An assurance that the consortium has developed the State plan in consultation with all of the listed programs that will form the consortium and carry out the plan; and
- A description of the initiative's specific goals and objectives and how the goals and objectives will be used to determine progress toward achieving intended outcomes.

5. In the application budget, include a description of the non-Federal contributions that the State will make, in an amount at least equal to the Federal funds awarded under the grant, for the costs to be incurred by the consortium in carrying out the grant activities. (Funds awarded under these grants may not be used for indirect costs either as a direct charge or as part of the matching requirement.)

6. Provide the following in response to the attached "Notice to all Applicants": (1) a reference to the portion of the application in which information appears as to how the applicant is addressing steps to promote equitable access and participation, or (2) a separate statement that contains that information.

7. For any applicant other than the State educational agency, include a copy of the signed set of assurances specified in section 14306(a) of the ESEA (20 U.S.C 8856(a)) that the applicant has filed with its SEA and that is applicable to this application.

The Secretary strongly requests the applicant to limit the Application Narrative to no more than 20 double-spaced, typed pages (on one side only). The Department has found that successful applications for similar programs generally meet this page limit.

INSTRUCTIONS FOR ESTIMATED PUBLIC REPORTING BURDEN

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is 1810-0590. The time required to complete this information collection is estimated to average 12 hours per response, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202-4651. If you have comments or concerns regarding the status of your individual submission of this form, write directly to: Mary LeGwin, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW, Washington D.C. 20202-6132.

OMB Approval No. 0348-0040

ASSURANCES- NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq); (f) conformity of

Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1721 et seq) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official	Title
Applicant Organization	Date Submitted

SF 424 (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. **LOBBYING**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. **DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. **DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide

notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 600 Independence Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

Approved by OMB
0348-0046

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action: a. contract ____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	**2. Status of Federal Action:** a. bid/offer/application _____ b. initial award c. post-award	**3. Report Type:** a. initial filing _____ b. material change **For material change only:** Year _____ quarter _____ Date of last report_____
4. Name and Address of Reporting Entity: ____ Prime _____ Subawardee Tier_____, if Known: **Congressional District, if known:**	**5. If Reporting Entity in No. 4 is Subawardee,** Enter Name and Address of Prime: **Congressional District, if known:**	
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____	
8. Federal Action Number, *if known:*	**9. Award Amount,** *if known:* $	
10. a. Name and Address of Lobbying Registrant *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a) (last name, first name, MI):*	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____	
Federal Use Only	**Authorized for Local Reproduction** **Standard Form - LLL (Rev. 7-97)**	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

NOTICE TO ALL APPLICANTS

Thank you for your interest in this program. The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new discretionary grant awards under this program. ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its federally assisted program for students, teachers, and other program beneficiaries with special needs.

This section allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation that you may address: gender, race, national origin, color, disability, or age. Based on local circumstances, you can

determine whether these or other barriers may prevent your students, teachers, etc. from equitable access or participation. Your description need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it

intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1801-0004 (Exp. 8/31/98). The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain

the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202-4651.

[FR Doc. 99–4552 Filed 2–23–99; 8:45 am]
BILLING CODE 4000–01–C

federal register

Wednesday
February 24, 1999

Part IV

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources and Guidelines for Control of Existing Sources: Municipal Solid Waste Landfills; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–6231–8]

Standards of Performance for New Stationary Sources and Guidelines for Control of Existing Sources: Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendments and corrections.

SUMMARY: The EPA is amending the CFR to correct errors made in the direct final rule, "Standards of Performance for New Stationary Sources and Guidelines for Control of Existing Sources: Municipal Solid Waste Landfills," published in the **Federal Register** on June 16, 1998. The direct final rule amended, corrected errors, and clarified regulatory text of the final rule, which was published on March 12, 1996 (63 FR 32743). Today's action further clarifies the regulatory text and corrects errors. Industry sectors likely to be affected include Air and Water Resource and Solid Waste Management, and Refuse Systems—Solid Waste Landfills (North American Industrial Classification System codes 92411 and 562212).

DATES: These amendments are effective February 24, 1999.

ADDRESSEES: Air Docket. Docket A–88–09 contains the supporting information for the original New Source Performance Standards (NSPS) and Emission Guidelines (EG), the direct final rule, and this action and is available for public inspection and copying between 8 a.m and 5:30 p.m., Monday through Friday except for Federal holidays, at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC–6102), 401 M Street SW, Washington, DC 20460, or by calling (202) 260–7548. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Laur, Waste and Chemical Processes Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5256. For implementation issues, contact Mary Ann Warner, Program Review Group, Information Transfer and Program Integration Group (MD–12), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–1192. For information on the Landfill model, contact Susan Thorneloe through the Internet at **thorneloe.susan@epa.gov.** For information concerning applicability and rule determinations, contact the appropriate regional representative:

Region I:
Greg Roscoe, Air Programs Compliance Branch Chief, U.S. EPA/ASO, Region I, JFK Federal Building, Boston, MA 02203, (617) 565–3221

Region II:
Christine DeRosa, U.S. EPA, Region II, 290 Broadway, 25th Floor, New York, NY 10007–1866, (212) 637–4022

Region III:
James Topsale, U.S. EPA/3AP22, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, (215) 814–2190

Region IV:
R. Douglas Neeley, Chief, Air and Radiation Technology Branch, U.S. EPA, Region IV, 61 Forsyth St., SW, Atlanta, GA 30303, (404) 562–9105

Region V:
George T. Czerniak, Jr., Air Enforcement Branch Chief, U.S. EPA/5AE–26, Region V, 77 West Jackson Street, Chicago, IL 60604, (312) 353–2088

Region VI:
John R. Hepola, Air Enforcement Branch Chief, U.S. EPA, Region VI, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202–2733, (214) 655–7220

Region VII:
Ward Burns, U.S. EPA/RME, Region VII, 726 Minnesota Avenue/ ARTDAPCO, Kansas City, KS 66101–2728, (913) 551–7960

Region VIII:
Vicki Stamper, U.S. EPA, Region VIII, 999 18th Street, Suite 500, Denver, CO 80202–2466, (303) 312–6445

Region IX:
Patricia Bowlin, U.S. EPA/RM HAN/ 17211, Region IX, 75 Hawthorne Street/AIR–4, San Francisco, CA, (415) 744–1188

Region X:
Catherine Woo, U.S. EPA, Region X, Office of Air Quality Planning, and Standards-107, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–1814

Technology Transfer Network Web

The EPA Technology Transfer Network Web (TTN Web) is a collection of technical websites containing information about many areas of air pollution science, technology, and regulation. The TTN Web provides information and technology exchange for the public and EPA staff in various areas of air pollution control. New air regulations are posted on the TTN Web through the world wide web at "http://www.epa.gov/ttn." For more information on the TTN Web, call the HELP line at (919) 541–5384.

SUPPLEMENTARY INFORMATION:

Regulated Entities

The entities potentially affected by this action include:

Category	Examples of regulated entities
Industry and Local Government Agencies, NAICS codes 92411 (Air and Water Resource and Solid Waste Management) and 562212 (Refuse Systems—Solid Waste Landfills).	Existing municipal solid waste landfills where solid waste from households is placed in or on land. Waste from commercial or industrial operations may be mixed with the household waste.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in the amendments and corrections to the regulation affected by this action. While the landfills NSPS and emission guidelines (40 CFR part 60, subparts Cc and WWW) will primarily impact facilities in North American Industrial Classification System (NAICS) codes 92411 and 562212, or in the old Standard Industrial Classification (SIC) code 4953, not all facilities in these codes will be affected. To determine if your landfill is affected by the landfill NSPS or emission guidelines, see 40 CFR part 60, subparts Cc and WWW, of the technical amendments published on June 16, 1998 (63 FR 32743).

Background

On March 12, 1996 (61 FR 9919), the EPA promulgated in the **Federal Register** standards of performance for new sources (NSPS) for municipal solid waste landfills and emission guidelines for existing municipal solid waste landfills. These regulations and guidelines were promulgated as

subparts WWW and Cc of 40 CFR part 60.

This notice clarifies a definition and the reporting requirements of the emission guidelines and corrects typographical errors which appeared in the direct final notice published on June 16, 1998 (63 FR 32743).

I. Description of Changes

A. Definitions

The NSPS applies to landfills that commence construction, modification, or reconstruction on or after May 30, 1991 (the proposal date for this NSPS and EG). A definition of modification was added in the direct final rule: modification means an increase in permitted volume design capacity of the landfill by either horizontal or vertical expansion based on its permitted design capacity as of May 30, 1991. The definition is specific to landfills but is not consistent with the intent of 40 CFR 60.14 of the part 60 general provisions. (See 63 FR 32743.) In this notice, EPA is amending the definition of modification by adding a sentence to clarify that modification does not occur until the owner or operator commences construction on the horizontal or vertical expansion. This is consistent with the part 60 general provisions and the definition of new source in section 111(a)(2) of the Clean Air Act (Act), as well as § 60.750(a) of subpart WWW (the NSPS).

B. Reporting

The EPA is clarifying when the design capacity and NMOC emission rate reports must be submitted for existing facilities. Section 60.35c of the promulgated emission guidelines requires the same reporting and recordkeeping as §§ 60.757 and 60.758 of the NSPS. Sections 60.33c(a)(2) of the emission guidelines also refers to design capacity reports. However, these sections do not address when the reports are due for existing sources. Section 60.758 specifies that for new sources, a design capacity report and initial NMOC emission rate report (if required) are due 90 days after promulgation of the NSPS or 90 days after a source commences construction, modification, or reconstruction. To be consistent with these dates and with the date that existing sources become subject to Title V permitting requirements, as specified in § 60.32c(c), and the dates provided in the EPA guidance document for State plans (EPA–456R/96–005), EPA is clarifying that for existing sources, the initial design capacity report is due 90 days after the effective date of EPA's approval of a State plan. For sources with design capacities greater than or equal to 2.5 million Mg and 2.5 million cubic meters, the initial NMOC emission rate report is due at the same time. To accomplish these clarifications, paragraphs (d) and (e) have been added to § 60.33c to describe the design capacity and emission rate reporting requirements applicable to existing sources, and paragraphs (a) and (b) have been added to § 60.35c to specify the dates these reports are due.

II. Typographical Errors

Tables 3 and 5 in the direct final preamble (63 FR 32748–32749) contained typographical errors. The units for the small size cutoff (column 1) are stated to be in milligrams (mg); however, the values presented are actually in megagrams (Mg). In table 5, the final two columns show the "MNOC average cost eff." and the "MNOC incremental cost eff." These two columns should read "NMOC" for nonmethane organic compounds, rather than "MNOC". These tables are corrected and provided below for clarification.

A typographical error in the final rule amendment text (63 FR 32753) is also being corrected. In the amendments to § 60.759(a)(3)(iii), the term "$C_{NM}OC$" is corrected to read "C_{NMOC}," meaning the concentration of nonmethane organic compounds.

TABLE 3.—ALTERNATIVE DESIGN CAPACITY EXEMPTION LEVEL OPTIONS FOR THE EMISSION GUIDELINES [a,b]

Small size cutoff (Mg)	Number landfills affected	Annual NMOC emission reduction [c] (Mg/yr)	Annual methane emission reduction [d] (Mg/yr)	Annual cost (million $/yr)	NMOC average cost eff. ($/Mg)	NMOC Incremental cost eff. ($/Mg)
Baseline [e]	.....	.....	.....	.....	.....	.....
3,000,000	273	73,356	3,220,000	84	1,145	1,145
2,500,000	312	77,600	3,370,000	89	1,147	1,178
1,000,000	572	97,600	3,990,000	119	1,219	1,500
No cutoff [f]	7,299	142,000	8,270,000	719	5,063	13,514

[a] Emission rate cutoff level of 50 Mg NMOC/yr.
[b] All values are fifth year annualized.
[c] NMOC emission reductions are from a baseline of 145,000 Mg NMOC/yr.
[d] Methane emission reductions are from a baseline of 8,400,000 Mg methane/yr.
[e] In the absence of an emission guideline.
[f] No emission rate cutoff and no design capacity exemption level.

TABLE 5.—ALTERNATIVE DESIGN CAPACITY EXEMPTION LEVEL OPTIONS FOR THE NEW SOURCE PERFORMANCE STANDARDS [a, b]

Small size cutoff (Mg)	Number landfills affected	Annual NMOC emission reduction [c] (Mg/yr)	Annual methane emission reduction [d] (Mg/yr)	Annual cost [e] (million $/yr)	NMOC average cost eff. ($/Mg)	NMOC Incremental cost eff. [f] ($/Mg)
Baseline [g]	.....	.....	.....	.....	.....	.....
3,000,000	41	4,900	193,000	4	816	NA
2,500,000	43	4,900	193,000	4	816	NA
1,000,000	89	4,900	193,000	4	816	NA
No cutoff [h]	872	13,115	881,000	81	6,176	NA

[a] Emission rate cutoff level of 50 Mg NMOC/yr.

[b] All values are fifth year annualized.
[c] NMOC emission reductions are from a baseline of 13,400 Mg NMOC/yr.
[d] Methane emission reductions are from a baseline of 899,000 Mg methane/yr.
[e] Due to rounding off to the nearest million dollar, cost values do not appear to change for each option. However, actual costs are slightly less for a less stringent option.
[f] Because the annual cost does not change enough to show a different cost from one option to the next, incremental cost effectiveness values are not applicable.
[g] In the absence of a standard.

III. Administrative

A. Paperwork Reduction Act

The information collection requirements of the previously promulgated NSPS were submitted to and approved by the Office of Management and Budget (OMB). A copy of this Information Collection Request (ICR) document (OMB control number 1557.03) may be obtained from Sandy Farmer, OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M Street, SW; Washington, DC 20460 or by calling (202) 260–2740.

Today's clarifications to the NSPS should have no impact on the information collection burden estimates made previously. This document clarifies the reporting requirements without adding new requirements. Consequently, the ICR has not been revised.

B. Executive Order 12866: A Significant Regulatory Action Determination

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the proposed regulatory action is "significant," and therefore, subject to OMB review and the requirements of this Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to 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, public health or safety in 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 President's priorities, or the principles set forth in the Executive Order.

It has been determined that this action is not "significant" because none of the listed criteria apply to this action. Therefore, today's notice did not require OMB review.

C. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

Today's action is not subject to notice and comment rulemaking requirements and therefore is not subject to the Regulatory Flexibility Act. However, for the reasons discussed in the March 12, 1996 **Federal Register** (60 FR 9918), this rule does not have a significant impact on a substantial number of small entities. Today's action clarifies the reporting requirements in the Standards of Performance for New Stationary Sources and Guidelines for Control of Existing Sources: Municipal Solid Waste Landfills and does not include any provisions that create a burden for any of the regulated entities.

The clarifications in today's action do not increase the stringency of the rule or add additional control requirements. Nor is the scope of the rule changed so as to bring any entities not previously subject to the rule within its scope or coverage. Today's action does not alter control, monitoring, recordkeeping, or reporting requirements of the promulgated rule.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for the proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the 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 the 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 of why that alternative was not adopted. Before the 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, enabling officials of affected small governments to have meaningful and timely input in the development of the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that today's action 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. Therefore, the requirements of the Unfunded Mandates Act do not apply to today's action.

E. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, the EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or the EPA consults with those governments. If the EPA complies by consulting, Executive Order 12875 requires the EPA to provide the Office of Management and Budget (OMB) a description of the extent of the EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written

communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires the EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.

The EPA held consultations and prepared such a statement at the time of promulgation of subpart Cc and WWW (60 FR 9913, March 12, 1996). Today's action consists of clarifications that do not create a mandate on State, local, or tribal governments. Therefore, the requirements of Executive Order 12875 do not apply to today's action.

F. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

Executive Order 13045 applies to any rule that the EPA determines (1) is economically significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the EPA.

Today's action is not subject to Executive Order 13045 because it does not involve decisions on environmental health or safety risks that may disproportionately affect children.

G. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian Tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This action does not significantly or uniquely affect communities of Indian tribal governments. The EPA has determined that this final rule does not include any new Federal mandates or additional requirements above those previously considered during promulgation of the 1996 emission guidelines and NSPS. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling and analytical procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards.

Today's action does not involve any new technical standards or the incorporation by reference of existing technical standards. Therefore, consideration of voluntary consensus standards is not relevant to this action.

I. Immediate Effective Date

The EPA is making today's action effective immediately. The EPA has determined that the rule changes being made in today's action are not subject to notice and comment requirements. In addition, the rule change is a type of technical correction, since it clarifies the rule to be consistent with EPA's intentions stated in the rule's preamble and other documents. Notice and opportunity for comment is not required for such technical corrections. The EPA has also determined that this rule may be made effective in less than 30 days because it is interpretive, and relieves restrictions. See 5 U.S.C. 553(d) (1)and (2).

J. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Municipal solid waste landfills.

Dated: January 25, 1999.

Robert Perciasepe,

Assistant Administrator, OAR.

Part 62, Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, 7429, and 7601.

Subpart Cc—[Amended]

2. Amend § 60.33c as follows:

a. In paragraph (a)(2), remove the words "submitted with the report" and add, in its place, "submitted with the design capacity report".

b. Add paragraphs (d) and (e) to read as follows:

§ 60.33c Emission guidelines for municipal solid waste landfill emissions.

* * * * *

(d) For approval, a State plan shall require each owner or operator of an MSW landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by

volume to submit an initial design capacity report to the Administrator as provided in § 60.757(a)(2) of subpart WWW by the date specified in § 60.35c of this subpart. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions shall be documented and submitted with the report. Submittal of the initial design capacity report shall fulfill the requirements of this subpart except as provided in paragraph (d)(1) and (d)(2) of this section.

(1) The owner or operator shall submit an amended design capacity report as provided in § 60.757(a)(3) of subpart WWW. [Guidance: Note that if the design capacity increase is the result of a modification, as defined in § 60.751 of subpart WWW, that was commenced on or after May 30, 1991, the landfill will become subject to subpart WWW instead of this subpart. If the design capacity increase is the result of a change in operating practices, density, or some other change that is not a modification, the landfill remains subject to this subpart.]

(2) When an increase in the maximum design capacity of a landfill with an initial design capacity less than 2.5 million megagrams or 2.5 million cubic meters results in a revised maximum design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, the owner or operator shall comply with paragraph (e) of this section.

(e) For approval, a State plan shall require each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters to either install a collection and control system as provided in paragraph (b) of this section and § 60.752(b)(2) of subpart WWW or calculate an initial NMOC emission rate for the landfill using the procedures specified in § 60.34c of this subpart and § 60.754 of subpart WWW. The NMOC emission rate shall be recalculated annually, except as provided in § 60.757(b)(1)(ii) of subpart WWW.

(1) If the calculated NMOC emission rate is less than 50 megagrams per year, the owner or operator shall:

(i) submit an annual emission report, except as provided for in § 60.757(b)(1)(ii); and

(ii) recalculate the NMOC emission rate annually using the procedures specified in § 60.754(a)(1) of subpart WWW until such time as the calculated NMOC emission rate is equal to or greater than 50 megagrams per year, or the landfill is closed.

(2)(i) If the NMOC emission rate, upon initial calculation or annual recalculation required in paragraph (e)(1)(ii) of this section, is equal to or greater than 50 megagrams per year, the owner or operator shall install a collection and control system as provided in paragraph (b) of this section and § 60.752(b)(2) of subpart WWW.

(ii) If the landfill is permanently closed, a closure notification shall be submitted to the Administrator as provided in § 60.35c of this subpart and § 60.757(d) of subpart WWW.

3. Amend § 60.35c by adding paragraphs (a) and (b) after the introductory text to read as follows:

§ 60.35c Reporting and recordkeeping guidelines.

* * * * *

(a) For existing MSW landfills subject to this subpart the initial design capacity report shall be submitted no later than 90 days after the effective date of EPA approval of the State's plan under section 111(d) of the Act.

(b) For existing MSW landfills covered by this subpart with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, the initial NMOC emission rate report shall be submitted no later than 90 days after the effective date of EPA approval of the State's plan under section 111(d) of the Act.

Subpart WWW—[Amended]

§ 60.75 [Amended]

4. Amend § 60.751 by adding the following sentence to the end of the definition of "modification": "Modification does not occur until the owner or operator commences construction on the horizontal or vertical expansion."

5. In § 60.759, revise the first and second sentence in (a)(3)(iii) to read as follows:

§ 60.759 Specifications for active collection systems.

(a) * * *

(3) * * *

(iii) The values for k and C_{NMOC} determined in field testing shall be used if field testing has been performed in determining the NMOC emission rate or the radii of influence (this distance from the well center to a point in the landfill where the pressure gradient applied by the blower or compressor approaches zero). If field testing has not been performed, the default values for k, L_O and C_{NMOC} provided in § 60.754(a)(1) or the alternative values from § 60.754(a)(5) shall be used. * * *

* * * * *

[FR Doc. 99–2988 Filed 2–23–99; 8:45 am]
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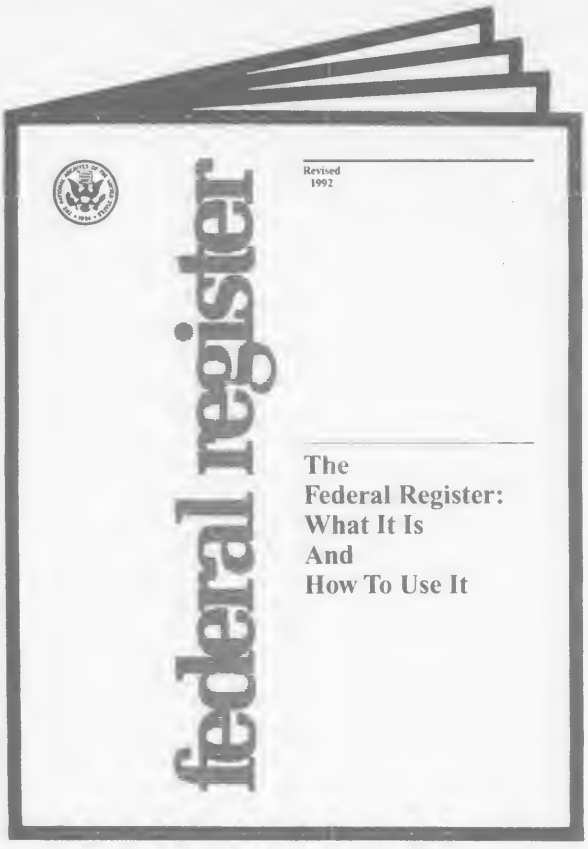

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