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Wednesday
February 28, 1996

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WASHINGTON, DC

[Two Sessions]

WHEN: March 12, 1996 at 9:00 am and March 26, 1996 at 9:00 am

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

[Docket No. FV95–959–2FIR]

South Texas Onions; Increased Expenses and Establishment of Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an amended interim final rule that increased the level of authorized expenses and established an assessment rate that generated funds to pay those expenses under Marketing Order No. 959 for the 1995–96 fiscal period. Authorization of this budget enables the South Texas Onion Committee (Committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: August 1, 1995, through July 31, 1996.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone 202–720–9918, or Belinda G. Garza, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, TX 78501, telephone 210–682–2833.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, 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 is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, South Texas onions are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable onions handled during the 1995–96 fiscal period, which began August 1, 1995, and ends July 31, 1996. 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 a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

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

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 the 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 89 producers of South Texas onions under this marketing order, and approximately 35 handlers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural Service firms are defined as those whose receipts are less than $5,000,000. The majority of South Texas onion producers and handlers may be classified as small entities.

The budget of expenses for the 1995–96 fiscal period was prepared by the South Texas Onion Committee, the agency responsible for local administration of the marketing order, and submitted to the Department for approval. The members of the Committee are producers and handlers of South Texas onions. They are familiar with the Committee's needs and with the costs of goods and services in their local areas and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Texas onions. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the Committee's expenses.

Committee administrative expenses of $239,250 for personnel, office, and compliance expenses were recommended in a mail vote. The assessment rate and funding for the research and promotion projects were to be recommended at a later Committee meeting. The Committee administrative expenses of $239,250 were published in the Federal Register as an interim final rule August 17, 1995 (60 FR 42774). That interim final rule added § 959.236, authorizing expenses for the Committee, and provided that interested persons could file comments through September 18, 1995. No comments were filed.

The Committee subsequently met on November 14, 1995, and unanimously recommended an increase of $1,000 for insurance in the recently approved 1995–96 budget. The Committee also unanimously recommended $246,000 for promotion and $99,000 for onion breeding research. Budget items for

1995–96 which have increased compared to those budgeted for 1994–95 (in parentheses) are: Manager's salary, $19,094 ($15,172), office salaries, $24,000 ($22,000), payroll taxes, $4,000 ($3,100), insurance, $8,000 ($6,250), rent and utilities, $6,500 ($5,000), supplies, $2,000 ($1,500), postage, $1,500 ($1,000), telephone and telegraph, $4,000 ($2,500), furniture and fixtures, $2,000 ($1,000), equipment rental and maintenance, $3,500 ($2,500), contingencies, $6,706 ($3,978), manager travel, $5,000 ($3,000), Canadian onion promotion, $5,000 ($4,450), $226,000 for promotion ($200,000), onion breeding research, $99,000 ($88,028), and $3,750 for deferred compensation (manager's retirement), and $5,000 for miscellaneous promotion expenses, which were not line item expenses last year. All other items are budgeted at last year's amounts.

The initial 1995–96 budget, published on August 17, 1995, did not establish an assessment rate. Therefore, by a vote of 11 to 1, the Committee also recommended an assessment rate of $0.10 per 50-pound container or equivalent of onions, $0.06 more than last year's assessment rate. The no vote came from a grower who thought increasing the assessment rate from $0.04 to $0.10 cents was too great an increase. This rate, when applied to anticipated shipments of approximately 6,000,000 50-pound containers or equivalents, will yield $600,000 in assessment income, which will be adequate to cover budgeted expenses. Funds in the reserve as of December 31, 1995, were $408,314, which is within the maximum permitted by the order of two fiscal periods' expenses.

An amended interim final rule was published in the Federal Register on December 12, 1995 (60 FR 63610). That interim final rule amended § 959.236 to increase the level of authorized expenses to $585,250 and establish an assessment rate of $0.10 per 50-pound container or equivalent of onions for the Committee. That rule provided that interested persons could file comments through January 11, 1996. No comments were received.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including the information and recommendations submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register (5 U.S.C. 553) because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1995–96 fiscal period began on August 1, 1995, and the marketing order requires that the rate of assessment for the fiscal period apply to all assessable onions handled during the fiscal period. In addition, handlers are aware of this rule which was unanimously recommended by the Committee at a public meeting and published in the Federal Register as an amended interim final rule.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

PART 959—ONIONS GROWN IN SOUTH TEXAS

Accordingly, the interim final rule amending 7 CFR part 959 which was published at (60 FR 63610) on December 12, 1995, is adopted as a final rule without change.

Dated: February 22, 1996.

Martha B. Ransom,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–4502 Filed 2–27–96; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 979

[Docket No. FV96–979–1IFR]

Melons Grown in South Texas; Change in Cantaloup Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule changes the container requirements for cantaloups grown in South Texas under Marketing Order No. 979. This rule increases the depth of cantaloup cartons from 10⅜ to 11 ⅜ inches. The South Texas Melon Committee (committee), the agency that locally administers the marketing order for melons grown in South Texas, unanimously recommended this change. This change will allow handlers to use deeper cartons in shipping larger cantaloups. The use of deeper cartons is expected to result in less damage during packing and shipment and foster buyer confidence. This change should be in effect as soon as possible, to give handlers adequate time to order cartons, and manufacturers an opportunity to make them, for the 1996 shipping season. This rule also corrects telephone area codes, and removes out-of-date handler assessment information.

DATES: Effective on February 28, 1996. Comments which are received by March 29, 1996, will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456, FAX 202–720–5698. All comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Marketing Order Administration Branch, F&V, AMS, USDA, 1313 E. Hackberry, McAllen, Texas 78501; telephone: 210–682–2833; FAX: 210–682–5942; or Mark Kreaggor, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: 202–720–2431; FAX: 202–720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 979 (7 CFR part 979), regulating the handling of melons grown in South Texas, hereinafter referred to as the ''order.'' This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C 601–674), hereinafter referred to as the ''Act.''

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

This interim final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This interim final 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 a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

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

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 27 handlers of South Texas melons who are subject to regulation under the marketing order and 30 producers in the production area. Small agricultural service firms, which include handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of handlers and producers of South Texas melons may be classified as small entities.

At a public meeting on December 12, 1995, the committee unanimously recommended, under the authority of § 979.52 of the order, increasing the depth of cantaloup cartons. Currently, § 979.304(b)(1) specifies that the depth of cantaloup cartons may be not more than 10 ⅜ nor less than 9 ¾ inches. A tolerance of ¼ inch is permitted. The committee recommended an one inch increase in depth to 11 ⅜ inches.

In recent years, buyers have requested increased supplies of larger cantaloups. Handlers have experienced difficulty in packing larger cantaloups without bruising because the current container depth does not allow sufficient room for the larger fruit and ice packed with the cantaloups to keep them cool. Also, without adequate carton space, proper stacking on pallets is more difficult and compression damage often occurs to the cantaloups when loading and shipping. Increasing the depth of cantaloup cartons by one inch to 11 ⅜ inches will allow for proper stacking and delivery of cantaloups without bruising and other damage. This change is expected to foster buyer satisfaction and confidence. Handlers will not be prevented from using their current supply of smaller cartons if they desire.

Section 979.304(c)(4) designates inspection stations in Alamo and Laredo, for handlers who do not have permanent packing facilities recognized by the committee. The telephone area codes specified for Alamo and Laredo are not correct. This rule amends § 979.304(c)(4) to correct those area codes from (502) and (512), respectively, to (210).

Section 979.304(c)(5) specifies that handlers shall pay assessments on all assessable melons according to the provisions of § 979.42, at the rate of ¾ cent per carton. The ¾ cent per carton rate of assessment has not been in effect for a number of years. The current rate of assessment is 7 cents per carton. Also, because the assessment rate is established by the Department annually in a separate rulemaking document and handlers are informed of the rate by the committee through handler notices, the rate of assessment does not need to be referenced in these provisions. Therefore, the words ''at the rate of ¾ cent per carton'' in § 979.304(c)(5) are removed.

Based on the above, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of the committee's recommendation and other relevant information presented, it is found that this interim final rule 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) This rule relaxes carton requirements currently in effect; (2) the committee recommended this rule at a public meeting; (3) this change should be in effect as soon as possible, to give handlers adequate time to order cartons, and manufacturers an opportunity to make them; and (4) this rule provides a 30-day comment period, and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 979

Marketing agreements, Melons, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 979 is amended as follows:

PART 979—MELONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR part 979 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 979.304 is amended by revising the first sentence in paragraph (b)(1), and paragraphs (c)(4), and (c)(5) to read as follows:

§ 979.304 Handling regulation.

* * * * *

(b) *Container requirements.* (1) Except as provided in paragraphs (b)(4), (d) or (e) and (f) of this section all cantaloups shall be packed in fiberboard cartons with inside dimensions of not more than 17 ¼ nor less than 16 ¾ inches in length, not more than 13 nor less than 12 ¾ inches in width, and not more than 11 ⅜ nor less than 9 ¾ inches in depth. * * *

* * * * *

(c) * * *

(4) Designated inspection stations will be located at the Texas Federal Inspection Service office, 1301 W. Expressway, Alamo (Phone (210) 787–4091 or 6881) and the Matt Dietz Packing Co., 4700 N. Santa Maria, Laredo (Phone (210) 723–9178 or 9170), to be available for handlers who do not have permanent packing facilities recognized by the committee.

(5) Handlers shall pay assessments on all assessable melons according to the provisions of § 979.42.

* * * * *

Dated: February 22, 1996.

Martha B. Ransom,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–4501 Filed 2–27–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 23 and 91

[Docket No. 27806, Amendment No. 91–248]

RIN 2120–AE59

Airworthiness Standards; Systems and Equipment Rules Based on European Joint Aviation Requirements

AGENCIES: Federal Aviation Administration, DOT.

ACTION: Final rule, correction.

SUMMARY: This document contains a correction to the final rule published on February 9, 1996 (61 FR 5151). This action removes the numbers ''91–247'', inadvertently used in the heading of the document and replaces it with the numbers ''91–248''.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Earsa Tankesley, Aerospace Engineer, Standards Office (ACE–100), Small Airplane Directorate, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106, telephone (816) 426–6932.

In the final rule on page 5151 in the issue of Friday, February 9, 1996, delete the numbers ''91–247'', from the heading and add the numbers ''121–248'' to the heading.

Issued in Washington, DC on February 21, 1996.

Donald P. Byrne,

Assistant Chief Counsel, Regulations Division.

[FR Doc. 96–4559 Filed 2–27–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 953

[Docket No. FR–2880–F–08]

RIN 2577–AB31

Community Development Block Grants for Indian Tribes and Alaskan Native Villages

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule; Extension of effective period of interim rule.

SUMMARY: This rule extends the effective period for the interim rule for the Community Development Block Grants for Indian Tribes and Alaskan Native Villages Program (24 CFR part 953) to such time that a final rule is issued and becomes effective.

EFFECTIVE DATE: This final rule, which extends the effective period of the interim rule, is effective March 29, 1996.

The effective period for 24 CFR part 953 is extended from April 1, 1996, until the final rule adopting the regulations of part 953 is published and becomes effective.

FOR FURTHER INFORMATION CONTACT: Dominic Nessi, Director, Office of Native American Programs, Department of Housing and Urban Development, room B–133, 451 Seventh Street, SW, Washington, DC 20410. Telephone: (202) 755–0032; TDD: (202) 708–0850. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Justification for Final Rulemaking

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking, 24 CFR part 10. However, part 10 provides for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment, because prior public procedure is unnecessary.

This final rule is technical, in that it merely extends the effective period for existing regulations, and it effects no substantive change to those regulations. The public has had an opportunity to comment on the substance of the regulations, as the interim rule for this program was published subject to a 150-day public comment period, and the interim rule was preceded by an earlier interim rule which provided for a 225-day public comment period and an even earlier proposed rule which provided a 60-day public comment period.

II. Background

Section 105 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235), as amended by the National Affordable Housing Act, amended Title I of the Housing and Community Development Act of 1974, by transferring the authority for making grants to Indian Tribes from the section 107 discretionary fund to the allocation and distribution of funds provisions of Section 106 of the 1974 Act. Under section 106, as so amended, one percent of the title I appropriation, excluding the amounts appropriated for use under section 107, is allocated for grants to Indian Tribes. The allocated amount is to be distributed to Indian Tribes/Villages on a competitive basis in accordance with selection criteria ''contained in a regulation promulgated by the Secretary after notice and public comment.''

The Department issued the proposed rule on June 21, 1991, at 56 FR 28666, to comply with the requirement for publication for comment. The Department issued an interim rule on April 7, 1992, at 57 FR 11832, to give the public an additional opportunity to comment on the interim rule after it has been in effect for one round of competition. A second interim rule was issued on July 27, 1994, at 59 FR 38326, to address the comments received on the April 7, 1992 interim rule and to allow the public to see how the interim rule worked in conjunction with the 1995 NOFA.

Section 953.1 of the July 27, 1994 interim rule contains a ''sunset'' provision that provides that the interim rule will expire on April 1, 1996.

The final rule for part 953 is in its last stages of development and publication is anticipated in the near future. However, in order to prevent a period in which the Department will be without effective regulations, HUD is extending the effective period of the interim rule until the final rule is published and becomes effective.

III. Other Matters

National Environmental Policy Act

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 implementing section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the Office of Rules Docket Clerk, 451 Seventh Street, SW, room 10276, Washington, DC 20410–0500.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that the rule does not have a significant economic impact on a substantial number of small entities. The rule merely extends the effective period for the interim rule.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this rule does not have the potential to promote family formation, maintenance, and general well-being and, therefore, is not subject to review under the Order.

Executive Order 12611, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12611, *Federalism*, has determined that the rule does not have a substantial, direct effect on the States or on the relationship between the Federal government and the States, or on the distribution of power or responsibilities among the various levels of government and, therefore, is not subject to review under the Order.

List of Subjects in 24 CFR Part 953

Alaska, Community development block grants, Grant programs—housing and community development, Reporting and recordkeeping requirements.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number is 14.223.

In accordance with the reasons set forth in the preamble, 24 CFR part 953 is amended as follows:

PART 953–COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES

1. The authority citation for 24 CFR part 953 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 5301 et seq.

2. Section 953.1 is amended to designate the first paragraph as ''(a)'' and to designate the second paragraph as ''(b)'' and to revise newly designated paragraph (b) to read as follows:

§ 953.1 Applicability and scope.

(a) * * *

(b) The regulations of this part will remain in effect until the date the final rule adopting the regulations of this part with or without changes is published and becomes effective.

Dated: February 22, 1996.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 96–4438 Filed 2–27–96; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH–229–FOR #66]

Ohio Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Ohio regulatory program (hereinafter referred to as the ''Ohio program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Ohio proposed revisions to rules and directives pertaining to premining water quality samples for previously mined permit sites. The amendment is intended to make the Ohio program as effective as the corresponding Federal regulations.

EFFECTIVE DATE: February 28, 1996.

FOR FURTHER INFORMATION CONTACT: George Rieger, Program Manager, OSM, Appalachian Regional Coordinating Center, 10 Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937–2849.

SUPPLEMENTARY INFORMATION:

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

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Background information on the Ohio program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the August 10, 1982, Federal Register (47 FR 34688). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Submission of the Proposed Amendment

By letter dated July 3, 1995 (Administrative Record No. OH–2143), Ohio submitted a proposed amendment to its program pursuant to SMCRA at its own initiative. Ohio proposed to revise one rule at Ohio Administrative Code (OAC) section 1501:13–4–15 concerning the number and frequency of premining water samples required for previously mined permit areas. Ohio also proposed to revise two of its Policy/Procedures Directives (PPD)—PPD Permitting 92–3 and PPD Regulatory 93–4, to reflect the rule change.

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

During its review of the amendment, OSM identified concerns relating to pollution abatement areas. OSM notified Ohio of these concerns by letter dated September 8, 1995 (Administrative Record No. OH–2156).

By letter dated September 27, 1995 (Administrative Record No. OH–2157), Ohio responded to OSM's concerns by submitting revisions to its proposed program amendment. Ohio proposed two additional revisions to PPD Regulatory 93–4. The first revision deletes the earlier proposed provision which would have allowed the inclusion of ''contiguous undisturbed areas'' within pollution abatement areas. The second revision requires that the operator make an additional written notification pertaining to the demonstration of untreated pre-existing discharges.

Based on the revisions to the proposed program amendment submitted by Ohio, OSM reopened the public comment period in the October 25, 1995, Federal Register (60 FR 54619) and provided an opportunity for a public hearing on the adequacy of the amendment. The public comment period closed on November 9, 1995.

III. Director's Findings

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

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

15 OAC 1501:13–4–15(D)(2)—Authorization to Conduct Coal Mining on Previously Mined Areas. Ohio is proposing to amend its regulations pertaining to water quality to require that a permit applicant submit data from a minimum of 12 samples taken at regular intervals at each sampling location and collected over a period of at least 12 months or longer, as determined by the regulatory authority. The Federal regulations at 30 CFR 780.21(b) establish baseline hydrologic

information requirements. The regulatory authority may require additional information as warranted. The Director finds that the proposed revision at 15 OAC 1501.13–4–15(d)(2) is not inconsistent with the Federal regulations at 30 CFR 780.21(b).

Policy/Procedure Directive (PPD) 93–4. Ohio is proposing to revise the bond release provisions of PPD 93–4 to clarify that as part of the demonstration that the untreated pre-existing discharges from the pollution abatement area have not exceeded the modified effluent limitations for the required 12 months, the operator must notify the Division's district office in writing at the beginning of the 12-month period prior to the Phase II bond release. The name of Ohio's Remining Program's contact person is changed to Bob Baker. The Federal regulations at 30 CFR 800.40(c) authorize the regulatory authority to release all or part of a bond if the regulatory authority is satisfied that certain conditions have been met. The Director finds that the proposed revisions to PPD 93–4 are no less effective than the Federal regulations at 30 CFR 800.40(c).

Policy/Procedure Directive (PPD) 92–3. Ohio is proposing to revise the sampling procedures for pre-existing discharge sites. The permit applicant is required to submit a minimum of 12 samples for each pre-existing discharge site to be collected over a period of at least 12 months and the samples must be collected over a period of 12 months or longer. Sites are to be sampled no more frequently than once a month. There is no statutory provision for a variance of the sampling requirements.

The Federal regulations at 30 CFR 780.21(b) establish baseline hydrologic information requirements. The regulatory authority may require additional information as warranted. The Director finds that the proposed revisions to PPD 92–3 are not inconsistent with the Federal regulations at 30 CFR 780.21(b).

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments on July 25, 1995, and October 25, 1995, and provided an opportunity for public hearings on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearings were held.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Ohio program. The U.S. Department of Labor, Mine Safety and Health Administration, concurred without comment.

Environmental Protection Agency (EPA)

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record No. OH–2144). It did not respond to OSM's request.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Ohio on July 3, 1995, and as revised on September 27, 1995.

The Federal regulations at 30 CFR part 935, codifying decisions concerning the Ohio program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

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

Executive Order 12778

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

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 16, 1996.

Allen D. Klein,

Assistant Director, Appalachian Regional Coordinating Center.

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

PART 935—OHIO

1. The authority citation for Part 935 continues to read as follows:

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

2. Section 935.15 is amended by adding paragraph (aaaa) to read as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(aaaa) The amendments to the following rules and directives, as submitted to OSM on July 3, 1995, and

revised on September 27, 1995, are approved effective February 28, 1996:

15 OAC 1501:13–4–15(D)(2)—Authorization to Conduct Coal Mining on Previously Mined Areas

Policy/Procedure Directive 93–4—Remining Enforcement Procedure

Policy/Procedure Directive 92–3—Remining Process

[FR Doc. 96–4429 Filed 2–27–96; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD02–96–077]

RIN 2115–AA97

Safety Zone; Lower Mississippi River, Mile 528.0 to Mile 532.0

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Lower Mississippi River between mile 528.0 and mile 532.0. This regulation is needed to restrict vessel traffic in the regulated area to prevent a collision with sunken barges, surveying and salvage equipment and to provide a safe work area for survey and salvage personnel. The regulation restricts navigation in the regulated area and may have a significant effect on commercial traffic.

DATES: This regulation becomes effective at 10:02 p.m. on February 3, 1996, and terminates at 8 a.m. on August 31, 1996.

FOR FURTHER INFORMATION CONTACT: Lt. Byron Black, Chief, Port Operations, Captain of the Port, 200 Jefferson Avenue, Suite 1301, Memphis, TN 38103, (901) 544–3941.

SUPPLEMENTARY INFORMATION:

Background and Purpose

At approximately 10 p.m. on February 3, 1996, the M/V SCAUP collided with the Greenville, MS bridge sinking rock barges at approximate mile 531.3 on the Lower Mississippi River. The sunken barges' exact location remains unknown and survey operations at Lower Mississippi River mile 531.3 will commence shortly. The navigable channel will be blocked during survey and salvage operations. A safety zone has been established on the Lower Mississippi River from mile 528.0 to mile 532.0 in order to facilitate safe vessel passage. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary. Specifically, immediate action is necessary to facilitate the survey for the sunken barges' exact location. Harm to the public or environment may result if vessel traffic is not controlled during the operations. As a result, the Coast Guard deems it to be in the public's best interest to issue a regulation immediately.

Regulatory Evaluation

This 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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Collection of Information

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

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule 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, Vessels, Waterways.

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. A new temporary § 165.T02–077 is added to read as follows:

§ 165.T02–077 Safety Zone; Lower Mississippi River.

(a) *Location.* The following area is a Safety Zone: Lower Mississippi River mile 528.0 to mile 532.0.

(b) *Effective dates.* This section is effective at 10:02 p.m. on February 3, 1996, and terminates at 8 a.m. on August 31, 1996.

(c) *Regulations.* In accordance with the general regulations in § 165.23, entry into this zone is prohibited except as authorized by the Captain of the Port. The Captain of the Port, Memphis, Tennessee, will notify the maritime community of conditions affecting the area covered by this safety zone by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: February 3, 1996.

P.L. Mountcastle,

Lieutenant Commander, USCG, Acting Captain of the Port.

[FR Doc. 96–4535 Filed 2–27–96; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[CGD02–96–076]

RIN 2115–AA97

Safety Zone; Lower Mississippi River, Mile 538.0 to Mile 542.0

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Lower Mississippi River between mile 538.0 and mile 542.0. This regulation is needed to restrict vessel traffic in the regulated area to prevent a collision with a sunken deck barge, surveying and salvage equipment and to provide a safe work area for survey and salvage personnel. The regulation restricts navigation in the regulated area and may have a significant affect on commercial traffic.

DATES: This regulation becomes effective at 4 a.m. on February 2, 1996, and terminates at 8 a.m. on August 31, 1996.

FOR FURTHER INFORMATION CONTACT: Lt. Byron Black, Chief, Port Operations, Captain of the Port, 200 Jefferson Avenue, Suite 1301, Memphis, TN 38103, (901) 544–3941.

SUPPLEMENTARY INFORMATION:

Background and Purpose

At approximately midnight on February 2, 1996, a deck barge sank at approximate mile 540.0 on the Lower Mississippi River. The deck barge's exact location remains unknown and survey operations at Lower Mississippi River mile 540.0 are underway. The navigable channel will be blocked during survey and salvage operations. A safety zone has been established on the Lower Mississippi River from mile 538.0 to mile 540.0 in order to facilitate safe vessel passage. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary. Specifically, immediate action is necessary to facilitate the survey for the sunken deck barge's exact location. Harm to the public or environment may result if vessel traffic is not controlled during the operations. As a result, the Coast Guard deems it to be in the public's best interest to issue a regulation immediately.

Regulatory Evaluation

This 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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Collection of Information

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

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule 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, Vessels, Waterways.

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. A new temporary § 165.T02–076 is added to read as follows:

§ 165.T02–076 Safety Zone; Lower Mississippi River.

(a) *Location.* The following area is a Safety Zone: Lower Mississippi River mile 538.0 to mile 542.0.

(b) *Effective dates.* This section is effective at 4 a.m. on February 3, 1996, and terminates at 8 a.m. on August 31, 1996.

(c) *Regulations.* In accordance with the general regulations in § 165.23, entry into this zone is prohibited except as authorized by the Captain of the Port. The Captain of the Port, Memphis, Tennessee, will notify the maritime community of conditions affecting the area covered by this safety zone by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: February 3, 1996.

P.L. Mountcastle,

Lieutenant Commander, USCG, Acting Captain of the Port.

[FR Doc. 96–4536 Filed 2–27–96; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AH90

Loan Guaranty: Limitation on Discount Points Financed in Connection with Interest Rate Reduction Refinancing Loans

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This document amends VA's loan guaranty regulations concerning points allowed to be included in VA-guaranteed Interest Rate Reduction Refinancing Loans by limiting to two the amount of points that may be included in the loan. This action is necessary to help ensure that veterans are not overcharged with excessive points and to protect the interest of the Government against overinflated loans.

DATES: This rule is effective February 28, 1996. Comments must be received on or before April 29, 1996.

ADDRESSES: Mail written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420; or hand deliver written comments to: Office of Regulations Management, Room 1176, 801 Eye Street, NW., Washington, DC 20001. Comments should indicate that they are submitted in response to ''RIN 2900–AH90.'' All written comments received will be available for public inspection in the Office of Regulations Management, Room 1176, 801 Eye Street, NW., Washington, DC 20001 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Ms. Judith Caden, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, Washington, DC 20420, (202) 273–7368.

SUPPLEMENTARY INFORMATION: Under authority of 38 U.S.C. Chapter 37, VA guarantees loans made by lenders to eligible veterans to purchase, construct, improve, or refinance their homes (the term veteran as used in this document includes any individual defined as a

veteran under 38 U.S.C. 101 and 3701 for the purpose of housing loans). This document amends VA's loan guaranty regulations concerning points allowed to be included in VA-guaranteed Interest Rate Reduction Refinancing Loans (IRRRLs) by limiting to two the amount of points that may be included in the loan.

The provisions of 38 U.S.C. 3703(c)(3) and 3710(e)(1)(C) allow for IRRRLs to include ''reasonable'' points as may be authorized by the Secretary by regulation. One point equals one percent of the amount of the loan. Lenders allow a borrower to pay points and thereby reduce the interest rate.

The regulations in effect prior to the effective date of this document allowed IRRRLs to include any amount of points negotiated between the veteran and the lender. This was based on the assumption that market forces would act to assure that veterans were not charged excessive points. While this generally has been true, recently a few lenders have not been constrained by market rates and have been able to convince veterans to agree to IRRRLs with excessive points. There have been cases in which IRRRLs include 5 or more points with the lender representing the loan as having ''at market'' terms even though a true ''at market'' interest rate for such a loan generally would have called for no more than two points (because of excessive points there have even been some IRRRLs where the monthly payment increased even though the interest rate decreased).

In addition to overcharging the veteran, excessive points often cause other negative impacts. IRRRLs sometime result in loans in excess of the value of the property. Accordingly, any additional increase in the amount by which the loan balance exceeds the market value of the property would further increase VA's loss in the event of default and payment of a claim under the guaranty. Also, an excessive increase in the loan amount may cause a veteran to be unable to sell the home for an amount sufficient to pay off the loan balance.

We believe that limiting to two the amount of points that may be included in an IRRRL is appropriate. We believe that this will reasonably protect the veteran and the Government against overinflated IRRRLs and at the same time avoid unduly hampering veterans' ability to obtain IRRRLs at favorable terms. The inclusion of two points in refinanced loans has gained general market acceptance as the typical number of points included in loans obtained ''at market.'' In our view, limiting to two the amount of points that may be included in an IRRRL would not have much of an effect on IRRRLs other than to protect against the few lenders who are overcharging veterans and increasing VA's risk with above-market combinations of rates and points.

This change in the regulations only concerns the amount of points that may be included in an IRRRL. A veteran could pay in excess of two points if the excess points were paid in cash.

We considered amending the regulations to include a formula designed to restrict the amount of the loan in comparison with the value of the property and to ensure that veterans would not get overcharged. However, we believe such a formula would be too complex and difficult to enforce. Instead, we believe that we can best help to ensure that excessive points are not included in IRRRLs by limiting to two points the amount of points that may be included in the loan.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553, we have found good cause to dispense with notice and comment on this interim final rule and to dispense with a 30-day delay of its effective date. These findings are based on the critical need to help ensure that veterans are not overcharged with excessive points and to protect the interests of the Government against overinflated loans. Comments are being solicited for 60 days after publication of this document. VA may modify this rule in response to comments, if appropriate.

Regulatory Flexibility Act

Because no notice of proposed rulemaking was required in connection with the adoption of this interim final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The Catalog of Federal Domestic Assistance Program numbers are 64.114 and 64.119.

List of Subjects in 38 CFR Part 36

Condominiums, Housing, Individuals with disabilities, Loan programs—housing and community development, Manufactured homes, Veterans.

Approved: February 13, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 36 is amended as set forth below.

PART 36—LOAN GUARANTY

1. The authority citation for part 36, §§ 36.4201 through 36.4287 continues to read as follows:

Authority: Sections 36.4201 through 36.4287 issued under 38 U.S.C. 501, 3701–3704, 3707, 3710–3714, 3719, 3720, 3729, unless otherwise noted.

2. Section 36.4223 is amended by revising paragraph (a)(3) to read as follows:

§ 36.4223 Interest rate reduction refinancing loan.

(a) * * *

(3) The amount of the refinancing loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs as authorized in § 36.4232 or § 36.4254, as appropriate, and a discount not to exceed 2 percent of the loan amount;

(Authority: 38 U.S.C. 3703, 3712)

* * * * *

3. The authority citation for part 36, §§ 36.4300 through 36.4375 continues to read as follows:

Authority: Sections 36.4300 through 36.4375 issued under 38 U.S.C. 101, 501, 3701–3704, 3710, 3712–3714, 3720, 3279, 3732, unless otherwise noted.

4. Section 36.4306a is amended by revising paragraph (a)(3)(i) to read as follows:

§ 36.4306a Interest rate reduction refinancing loan.

(a) * * *

(3) * * *

(i) An amount equal to the balance of the loan being refinanced and such closing costs as authorized by § 36.4312(d) and a discount not to exceed 2 percent of the loan amount; or

* * * * *

(Authority: 38 U.S.C. 3703, 3710)

[FR Doc. 96–4498 Filed 2–27–96; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE013–5915a; FRL–5424–9]

Approval and Promulgation of Air Quality Implementation Plans; Delaware—Emission Statement Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision

submitted by the State of Delaware. This revision consists of an emission statement program for stationary sources that emit volatile organic compounds (VOCs) and/or nitrogen oxides (NO_X) at or above specified actual emission threshold levels within the state of Delaware (Kent, New Castle, and Sussex Counties). The intended effect of this action is to approve a regulation for annual reporting of actual emissions by sources that emit VOC and/or NO_X within the state in accordance with the 1990 Clean Air Act (CAA). This action is being taken under section 110 of the CAA.

DATES: This action is effective April 29, 1996, unless notice is received on or before March 29, 1996, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments must be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA office listed above; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto (215) 597–3164, at the EPA Region III address.

SUPPLEMENTARY INFORMATION: On January 11, 1993, the Delaware Department of Natural Resources and Environmental Control (DNREC) submitted a SIP revision to EPA on Emission Statements. This revision would amend Delaware's Regulations Governing the Control of Air Pollution: section 2 of Regulation 1 (Definitions and Administrative Principles), and section 1 of Regulation 17 (Source Monitoring, Recordkeeping and Reporting), and also add a new section 7 of Regulation 17.

I. Background

The air quality planning and SIP requirements for ozone nonattainment and transport areas are set out in subparts I and II of part D of title I of the CAA, as amended by the Clean Air Act Amendments of 1990. EPA published a ''General Preamble'' describing EPA's preliminary views on how it intends to review SIPs and SIP revisions submitted under Title I of the CAA, including those state submittals for ozone transport areas within the states (see 57 FR 13498 (April 16, 1992) (''SIP: General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990''), 57 FR 18070 (April 28, 1992) (''Appendices to the General Preamble''), and 57 FR 55620 (November 25, 1992) (''SIP: NO_X Supplement to the General Preamble'')).

EPA also issued a draft guidance document describing the requirements for the emission statement programs discussed in this action, entitled ''Guidance on the Implementation of an Emission Statement Program'' (July, 1992). EPA is also conducting a rulemaking process to modify Title 40, Part 51 of the CFR to reflect the requirements of the emission statement program.

Section 182 of the CAA sets out a graduated control program for ozone nonattainment areas. Section 182(a) sets out requirements applicable in marginal ozone nonattainment areas, which are also applicable by sections 182 (b), (c), (d), and (e) to all other ozone nonattainment areas. Among the requirements in section 182(a) is a program for stationary sources to prepare and submit to the state each year emission statements certifying their actual emissions of VOCs and NO_X. This section of the CAA provides that the states are to submit a revision to their SIPs by November 15, 1992 establishing this emission statement program.

If a source emits either VOC or NO_X at or above the designated minimum reporting level, the other pollutant should be included in the emission statement, even if it is emitted at levels below the specified cutoffs.

States may waive, with EPA approval, the requirement for an emission statement for classes or categories of sources with less than 25 tons per year of actual plant-wide NO_X or VOC emissions in nonattainment areas if the class or category is included in the base year and periodic inventories and emissions are calculated using emissions factors established by EPA (such as those found in EPA publication AP–42) or other methods acceptable to EPA.

At minimum, the emission statement data should include:

—Certification of data accuracy;
—Source identification information;
—Operating schedule;
—Emissions information (to include annual and typical ozone season day emissions);
—Control equipment information; and
—Process data.

EPA developed emission statements data elements to be consistent with other source and state reporting requirements. This consistency is essential to assist states with quality assurance for emission estimates and to facilitate consolidation of all EPA reporting requirements.

II. EPA's Evaluation of Delaware's Submittal

A. Procedural Background

In accordance with the requirements of 40 CFR 51.102, the State of Delaware held a public hearing on September 29, 1993 in Dover, Delaware to solicit public comments on the implementation plan for the state. The plan was submitted to EPA by the Governor's designee on January 11, 1993.

B. Components of Delaware's Emission Statement Program

There are several key and specific components of an acceptable emission statement program. Specifically, Delaware must submit a revision to its SIP consisting of an emission statement program that meets the minimum requirements for reporting by the sources and the state. For the emission statement program to be approvable, Delaware's SIP revision must include, at a minimum, definitions and provisions for applicability, compliance, and specific source reporting requirements and reporting forms.

Regulation 1 (Definitions and Administrative Principles), section 2; and Regulation 17 (Source Monitoring, Recordkeeping and Reporting), section 1, has been revised by amending and adding the definitions of the following terms: actual emissions, annual fuel process rate, certifying individual, control efficiency, control equipment identification code, emission factor, emission statement, estimated emission method code, estimated emission units, measured emission method code, measured emission units, peak ozone season, percentage annual throughput, periodic ozone SIP inventory, point, potential to emit, process rate, segment, source classification code, and volatile organic compounds.

Regulation 17, section 7 (Emission Statement) requires a person who owns and operates any installation, source, or premises located in areas designated by the CAA as an ozone nonattainment area to report the levels of emissions from all stationary sources of VOCs and NO_X. The state may, with EPA approval, waive the emission statement requirements for classes or categories of

stationary sources with facility-wide actual emissions of less than 25 tons/year of VOC or NO_X if the class or category is included in the base year and periodic ozone inventories, and the actual emissions are calculated using EPA approved emission factors or other methods acceptable to EPA. Regulation 17, section 7, also requires emission statements for all stationary sources located in ozone attainment areas that emit or have the potential to emit 50 tons/year of VOC and/or NO_X. This section also requires that a certifying official for each facility provide Delaware with a statement reporting emissions by April 30 of each year beginning with April 30, 1993 for the emissions discharged during the previous calendar year. This section also delineates specific requirements for the content of these annual emission statements.

C. Enforceability

The State of Delaware has provisions in its SIP which ensure that the emission statement requirements of section 182(a)(3)(B) and sections 184(b)(2) and 182(f) of the CAA, as required by section 2 of Delaware Regulation Number 1 (Definitions and Administrative Principles) and sections 1 and 7 of Regulation 17 (Source Monitoring, Recordkeeping and Reporting), are adequately enforced.

EPA has determined that the submittal made by the State of Delaware satisfies the relevant requirements of the CAA and EPA's guidance document, ''Guidance on the Implementation of an Emission Statement Program'' (July 1992). EPA's detailed review of Delaware's Emission Statement Program is contained in a Technical Support Document (TSD) which is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

III. Final Action

EPA is approving a revision to the Delaware SIP to include an Emission Statement Program consisting of revisions to section 2, Regulation 1; and section 1, and a new section 7 of Regulation 17. This revision was submitted to EPA by the State of Delaware on January 11, 1993.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will become effective April 29, 1996 unless, by March 29, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 29, 1996.

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

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

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 29, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving Delaware's Emission Statement Program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: February 2, 1996.

W.T. Wisniewski,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart I—Delaware

2. Section 52.420 is amended by adding paragraph (c)(52) to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

(52) Revisions to the Delaware State Implementation Plan submitted by the Secretary, Delaware Department of Natural Resources and Environmental Control, on January 11, 1993.

(i) Incorporation by reference.

(A) Letter dated January 11, 1993 from the Secretary, Delaware Department of Natural Resources and Environmental Control, submitting a revision to the Delaware State Implementation Plan.

(B) Amended section 2, Regulation 1 (Definitions and Administrative Principles). Amended section 1, and added new section 7 of Regulation 17 (Source Monitoring, Recordkeeping and Reporting). The amendments to Regulations 1 and 17, and the addition of section 7 of Regulation 17, were effective on January 11, 1993. This revision consists of an emission statement program for stationary sources which emit volatile organic compounds (VOC) and/or nitrogen oxides (NO_X) at or above specified actual emission threshold levels. This program is applicable state-wide.

(ii) Additional material.

(A) Remainder of January 11, 1993 state submittal pertaining to Delaware Emission Statement Program.

* * * * *

[FR Doc. 96–4445 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[MD6–1–5626; FRL–5328–5]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Continuous Emission Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision establishes and requires continuous emission monitoring requirements for certain sources of air pollution. The regulation applies to operators of fossil fuel-fired steam generating equipment with a rated heat input capacity of 250 million BTU per hour or greater. The intended effect of this action is to approve an amended regulation submitted by the State of Maryland Department of the Environment as a SIP revision rendering its monitoring requirements as federally enforceable. This action is being taken in accordance with section 110 of the Clean Air Act.

DATES: This action is effective April 29, 1996 unless notice is received on or before March 29, 1996 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Marcia Spink, Associate Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; and State of Maryland Department of the Environment, Air Management Association, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Linda Miller, (215) 597–7547.

SUPPLEMENTARY INFORMATION: On September 23, 1991, the State of Maryland submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of the following regulatory modifications: (1) Definition amendments to Code of Maryland Administrative Regulations (COMAR) 26.11.01.01, (2) the addition of regulation COMAR 26.11.01.10 which contains continuous emissions monitoring (CEM) requirements for opacity and (3) amendments to COMAR 26.11.08.07 which would delete redundant language in requirements for CEMs for municipal solid waste incinerators.

Summary of SIP Revision

The revision includes the addition of definitions regarding the continuous emission monitoring regulations, the continuous emission monitoring program requirements for opacity.

The new regulations, found at COMAR 26.11.01.10, require continuous emission monitoring for large fuel burning sources. These new monitoring requirements will mandate the installation of continuous emission monitoring for opacity that will provide Maryland direct access to data for enforcement purposes. Opacity is an indicator of combustion efficiency and an indirect measure of particulate emissions. Data collected from the opacity monitoring will be used by Maryland as an indicator of whether proper operation and maintenance procedures are being used.

Specifically, the revision adds a new regulation which provides that fossil fuel-fired steam generating units with a rated heat input of 250 million Btu per hour or greater shall install and operate a CEM to measure and record opacity. The new regulation also clearly stipulates monitoring and installation requirements, certification schedules, and recordkeeping and reporting requirements.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on April 29, 1996, unless, by March 29, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 29, 1996.

Final Action

EPA is approving the amended regulations, COMAR 26.11.01.01 Definitions and COMAR 26.11.01.10 Continuous Emissions Monitoring Requirements submitted by the State of Maryland Department of the Environment as a revision to the Maryland SIP. The regulation requires that the operators of fossil fuel-fired steam generating units, continuously monitor opacity and report the findings on a specified, regular basis to the

Maryland Department of the Environment.

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

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

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

This action has been classified as a Table 3 action for signature by the Regional Administrator under the SIP processing guidelines of the July 10, 1995 memorandum from the Assistant Administrator for Air and Radiation.

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

Through submission of this state implementation plan revision, the State has elected to adopt the program provided for under section 110 and subchapter I, part D of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirement; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, pertaining to the State of Maryland—Continuous Emission Monitoring Regulations, must be filed in the United States Court of Appeals for the appropriate circuit by April 29, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 24, 1995.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraph (c)(106) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(106) Revisions to the Maryland Regulations submitted on September 18, 1991 by the Maryland Department of the Environment.

(i) Incorporation by reference.

(A) Letter of September 18, 1991 from the Maryland Department of the Environment transmitting the continuous emission monitoring revision.

(B) Definition amendments to Code of Maryland Administrative Regulations (COMAR) 26.11.01.01, excluding paragraph E–1, and new regulations COMAR 26.11.01.10 Continuous Emission Monitoring Requirements, concerning continuous opacity monitoring, effective July 22, 1991.

(ii) Additional materials.

(A) Remainder of September 23, 1991 State submittal.

* * * * *

[FR Doc. 96–4444 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 110

[FRL–5430–6]

Oil Discharge Program; Editorial Revision of Rules

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is removing text from the Code of Federal Regulations (CFR), specifically 40 CFR part 110, which is unnecessary because it simply repeats language already set out in section 311 of the Federal Water Pollution Control Act (the Clean Water Act or the Act). EPA is also making other editorial revisions in 40 CFR part 110. Neither the removal of text nor the editorial revisions effect any substantive changes to the revised rules.

EFFECTIVE DATE: February 28, 1996.

FOR FURTHER INFORMATION CONTACT: Hugo Paul Fleischman, Office of Emergency and Remedial Response, U.S. Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, mail code 5203G, phone (703) 603–8769; or the RCRA/Superfund Hotline, phone (800) 424–9346 or (703) 603–9232 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 4, 1995, The President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer, and by June 1, 1995, to identify those rules that are obsolete or unduly burdensome. EPA has

conducted that review and, on June 29, 1995, published a final rule eliminating legally obsolete rules. *See* 60 FR 33912. Now EPA is taking another step in the ongoing review of its rules. EPA has reviewed 40 CFR part 110, and is removing text which unnecessarily repeats section 311 of the Act. EPA is also revising regulatory text: to make it more concise, to conform more closely to statutory language, or to eliminate text which is legally obsolete. All of these changes are editorial. None effect any changes to the substance of the revised rules. EPA is also redesignating affected sections as necessary.

II. Provisions Which Largely Track the Clean Water Act

EPA is removing the following provisions, or parts thereof, which either track the language of the Act precisely, or closely paraphrase it. These changes either make the regulatory text more concise or remove legally obsolete language.

40 CFR 110.1 Definitions

EPA is revising the introductory text to § 110.1 to provide that words not defined therein have the same meaning as in section 311(a) of the Act. Therefore, EPA is removing the following definitions in § 110.1 which track language in section 311 of the Act. The definitions are: ''contiguous zone;'' ''Deepwater port;'' ''discharge;'' ''oil;'' ''offshore facility;'' ''onshore facility;'' ''person;'' ''public vessel;'' and, ''vessel.'' ''Deepwater port'' is a term no longer appearing in part 110, therefore the definition is no longer necessary. *See* 60 FR 33912.''Oil,'' as defined in relation to section 18 of the Deepwater Port Act of 1974, is also being removed. Section 18 was repealed by section 2003(a) of the Oil Pollution Act of 1990, Public Law 202–380, August 18, 1990. Therefore, that part of the definition is legally obsolete.

40 CFR 110.2 Applicability

EPA is removing the second and third sentences of the paragraph comprising this section. The second sentence of the paragraph describes the scope of discharge prohibited by section 311(b)(3) of the Act, and closely tracks the language of that section. Removal of this sentence will have no effect on the scope of prohibited discharges. The rule and section 311(b)(3) of the Act will continue to prohibit illegal discharges. EPA is also removing the third sentence of the paragraph because it merely references a removed section, i.e., § 110.11. That section was removed from the CFR on June 29, 1995 (60 FR 33912) because it was legally obsolete.

40 CFR 110.9 [sic] Discharge Prohibited

EPA is removing this section because it merely paraphrases the statutory language of section 311(b)(3) of the Act. This section should have been designated § 110.6, but due to error was designated as § 110.9.

III. Editorial Changes

EPA is revising the text in the sections described below in order to make them more concise, and to consolidate similar text now in multiple sections into one section where possible. In one case, EPA is revising regulatory text to conform more closely to statutory language. The revisions to or redesignation of affected sections is explained below.

40 CFR 110.3 Discharge Into Navigable Waters of Such Quantities as May Be Harmful

Revised §110.3 consolidates regulations from old §§ 110.3, 110.4, and 110.5. The section heading is being revised to read ''Discharge of oil in such quantities as 'may be harmful' pursuant to section 311(b)(4) of the Act,'' in order to reflect the consolidation of the regulations under that section. The new name of the section describes its enlarged scope. Revised § 110.3 now includes discharges of oil: into navigable waters formerly included within the scope of old § 110.3, into the contiguous zone formerly included within the scope of old § 110.4, and beyond the contiguous zone formerly included within the scope of old § 110.5. EPA is removing old §§ 110.4 and 110.5 because the text of revised § 110.3 now includes all discharges of oil, whether in navigable waters, the contiguous zone, or beyond the contiguous zone. EPA is also revising the text of § 110.3 to make clear that discharges affecting the environment, as provided in section 311(b)(4) of the Act, are included within the scope of prohibited discharges.

40 CFR 110.4 Discharge Into Contiguous Zone of Such Quantities as May be Harmful

EPA is removing this section because its provisions have been incorporated into revised § 110.3.

40 CFR 110.5 Discharge Beyond Contiguous Zone of Such Quantities as May be Harmful

EPA is removing this section because its provisions have been incorporated into revised § 110.3. In its place, EPA is revising and renaming § 110.5. The renamed section describes those discharges which have been determined not to be harmful, combining the text from old §§ 110.7 and 110.9.

40 CFR 110.7 Exception for Vessel Engines

EPA is removing this section because the exception is now included within revised § 110.5.

40 CFR 110.8 Dispersants

This section is being redesignated as § 110.4.

40 CFR 110.9 Demonstration Projects

EPA is removing this section because discharges permitted in connection with research, demonstration projects, or studies relating to the prevention, control, or abatement of oil pollution are now included in revised § 110.5.

40 CFR 110.10 Notice

EPA is redesignating this section as § 110.6. EPA is also removing the reference to § 110.6 in the first sentence of the section, and substituting § 311 (b)(3) of the Act in its place. This change is necessary because former §110.6, ''Discharges prohibited,'' is being removed. The revision is strictly editorial and does not change the scope of prohibited discharges.

IV. Differentiation Between Classes of Oils

Pursuant to Public Law 104–55 (109 Stat. 546), enacted November 20, 1995, most Federal agencies (including EPA) must, in the issuance or enforcement of any regulation or the establishment of any interpretation or guideline relating to the transportation, storage, discharge, release, emission, or disposal of a fat, oil, or grease, differentiate between and establish separate classes for animal fats and oils and greases, fish and marine mammal oils, and oils of vegetable origin (as opposed to petroleum and other oils and greases). EPA has considered whether differentiation between and establishment of separate classes of oils is appropriate for this rule, and concluded that it is not. This conclusion is based on the fact that the instant revisions are merely editorial and do not change any substantive aspects of the oil discharge program, thereby vitiating any need for differentiation.

V. Good Cause Exemption From Notice and Comment Rulemaking Procedures

The Administrative Procedure Act generally requires agencies to provide prior notice and opportunity for public comment before issuing a final rule. 5 U.S.C. 553(b). Rules are exempt from this requirement if the issuing agency finds for good cause that notice and

comment are unnecessary. 5 U.S.C. 553(b)(3)(B).

EPA has determined that providing prior notice and opportunity for comment on the removal and revision of these Regulatory provisions from the CFR is unnecessary. The removals and revisions contained in this final rule are merely editorial and do not affect any substantive aspects of the oil discharge program.

For the same reasons, EPA believes there is good cause for making the removal and revision of these regulatory provisions from the CFR effective immediately. *See* 5 U.S.C. 553(d).

VI. Analyses Under E.O. 12866, the Unfunded Mandates Reform Act of 1995, the Regulatory Flexibility Act and the Paperwork Reduction Act

Because the revision or removal of these rules from the CFR is merely editorial and thus has no regulatory impact, this action is not a ''significant'' regulatory action within the meaning of E.O. 12866, and does not impose any Federal mandate on State, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995. For the same reasons, pursuant to the Regulatory Flexibility Act, I certify that this action would not have a significant economic impact on a substantial number of small entities. Finally, because these revisions and removals are merely editorial, they do not affect requirements under the Paperwork Reduction Act.

List of Subjects in 40 CFR Part 110

Environmental protection, Deepwater ports, Oil pollution.

Dated: February 15, 1996.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 110—[AMENDED]

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

Authority: 33 U.S.C. 1321(b)(3) and (b)(4) and 1361(a); E.O. 11735, 38 FR 21243, 3 CFR Parts 1971–1975 Comp., p. 793.

2. In section 110.1 the introductory text is revised and the definitions of ''contiguous zone,'' ''Deepwater port,'' ''discharge,'' ''offshore facility,'' ''oil,'' ''onshore facility,'' ''person,'' ''public vessel,'' and ''vessel'' are removed; to read as follows:

§ 110.1 Definitions.

Terms not defined in this section have the same meaning given by the Section 311 of the Act. As used in this part, the following terms shall have the meaning indicated below:

* * * * *

3. Section 110.2 is revised to read as follows:

§ 110.2 Applicability.

The regulations of this part apply to the discharge of oil prohibited by section 311(b)(3) of the Act.

4. Section 110.3 is revised to read as follows:

§ 110.3 Discharge of oil in such quantities as ''may be harmful'' pursuant to section 311(b)(4) of the Act.

For purposes of section 311(b)(4) of the Act, discharges of oil in such quantities that the Administrator has determined may be harmful to the public health or welfare or the environment of the United States include discharges of oil that:

(a) Violate applicable water quality standards; or

(b) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.

§ 110.4 [Removed and Reserved]

5. Section 110.4 is removed and reserved.

6. Section 110.5 is revised to read as follows:

§ 110.5 Discharges of oil not determined ''as may be harmful'' pursuant to Section 311(b)(3) of the Act.

Notwithstanding any other provisions of this part, the Administrator has not determined the following discharges of oil ''as may be harmful'' for purposes of section 311(b) of the Act:

(a) Discharges of oil from a properly functioning vessel engine (including an engine on a public vessel) and any discharges of such oil accumulated in the bilges of a vessel discharged in compliance with MARPOL 73/78, Annex I, as provided in 33 CFR part 151, subpart A;

(b) Other discharges of oil permitted under MARPOL 73/78, Annex I, as provided in 33 CFR part 151, subpart A; and

(c) Any discharge of oil explicitly permitted by the Administrator in connection with research, demonstration projects, or studies relating to the prevention, control, or abatement of oil pollution.

§ 110.9 [Removed]

7. Section 110.9 ''Discharge prohibited'', appearing between § 110.5 and 110.7, is removed.

§ 110.7 [Removed]

8. Section 110.7 is removed.

§ 110.8 [Redesignated as § 110.4]

9. Section 110.8 is redesignated as § 110.4.

§ 110.9 [Removed]

10. Section 110.9 is removed.

§ 110.10 [Redesignated as § 110.6]

11. Section 110.10 is redesignated as § 110.6, and the newly designated § 110.6 is further amended by revising the first sentence to read as follows:

§ 110.6 Notice.

Any person in charge of a vessel or of an onshore or offshore facility shall, as soon as he or she has knowledge of any discharge of oil from such vessel or facility in violation of section 311(b)(3) of the Act, immediately notify the National Response Center (NRC) (800–424–8802; in the Washington, DC metropolitan area, 202–462–2675). * * *

[FR Doc. 96–4386 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 712 and 716

[OPPTS–82048; FRL–4996–9]

Preliminary Assessment Information and Health and Safety Data Reporting; Addition of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Interagency Testing Committee (ITC) in its 37th Report to EPA revised the Toxic Substances Control Act (TSCA) Section 4(e) Priority List by recommending for testing 28 chemical substances. The ITC recommendations must be given priority consideration by EPA in promulgating test rules. EPA is adding these chemical substances to two model information-gathering rules: the TSCA Section 8(a) Preliminary Assessment Information Rule (PAIR) and the TSCA Section 8(d) Health and Safety Data Reporting Rule. These model rules will require manufacturers and importers of the substances identified herein to report certain production, use, and exposure-related information, and manufacturers, importers, and processors of the listed substances to report unpublished health and safety data to EPA. This rule also makes certain modifications to a final

rule published in the Federal Register of February 9, 1994; the TSCA section 8(d) Health and Safety Data Reporting rule.

EFFECTIVE DATE: March 29, 1996.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. E–543, Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551, e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This rule adds 28 chemical substances to the PAIR and the section 8(d) Health and Safety Data Reporting Rule. Manufacturers, importers, and processors of these chemicals will be required to report unpublished health and safety data, and manufacturers and importers will be required to report end use, exposure, and production volume data to EPA.

This document also modifies TSCA section 8(d) of a final rule published in the Federal Register of February 9, 1994 (59 FR 5956), to require submission of ecological effects data for o-sec-butylphenol (CAS No. 89–72–5).

I. Background

Section 4(e) of TSCA established the ITC and authorized it to recommend to EPA chemical substances and mixtures (chemicals) to be given priority consideration in proposing test rules under section 4. For some of these chemicals, the ITC may designate that EPA must respond to its recommendations within 12 months. In this time, EPA must either initiate a rulemaking to test the chemical or publish in the Federal Register its reasons for not doing so.

On November 22, 1995, EPA announced the receipt of the 37th Report of the ITC, and it was then published in the Federal Register of February 2, 1996 (61 FR 4188). The 37th Report revises the Committee's priority list of chemicals by recommending the addition of 28 chemical substances for testing to the section 4(e) priority list.

This rule adds 28 substances to the section 8(a) Preliminary Assessment Information Reporting Rule PAIR and the section 8(d) Health and Safety Data Reporting Rule. These two rules are model information gathering rules which assist the ITC in making testing recommendations and aid EPA in responding to the ITC recommendations.

EPA issued the PAIR under section 8(a) of TSCA (15 U.S.C. 2607(a)), and it is codified at 40 CFR part 712. This model section 8(a) rule establishes standard reporting requirements for manufacturers and importers of the chemicals listed in the rule at 40 CFR 712.30. These manufacturers and importers are required to submit a one-time report on general volume, end use, and exposure-related information using the Preliminary Assessment Information Manufacturer's Report (EPA Form 7710–35). EPA uses this model section 8(a) rule to gather current information on chemicals of concern quickly.

EPA issued the model Health and Safety Data Reporting Rule under section 8(d) of TSCA (15 U.S.C. 2607(d)), and it is codified at 40 CFR part 716. The section 8(d) model rule requires past, current, and prospective manufacturers, importers, and processors of listed chemicals to submit to EPA copies and lists of unpublished health and safety studies on the listed chemicals that they manufacture, import, or process. These studies provide EPA with useful information and have provided significant support for EPA's decisionmaking under TSCA sections 4, 5, 6, 8, and 9.

These model rules provide for the automatic addition of ITC priority list chemicals. Whenever EPA announces the receipt of an ITC report, EPA may, at the same time without further notice and comment, amend the two model information-gathering rules by adding the recommended chemicals. The amendment adding these chemicals to the PAIR and the Health and Safety Data Reporting Rule becomes effective 30 days after publication in the Federal Register.

II. Chemicals To Be Added

In its 37th Report to EPA, the ITC recommended adding 28 alkylphenols and alkylphenol ethoxylates to the section 8(a) PAIR and the section 8(d) Health and Safety Data Reporting Rule. While 28 chemical substances are identified in the regulatory text, 34 CAS numbers are listed. Two chemical substances, branched 4-nonyphenol (mixed isomers) and (1,1,3,3-tetramethylbutyl)phenol (mixed isomers) are characterized with multiple CAS numbers.

For a complete listing of the substances being added to the section 8(d) model rule and the PAIR, see the regulatory text of this document.

In response to the data needs of EPA and the Department of Interior, TSCA section 8(d) reporting requirements for o-sec-buytlphenol (CAS No. 89–72–5) are being amended to require submission of ecological effects data (59 FR 5956, February 9, 1994).

III. Reporting Requirements

A. Preliminary Assessment Information Rule

All persons who manufactured or imported the chemical substances named in this rule during their latest complete corporate fiscal year must submit a Preliminary Assessment Information Manufacturer's Report (EPA Form No. 7710–35) for each manufacturing or importing site at which they manufactured or imported a named substance. A separate form must be completed for each substance and submitted to the Agency no later than May 28, 1996. Persons who have previously and voluntarily submitted a Manufacturer's Report to the ITC or EPA may be able to submit a copy of the original Report to EPA or to notify EPA by letter of their desire to have this voluntary submission accepted in lieu of a current data submission. See § 712.30(a)(3).

Details of the reporting requirements, the basis for exemptions, and a facsimile of the reporting form, are provided in 40 CFR part 712. Copies of the form are available from the TSCA Environmental Assistance Division at the address listed under **FOR FURTHER INFORMATION CONTACT**.

B. Health and Safety Data Reporting Rule

Listed below are the general reporting requirements of the section 8(d) model rule.

1. Persons who, in the 10 years preceding the date a substance is listed, either have proposed to manufacture, import, or process, or have manufactured, imported, or processed, the listed substance must submit to EPA; A copy of each health and safety study which is in their possession at the time the substance is listed.

2. Persons who, at the time the substance is listed, propose to manufacture, import, or process; or are manufacturing, importing, or processing the listed substance must submit to EPA:

a. A copy of each health and safety study which is in their possession at the time the substance is listed.

b. A list of health and safety studies known to them but not in their possession at the time the substance is listed.

c. A list of health and safety studies that are ongoing at the time the substance is listed and are being conducted by or for them.

d. A list of each health and safety study that is initiated after the date the substance is listed and is conducted by or for them.

e. A copy of each health and safety study that was previously listed as ongoing or subsequently initiated and is now complete—regardless of completion date.

3. Persons who, after the time the substance is listed, propose to manufacture, import, or process the listed substance must submit to EPA:

a. A copy of each health and safety study which is in their possession at the time they propose to manufacture, import, or process the listed substance.

b. A list of health and safety studies known to them but not in their possession at the time they propose to manufacture, import, or process the listed substance.

c. A list of health and safety studies that are ongoing at the time they propose to manufacture, import, or process the listed substance, and are being conducted by or for them.

d. A list of each health and safety study that is initiated after the time they propose to manufacture, import, or process the listed substance, and is conducted by or for them.

e. A copy of each health and safety study that was previously listed as ongoing or subsequently initiated and is now complete—regardless of the completion date.

The bulk of reporting is required at the time the substance is listed. Persons described in categories 1 and 2 do all or most of their health and safety data reporting at the start of the reporting period. The remaining reporting requirements, specifically categories 2(d), 2(e), and 3, continue prospectively.

Detailed guidance for reporting unpublished health and safety data is provided in the Federal Register of September 15, 1986 (51 FR 32720). Also found there are explanations of the reporting exemptions.

C. Submission of PAIR Reports and Section 8(d) Studies

PAIR reports and section 8(d) health and safety studies must be sent to: TSCA Document Processing Center (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, ATTN: (insert either PAIR or 8(d) Reporting).

D. Removal of Chemical Substances from the Rules

Any person who believes that section 8(a) or 8(d) reporting required by this rule is unwarranted, should promptly submit to EPA in detail the reasons for that belief. EPA, in its discretion, may remove the substance from this rule for good cause (40 CFR 712.30 and 716.105). When withdrawing a substance from the rule, EPA will issue a rule amendment for publication in the Federal Register.

IV. Economic Analysis

A. Preliminary Assessment Information Rule

The economic analysis for the addition of the 28 chemicals to the TSCA Section 4(e) Priority List will be based largely on the methods and data sources developed for the analyses of the original Section 8(a) Preliminary Assessment Information Rule (PAIR). These analyses are:

1. Economic Impact and Small Business Definition Analysis for TSCA Section 8(a) Preliminary Assessment Information Rule. Office of Regulatory Analysis, OTS, U.S. EPA. February 1980.

2. Economic Analysis of the Final Section 8(a) Preliminary Assessment Information Rule. R.A. Horner, Regulatory Impacts Branch, OTS, U.S. EPA. November 12, 1981.

The Chemical Update System (CUS) was searched to determine the manufacturers and importers of the 28 chemicals. This search identified 17 firms manufacturing or importing the 28 chemicals at a total of 14 sites.

Reporting Costs (dollars)

(a) 26 reports estimated at $1,483.73 per report=$38,576.98
(b) 17 sites at $465.99 per site=$7,921.83
Total Cost=$46,498.81
Mean cost per site=$46,499/14 sites=$3,321.36
Mean cost per firm=$46,499/17 firms=$2,735.24

Reporting Burden (hours)

(a) Rule familiarization: 7 hrs/site×14 sites=98
(b) Reporting: 22 hrs/report×26 reports=572
Total burden hours=707
Average burden per site=707 hours/14 sites=50.5
Average burden per firm=707 hours/17 firms=41.6

EPA Costs (dollars)

It is estimated that the annual cost to the Federal Government will be 1.36 FTEs (or 2,828.8 hours annually). At an estimated $69,370 per FTE, the total of 1.36 FTEs will cost EPA $94,343.

B. Health and Safety Data Reporting Rule

EPA estimates the total reporting costs for establishing section 8(d) reporting requirements for the 11 chemicals will be $84,954. The methodology used in this economic analysis was derived from the approach used in the analysis of the original 8(d) reporting: Impact Analysis for the Health and Safety Data Reporting Rule (Office of Toxic Substances, U.S. EPA, September 1982). Although EPA has used the best available data to make its economic projections, much of the information is based upon the 1986 TSCA Inventory Update and secondary information from industry sources.

The estimated reporting costs are broken down as follows:

Initial corporate review	$8,382
Site identification	12,573
File searches at site	28,329
Photocopying existing studies	3,208
Title listing	1,277
Managerial review for CBI	18,549
Reporting on newly-initiated studies	491
Submissions after initial reporting period	11,653
Additional costs	492
Total	84,954

Reporting Burden (hours)

(a) Initial review: 108 hrs
(b) Reporting: 953 hrs
Total reporting burden hours=1,061 hrs

V. Rulemaking Record

The following documents constitute the record for this rule (docket control number OPPTS–82048). All of these documents are available to the public in the TSCA Nonconfidential Information Center (NCIC), formerly the TSCA Public Docket Office, from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The NCIC is located at EPA Headquarters, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

1. This final rule.
2. The economic analysis for this rule.
3. The Thirty-seventh Report of the ITC.

VI. Regulatory Assessment Requirements

A. Executive Order 12866

Pursuant to Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this rule is not ''significant'' because the Office of Management and Budget (OMB) has waived review of these types of actions, and is therefore not subject to OMB review.

B. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2070–0054 for PAIR reporting and 2070–0004 for TSCA section 8(d) reporting. Information concerning the collection of

this information, its use, and estimated costs may be found in Units I. and IV. of this preamble.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Agency must consider whether a regulatory action will have an adverse economic impact on small entities. Section 605(b) requires the Agency to either certify that the regulatory action will not have a significant economic impact on a substantial number of small entities, or prepare a regulatory flexibility analysis. EPA has determined that this regulatory action does not impose any adverse economic impacts on small entities.

D. Unfunded Mandates Reform Act and Executive Order 12875

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), EPA has determined that this regulatory action does not contain any ''unfunded mandates,'' as described by the Act, for State, local, or tribal governments or the private sector. In addition, EPA has determined that this action does not result in the expenditure of $100 million or more by any State, local or tribal governments, or by anyone in the private sector. The costs associated with this action are described in the Executive Order 12966 section above.

E. Executive Order 19898

Due to the nature of this action which is confined to information-gathering activities, it was not necessary for the Agency to consider environmental justice related issues pursuant to Executive Order 19898 (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Parts 712 and 716

Environmental protection, Chemicals, Hazardous substances, Health and safety data, Reporting and recordkeeping requirements.

Dated: February 22, 1996.

Frank D. Kover,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR Chapter I is amended as follows:

PART 712—[AMENDED]

1. In part 712:

a. The authority citation for part 712 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

b. Section 712.30(e) is amended in the table by alphabetically adding the new category ''Alkylphenols and Alkylphenol Ethoxylates,'' to read as follows:

§ 712.30 Chemicals lists and reporting periods.

* * * * *

(e) * * *

CAS No.	Substance	Effective date	Reporting date
*	* * * * *	*	
Alkylphenols and Alkylphenol Ethoxylates:			
80–46–6	4-tert-Pentylphenol	3/29/96	5/29/96
88–18–6	2-tert-Butylphenol	3/29/96	5/29/96
94–06–4	4-(1-Methylbutyl)phenol	3/29/96	5/29/96
98–54–4	4-tert-Butylphenol	3/29/96	5/29/96
99–71–8	4-sec-Butylphenol	3/29/96	5/29/96
104–40–5	4-Nonylphenol	3/29/96	5/29/96
104–43–8	4-Dodecylphenol	3/29/96	5/29/96
949–13–3	2-Octylphenol	3/29/96	5/29/96
1300–16–9	Nonylphenol (mixed isomers)	3/29/96	5/29/96
1322–69–6	(1,1,3,3-Tetramethylbutyl)phenol (mixed isomers)	3/29/96	5/29/96
1331–57–3	Dodecylphenol (mixed isomers)	3/29/96	5/29/96
1638–22–8	4-n-Butylphenol	3/29/96	5/29/96
1806–26–4	4-Octylphenol	3/29/96	5/29/96
2315–66–4	Decaethylene glycol 4-isooctylphenyl ether	3/29/96	5/29/96
2497–58–7	Hexaethylene glycol 4-isooctylphenyl ether	3/29/96	5/29/96
3180–09–4	2-Butylphenol	3/29/96	5/29/96
3884–95–5	2-(1,1,3,3-Tetramethylbutyl)phenol	3/29/96	5/29/96
9002–93–1	Polyethylene glycol 4-(tert-octyl)phenyl ether	3/29/96	5/29/96
9036–19–5	Polyethylene glycol mono(octyl)phenyl ether	3/29/96	5/29/96
11066–49–2	Isononylphenol (mixed isomers)	3/29/96	5/29/96
14938–35–3	4-Pentylphenol	3/29/96	5/29/96
17404–66–9	4-(1-Methyloctyl)phenol	3/29/96	5/29/96
25154–52–3	Nonylphenol (mixed isomers)	3/29/96	5/29/96
27178–34–3	tert-Butylphenol (mixed isomers)	3/29/96	5/29/96
27193–28–8	(1,1,3,3-Tetramethylbutyl)phenol (mixed isomers)	3/29/96	5/29/96
27193–86–8	Dodecylphenol (mixed isomers)	3/29/96	5/29/96
27985–70–2	(1-Methylheptyl)phenol (mixed isomers)	3/29/96	5/29/96
29932–96–5	(1,1,3,3-Tetramethylbutyl)phenol (mixed isomers)	3/29/96	5/29/96
30105–54–5	(1,1,3,3-Tetramethylbutyl)phenol (mixed isomers)	3/29/96	5/29/96
31195–95–6	Isobutylphenol (mixed isomers)	3/29/96	5/29/96
54932–78–4	4-(2,2,3,3-Tetramethylbutyl)phenol	3/29/96	5/29/96
2744–41–6	(1,1,3,3-Tetramethylbutyl)phenol (mixed isomers)	3/29/96	5/29/96
68987–90–6	Poly(oxy-1,2-ethanediyl), α-(octylphenyl)-ω-hydroxy-, branched	3/29/96	5/29/96
84852–15–3	Branched 4-nonylphenol (mixed isomers)	3/29/96	5/29/96
*	* * * * *	*	

PART 716—[AMENDED]

2. In part 716:

1a. The authority citation for part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

b. Section 716.120(d) is amended in the table by alphabetically adding the new category ''Alkylphenols and Alkylphenol Ethoxyates'' and revising the entry for o-sec-butylphenol under the category ''OSHA Chemicals in Need of Dermal Absorption Testing'' to read as follows:

§ 716.120 Substances and listed mixtures to which this subpart applies.

* * * * *

(d) * * *

Category	CAS No. (exemption for category)	Special exemptions	Effective date	Sunset date
* * *	*	* *	*	
Alkylphenols and Alkylphenol Ethoxyates:				
tert-Butylphenol (mixed isomers)	27178–34–3	§ 716.20(b)(4) applies	3/29/96	3/29/06
2-Butylphenol	3180–09–4	§ 716.20(b)(4) applies	3/29/96	3/29/06
2-tert-Butylphenol	88–18–6	§ 716.20(b)(4) applies	3/29/96	3/29/06
4-n-Butylphenol	1638–22–8	§ 716.20(b)(4) applies	3/29/96	3/29/06
4-sec-Butylphenol	99–71–8	§ 716.20(b)(4) applies	3/29/96	3/29/06
4-tert-Butylphenol	98–54–4	§ 716.20(b)(4) applies	3/29/96	3/29/06
Decaethylene glycol 4-isoctylphenyl ether	2315–66–4	§ 716.20(b)(4) applies	3/29/96	3/29/06
4-Dodecylphenol	104–43–8	§ 716.20(b)(4) applies	3/29/96	3/29/06
Dodecylphenol (mixed isomers)	1331–57–3	§ 716.20(b)(4) applies	3/29/96	3/29/06
Dedecylphenol (mixed isomers)	27193–86–8	§ 716.20(b)(4) applies	3/29/96	3/29/06
Hexaethylene glycol 4-isoctylphenyl ether	2497–58–7	§ 716.20(b)(4) applies	3/29/96	3/29/06
Isobutylphenol (mixed isomers)	31195–95–6	§ 716.20(b)(4) applies	3/29/96	3/29/06
Isononylphenol (mixed isomers)	11066–49–2	§ 716.20(b)(4) applies	3/29/96	3/29/06
4-(1-Methylbutyl)phenol	94–06–4	§ 716.20(b)(4) applies	3/29/96	3/29/06
(1-Methylheptyl)phenol (mixed isomers)	27985–70–2	§ 716.20(b)(4) applies	3/29/96	3/29/06
4-(1-Methyloctyl)phenol	17404–66–9	§ 716.20(b)(4) applies	3/29/96	3/29/06
Nonylphenol (mixed isomers)	1300–16–9	§ 716.20(b)(4) applies	3/29/96	3/29/06
	25154–52–3	§ 716.20(b)(4) applies	3/29/96	3/29/06
4-Nonylphenol	104–40–5	§ 716.20(b)(4) applies	3/29/96	3/29/06
Branched 4-nonylphenol (mixed isomers)	84852–15–3	§ 716.20(b)(4) applies	3/29/96	3/29/06
2-Octylphenol	949–13–3	§ 716.20(b)(4) applies	3/29/96	3/29/06
4-Octylphenol	1806–26–4	§ 716.20(b)(4) applies	3/29/96	3/29/06
4-Pentylphenol	14938–35–3	§ 716.20(b)(4) applies	3/29/96	3/29/06
4-tert-Pentylphenol	80–46–6	§ 716.20(b)(4) applies	3/29/96	3/29/06
Polyethylene glycol mono(octyl)phenyl ether	9036–19–5	§ 716.20(b)(4) applies	3/29/96	3/29/06
Polyethylene glycol 4-(tert-octyl)phenyl ether	9002–93–1	§ 716.20(b)(4) applies	3/29/96	3/29/06
Poly(oxy-1,2-ethanediyl), α-(octylphenyl)-α-hydroxy-, branched.	48987–90–6	§ 716.20(b)(4) applies	3/29/96	3/29/06
2-(1,1,3,3-Tetramethylbutyl)phenol	3884–95–5	§ 716.20(b)(4) applies	3/29/96	3/29/06
(1,1,3,3-Tetramethylbutyl)phenol (mixed isomers)	1322–69–6	§ 716.20(b)(4) applies	3/29/96	3/29/06
	27193–28–8	§ 716.20(b)(4) applies	3/29/96	3/29/06
	29932–96–5	§ 716.20(b)(4) applies	3/29/96	3/29/06
	30105–54–5	§ 716.20(b)(4) applies	3/29/96	3/29/06
	62744–41–6	§ 716.20(b)(4) applies	3/29/96	3/29/06
4-(2,2,3,3-Tetramethylbutyl)phenol	54932–78–4	§ 716.20(b)(4) applies	3/29/96	3/29/06
* * *	*	* *	*	
OSHA Chemicals in Need of Dermal Absorption Testing:				
o-sec-butylphenol	89–72–5		3/11/94	3/11/04
* * *	*	* *	*	

[FR Doc. 96–4519 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 90, 98, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 170, 174, and 175

[CGD 82–004 and CGD 86–074]

RIN 2115–AA77

Offshore Supply Vessels

AGENCY: Coast Guard, DOT.

ACTION: Interim rule, with request for comments; reopening of comment period.

SUMMARY: On November 16, 1995, the Coast Guard published an Interim Rule (IR) [60 FR 57630], a complete set of regulations applicable to new offshore supply vessels (OSVs), including liftboats, and provided an opportunity for public comment. Because of a request from the Offshore Marine Service Association (OMSA), who represents more than 280 OSV-related companies, the Coast Guard is

reopening the comment period for about 45 days.

DATES: Comments must arrive on or before March 31, 1996.

ADDRESSES: Mail comments to the Executive Secretary, Marine Safety Council (G–LRA, 3406) [CGD 82–004 or CGD 86–074], U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001, or deliver them to Room 3406 at that address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Phone, (202) 267–1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at Room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: James M. Magill, Commandant (G–MOS–2), Room 1208c, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, (202) 267–1181.

SUPPLEMENTARY INFORMATION:

Request for Comments

The IR, published on November 16, 1995, invited and encouraged interested persons to participate in the rulemaking by submitting written comments, including views, data, and arguments, by February 14, 1996. OMSA has asked for more time to prepare comments, citing the need for its members to review the IR in light of the fact that a number of new technical and logistic advances and innovations have been implemented since the publication of the Notice of Proposed Rulemaking (NPRM) on May 9, 1989. Because of this, and the fact that the comment period spanned the holidays of Christmas and New Year, the Coast Guard is reopening the comment period for about 45 days, until March 31, 1996. Interested persons may participate in this rulemaking by submitting written data, views, or arguments on the IR. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD 82–004 and CGD 86–074] and the specific section or paragraph of the IR or related documents to which the comments apply, and give a reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Any person wishing acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received by the end of the comment period before it acts further on the rulemaking, and the Final Rule may vary from the IR in light of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If the Coast Guard determines that the opportunity for oral presentations will aid this rulemaking, it will hold a public hearing at a time and place announced by a later notice in the Federal Register.

Dated: February 20, 1996.

Joseph J. Angelo,

Director for Standards, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 96–4537 Filed 2–27–96; 8:45 am]

BILLING CODE 4910–14–M

Surface Transportation Board

49 CFR Parts 1039, 1134, 1135 and 1145

[STB Ex Parte No. 531]

Removal of Obsolete Recyclables Regulations

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (the Board) is removing obsolete recyclable commodities regulations from the Code of Federal Regulations.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), abolished the Interstate Commerce Commission (the Commission) and established within the Department of Transportation the Surface Transportation Board. Section 204 of the Act provides that ''[t]he Board shall promptly rescind all regulations established by the [Commission] that are based on provisions of law repealed and not substantively reenacted by this Act.'' 49 U.S.C. 10710, the statutory basis for the part 1134 discrimination against recyclables regulations,[1] and 49 U.S.C. 10731, the statutory basis for the part 1145 rail rates on recyclables regulations,[2] have been repealed. We are therefore removing the now obsolete parts 1134 and 1145 regulations, as well as a reference to part 1145 in § 1039.11 and another obsolete regulation pertaining to recyclable rates, § 1135.1(h). These changes are not necessarily the final revisions to the regulations in light of the elimination of § 10710 and § 10731.[3]

Because this action merely reflects, and is required by, the enactment of the Act and will not have an adverse effect on the interests of any person, this action will be deemed to be effective as of January 1, 1996.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Manufactured commodities, Railroads.

49 CFR Parts 1134 and 1145

Administrative practice and procedure, Freight, Railroads.

49 CFR Part 1135

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements.

Decided: February 15, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended as set forth below:

PART 1039—EXEMPTIONS

1. The authority citation for part 1039 is revised to read as follows:

Authority: 5 U.S.C. 553 and 49 U.S.C. 721 and 10502.

§ 1039.11 [Amended]

2. Section 1039.11(a) is amended by removing the following language from the paragraph immediately following

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[1] These regulations were originally issued in *Public Law 93–236—Freight Rates for Recyclables*, 346 I.C.C. 408 (1974), and revised in *Revised Rules of Practice*, 358 I.C.C. 189 (1977). The regulations were redesignated as a result of final rules in Ex Parte No. 55 (Sub-No. 55), *Revision and Redesignation of the Rules of Practice*, 47 FR 49534 (November 1, 1982).

[2] Final rules were adopted and revised in *Cost Ratios for Recyclables-Compliance Procedures*, 6 I.C.C.2d 103 (1989) and 8 I.C.C.2d 182 (1991).

[3] We will consider separately the disposition of 49 CFR 1039.14(b)(5). Parties may inform the Board whether other regulations are affected by the removal of 49 U.S.C. 10710 and 10731.

the table in paragraph (a): ''(Note: Certain recyclable commodities may be partially exempted pursuant to the provisions of 49 CFR 1145.9)''.

PART 1134—[REMOVED]

3. Part 1134 is removed.

PART 1135—RAILROAD COST RECOVERY PROCEDURES

4. The authority citation for part 1135 is revised to read as follows:

Authority: 5 U.S.C. 553 and 49 U.S.C. 721 and 10708.

§ 1135.1 [Amended]

5. Section 1135.1 is amended by removing paragraph (h).

PART 1145—[REMOVED]

6. Part 1145 is removed.

[FR Doc. 96–4529 Filed 2–27–96; 8:45 am]

BILLING CODE 4915–00–P

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49 CFR Parts 1039, 1138, 1140

[STB Ex Parte No. 532]

Removal of Obsolete Regulations for Reasonably Expected Costs and Joint Rates Subject to Surcharge or Cancellation

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (the Board) is removing obsolete reasonably expected costs and joint rate surcharge and cancellation regulations from the Code of Federal Regulations.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), abolished the Interstate Commerce Commission (the Commission) and established within the Department of Transportation the Surface Transportation Board. Section 204 of the Act provides that ''[t]he Board shall promptly rescind all regulations established by the [Commission] that are based on provisions of law repealed and not substantively reenacted by this Act.'' 49 U.S.C. 10705a, the statutory basis for the part 1138 regulations on requesting variable cost and revenue determinations from carriers canceling a joint rate [1] and the part 1140 regulations for reasonably expected costs,[2] has been repealed. This section allowed carriers to apply a surcharge increasing or reducing a joint rate [§ 10705a(a)],[3] to apply a surcharge on their light density lines [§ 10705a(b)], or to cancel a joint rate [§ 10705a(c)], without the concurrence of other participating carriers.[4] We are therefore removing the now obsolete parts 1138 and 1140 regulations, as well as another obsolete regulation pertaining to § 10705a found at 49 CFR 1039.18. These changes are not necessarily the final revisions in the regulations resulting from the elimination of 49 U.S.C. 10705a.[5] Parties may submit suggested additional changes to the Code of Federal Regulations in light of the elimination of § 10705a.

Because this action merely reflects, and is required by, the enactment of the Act and will not have an adverse effect on the interests of any person, this action will be deemed to be effective as of January 1, 1996.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Manufactured commodities, Railroads.

49 CFR Part 1138

Administrative practice and procedure, Freight, Railroads.

49 CFR Part 1140

Abandonments and discontinuances, Environmental protection, National resources, National trail system, Public use conditions, Railroads, Recreation and recreation areas, Reporting and recordkeeping requirements, Uniform System of Accounts.

Decided: February 15, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, Commissioner Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended as set forth below:

PART 1039—EXEMPTIONS

1. The authority citation for part 1039 is revised to read as follows:

Authority: 5 U.S.C. 553 and 49 U.S.C. 721 and 10502.

§ 1039.18 [Amended]

2. Section 1039.18 is removed.

PART 1138—[REMOVED]

3. Part 1138 is removed.

PART 1140—[REMOVED]

4. Part 1140 is removed.

[FR Doc. 96–4513 Filed 2–27–96; 8:45 am]

BILLING CODE 4915–00–P

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49 CFR Part 1153

[STB Ex Parte No. 534]

Removal of Obsolete Passenger Train or Ferry Discontinuance Regulations

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (the Board) is removing obsolete regulations concerning passenger train and ferry discontinuances from the Code of Federal Regulations.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), abolished the Interstate Commerce Commission (the Commission) and established within the Department of Transportation the Surface Transportation Board. Section 204 of the Act provides that ''[t]he Board shall promptly rescind all regulations established by the [Commission] that are based on provisions of law repealed and not substantively reenacted by this Act.'' 49 U.S.C. 10908 and 10909, the statutory bases for the part 1153 passenger train

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[1] Regulations were promulgated in *Proc. For Rail Variable Cost And Revenue Determination*, 3 I.C.C.2d 703 (1987).

[2] Regulations were originally promulgated in *Reasonably Expected Costs*, 365 I.C.C. 819 (1981), in the proceeding docketed as Ex Parte No. 402. Subsequent revisions to the reasonably expected cost regulations were made in the Ex Parte No. 402 decisions at 1 I.C.C.2d 252 (1984), 1 I.C.C.2d 293 (1984), and 5 I.C.C.2d 819 (1988).

[3] Carriers could also apply negative surcharges under 49 U.S.C. 10705a(a). In *Negative Surcharges Tariff-Exemption*, Docket No. 39777 (ICC served Aug. 16, 1985), we granted an exemption to allow carriers to file rate allowances (''negative surcharges'') without obtaining concurrences from other carriers participating in the joint rate. The exemption was codified at 49 CFR 1039.18. The authority to apply the negative surcharge expired on September 30, 1984. We are also removing section 1039.18 in this notice.

[4] There was also another provision concerning joint rate cancellations—former section 10705(e) of title 49. We will consider this section in another proceeding.

[5] At this time, we are not removing related matters found in regulations concerning user fees (§ 1002) and tariffs (§ 1312) because we plan to separately address those parts shortly.

or ferry discontinuance regulations, have been repealed. We are therefore removing the now obsolete part 1153 regulations.[1] These changes are not necessarily the final changes in the regulations resulting from the elimination of 49 U.S.C. 10908 and 10909.[2]

Because this action merely reflects, and is required by, the enactment of the Act and will not have an adverse effect on the interests of any person, this action will be deemed to be effective as of January 1, 1996.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1153

Administrative practice and procedure, Railroads.

Decided: February 15, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended by removing part 1153.

[FR Doc. 96–4515 Filed 2–27–96; 8:45 am]

BILLING CODE 4915–00–P

[1] These regulations were last modified in *Discontinuance or Change of Train or Ferry Service,* 366 I.C.C. 877 (1983).

[2] At this time, we are not removing related matters found in the regulations concerning user fees (§ 1002) and environmental regulations (§ 1105.6), because we plan to separately address those parts shortly. Parties may submit other suggested changes to the Code of Federal Regulations in light of the elimination of § 10908 and § 10909.

49 CFR Part 1175

[STB Ex Parte No. 535]

Removal of Obsolete Securities Regulations

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (the Board) is removing obsolete regulations concerning securities from the Code of Federal Regulations.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), abolished the Interstate Commerce Commission (the Commission) and established within the Department of Transportation the Surface Transportation Board. Section 204 of the Act provides that ''[t]he Board shall promptly rescind all regulations established by the [Commission] that are based on provisions of law repealed and not substantively reenacted by this Act.'' 49 U.S.C. 11301, the statutory basis for the part 1175 exempt issuance of securities and assumption of obligations regulations, has been repealed. We are therefore removing the now obsolete part 1175 regulations.[1] These changes are not necessarily the final modifications in the regulations resulting from the elimination of 49 U.S.C. 11301.[2]

Because this action merely reflects, and is required by, the enactment of the Act and will not have an adverse effect on the interests of any person, this action will be deemed to be effective as of January 1, 1996.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1175

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements, Securities.

Decided: February 20, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended by removing part 1175.

[FR Doc. 96–4528 Filed 2–27–96; 8:45 am]

BILLING CODE 4915–00–P

[1] These regulations were issued in *Exemption—Railroad Regulation Under 49 U.S.C. 11301,* 1 I.C.C.2d 915 (1985).

[2] At this time, we are not removing related matters found in the regulations concerning user fees (§ 1002), the environment (§ 1105.6(c)(2)(ii)), certificates to construct, acquire or operate railroad lines (§ 1150.10(d)), and interlocking officers (§ 1185.2), because we plan to separately address those parts shortly. Parties may submit other suggested changes to the Code of Federal Regulation in light of the elimination of § 11301.

49 CFR Part 1314

[STB Ex Parte No. 530]

Removal of Obsolete Rail Tariff Regulations

AGENCY: Surface Transportation Board.

ACTION: Final rule.

SUMMARY: The Surface Transportation Board (the Board) is removing obsolete rail tariff regulations from the Code of Federal Regulations.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (the Act), abolished the Interstate Commerce Commission (the Commission) and established within the Department of Transportation the Surface Transportation Board. Section 204 of the Act provides that ''[t]he Board shall promptly rescind all regulations established by the [Commission] that are based on provisions of law repealed and not substantively reenacted by this Act.'' 49 U.S.C. 10761 and 10762, the statutory bases for the part 1314 rail tariff regulations,[1] have been repealed. Carriers no longer have to file or maintain tariffs. We are therefore removing the now obsolete part 1314 regulations.[2] Tariff regulations at part 1312, which cover other modes of transportation for which tariff filing requirements were not completely eliminated, will be separately addressed and revised.[3]

Because this action merely reflects, and is required by, the enactment of the

[1] These regulations were promulgated in *Electronic Filing of Tariffs,* 5 I.C.C.2d 279 (1989), rules stayed, 5 I.C.C.2d 1052 (1989), stay lifted as to rail carrier tariffs, 6 I.C.C.2d 153 (1989). We subsequently amended our regulations to reflect the status quo for publishing electronic and printed tariffs, and we terminated the proceeding. *Electronic Filing of Tariffs 49 CFR Parts 1312 and 1314,* Ex Parte No. 444 (ICC served Mar. 10, 1995).

[2] While the Act removes the requirement that a tariff be filed or maintained, rail carriers must establish and maintain rates and service terms for transportation that are provided under common carriage. Moreover, under 49 U.S.C. 11101(b), rail carriers must disclose those rates to any person upon request. For agricultural products, the rail carrier shall also ''publish, make available, and retain for public inspection its common carrier rates, schedules of rates, and other service terms. * * *'' 49 U.S.C. 11101(d). The Board will separately issue new regulations implementing these requirements. Under 49 U.S.C. 11101(e), a rail carrier is required to provide transportation and service according to the rates and service terms it has published or otherwise made available.

[3] Parties may inform the Board whether other regulations are affected by the elimination of § 10761 and § 10762.

Act and will not have an adverse effect on the interests of any person, this action will be deemed to be effective as of January 1, 1996.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1314

Railroads, Tariffs.

Decided: February 15, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended by removing part 1314.

[FR Doc. 96–4514 Filed 2–27–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 960220037–6037–01; I.D. 112895B]

RIN 0648–XX45

Taking and Importing of Marine Mammals; Consolidation of Regulations; Removal of Expired General Permit Requirements

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues this technical amendment to remove outdated regulations governing the issuance of general permits. This technical amendment is intended to provide uniform, updated, and streamlined regulations. This action is consistent with the President's Regulatory Reform Initiative.

EFFECTIVE DATE: This rule is effective February 28, 1996.

FOR FURTHER INFORMATION CONTACT: Wanda L. Cain, Fishery Biologist; telephone: 301–713–2055, or fax: 301–713–0376.

SUPPLEMENTARY INFORMATION: On August 30, 1995 (60 FR 45086), NMFS published a final rule implementing the new management regime for the taking of marine mammals incidental to commercial fishing operations established by section 118 of the Marine Mammal Protection Act (MMPA). The provisions of 50 CFR part 229, rather than 50 CFR § 216.24, govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States, other than vessels used in the eastern tropical Pacific Ocean yellowfin tuna purse seine fishery. Because the only general permit for U.S. vessels operating in the yellowfin tuna purse seine fishery in the eastern tropical Pacific Ocean is that issued to the American Tunaboat Association (ATA), NMFS is removing other general permit requirements from 50 CFR § 216.24. In addition, a correction is made to the Harmonized Tariff Schedule Item Numbers found at § 216.24(e)(2)(i)(A). A definition for the Regional Director, Southwest Region, NMFS, is added to § 216.3. In the reporting requirements for ATA certificate holders, NMFS is removing the obsolete requirement that masters of certificated vessels allow observers to make coded radio reports to NMFS. Finally, minor editorial corrections are made.

Classification

This final rule is exempt from review under E.O. 12866. Because this rule only makes technical amendments, the Assistant Administrator for Fisheries, NOAA, under section 553(b)(B) and (d) of the Administrative Procedure Act, for good cause finds that it is unnecessary to provide prior notice and opportunity for public comment on this rule or to delay for 30 days its effective date. Because this rule is being issued without prior notice and opportunity for public comment, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, and none has been prepared.

This action is categorically excluded from the requirement to prepare an environmental assessment by section 6.02b.3(b)(ii)(aa) of NOAA Administrative Order 216–6 as revised.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: February 21, 1996.

Gary C. Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 216 is amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

§ 216.3 [Amended]

2. In § 216.3, a definition for ''Regional Director'' is added in alphabetical order to read as follows:

* * * * *

Regional Director means the Director, Southwest Region, NMFS, 501 W. Ocean Blvd., Long Beach, CA 90802, or his/her designee.

* * * * *

3. In § 216.24, paragraphs (b), (d)(l), (d)(2)(i)(A)(*l*) through (d)(2)(i)(A)(*2*), (d)(2)(iii)(B), and (e)(7) are removed and reserved, and paragraphs (c), (d)(2)(ii)(C), (d)(2)(iii)(A), the second sentence of paragraph (d)(2)(v)(B), (e)(2)(i)(A), and (e)(5)(v)(B) are revised to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * *

(c) *Certificates of inclusion*—(1) *Vessel certificates of inclusion.* The owner or managing owner of a vessel that participates in commercial fishing operations under the ATA permit must hold a valid vessel certificate of inclusion. Such certificates are not transferable and must be renewed annually. If a vessel certificate holder surrenders his/her certificate to the Regional Director, the certificate shall not be returned nor shall a new certificate be issued before the end of the calendar year. This provision does not apply when a change of vessel ownership occurs.

(2) *Operator's certificate of inclusion.* The person in charge of and actually controlling fishing operations (hereinafter referred to as the operator) on a vessel engaged in commercial fishing operations under the ATA permit, must hold a valid operator's certificate of inclusion. Such certificates are not transferable, and must be renewed annually. In order to receive a certification of inclusion, the operator must have satisfactorily completed all required training.

(3) A vessel certificate issued pursuant to paragraph (c)(1) of this

section must be on board the vessel while it is engaged in fishing operations and the operator's certificate issued pursuant to paragraph (c)(2) of this section must be in the possession of the operator to whom it was issued. Certificates must be shown upon request to an enforcement agent or other National Marine Fisheries Service (NMFS) designated agent. Vessels and operators at sea on a fishing trip on the expiration date of their certificate of inclusion, to whom or to which a certificate of inclusion for the next year has been issued, may take marine mammals under the terms of the new certificate. A vessel owner or operator is obligated to obtain or place the new certificate on board, as appropriate, when the vessel next returns to port.

(4) *Applications.* Owners or managing owners of purse seine vessels should make application for vessel certificates of inclusion to the Regional Director. Applications for vessel certificates of inclusion must contain:

(i) The name of the vessel that is to appear on the certificate(s) of inclusion;

(ii) The category of the general permit under which the applicant wishes to be included;

(iii) The species of fish sought and general area of operations;

(iv) The identity of state and local commercial fishing licenses, if applicable, under which vessel operations are conducted, and dates of expiration;

(v) The name of the operator and date of training, if applicable; and

(vi) The name and signature of the applicant, whether owner or managing owner, address, and if applicable, the organization acting on behalf of the vessel.

(5) *Fees.* (i) Applications for certificates of inclusion under paragraph (c)(1) of this section must include a fee of $200.00 for each vessel named in the application, unless the applicant's income is below Federal poverty guidelines and the applicant shows in the application that his/her income is below such guidelines, in which case a fee of $20.00 must be included.

(ii) The Assistant Administrator may change the amount of the fee required at any time a different fee is determined to be reasonable, and notification of such change shall be published in the Federal Register.

(6) The Regional Director shall determine the adequacy and completeness of applications, and upon said determination that such applications are adequate and complete, shall approve such applications and issue the certificate(s).

(7) Failure to comply with provisions of the ATA permit, certificates of inclusion, or these regulations may lead to suspension, revocation, modification, or denial of a certificate of inclusion. It may also subject the certificate holder, vessel, vessel owner, operator, or master to the penalties provided under the MMPA. Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(8) By using an operator or vessel certificate of inclusion under the ATA permit, the certificate holder authorizes the release to NMFS of all data collected by observers aboard purse seine vessels during fishing trips under the Inter-American Tropical Tuna Commission observer program or any other international observer program in which the United States may participate. The certificate holder must furnish the international observer program all release forms required to provide the observer data to NMFS. Data obtained under such releases will be used for the same purposes as data collected directly by observers placed by the NMFS and will be subject to the same standards of confidentiality.

(d) * * *

(2) * * *

(ii) * * *

(C) The vessel certificate holder shall notify the Regional Director of any change of vessel operator within at least 48 hours prior to departing on the next scheduled trip.

(iii) * * *

(A) The vessel certificate holder of each certificated vessel, who has been notified via certified letter from NMFS that his/her vessel is required to carry an observer, shall notify the Regional Director at least 5 days in advance of the vessel's departure on a fishing voyage to allow for observer placement. After a fishing voyage is initiated, the vessel is obligated to carry an observer until the vessel returns to port and one of the following conditions is met:

* * * * *

(v) * * *

(B)* * * The vessel certificate holder shall notify the Regional Director of any net modification at least 5 days prior to departure of the vessel in order to determine whether a reinspection or trial set is required.

* * * * *

(e) * * *

(2) * * *

(i) * * *

(A) Tuna, frozen whole or in the round:

0303.42.00.20.0 Tuna, yellowfin, whole frozen.

0303.42.00.40.6 Tuna, yellowfin, eviscerated head-on, frozen.

0303.42.00.60.1 Tuna, yellowfin, eviscerated head-off, frozen.

0303.49.00.40.9 Tuna, non-specific, frozen.

* * * * *

(5) * * *

(v) * * *

(B) The nation's regulatory program is comparable to the regulatory program of the United States as described in paragraphs (a), (c), (d)(2), and (f) of this section and the nation has incorporated into its regulatory program such additional prohibitions as the United States may apply to its own vessels within 180 days after the prohibition applies to U.S. vessels;

* * * * *

[FR Doc. 96–4434 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–22–F–M

Proposed Rules

Federal Register
Vol. 61, No. 40
Wednesday, February 28, 1996

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

RIN 3150–AF44

Reporting Requirements for Unauthorized Use of Licensed Radioactive Material: Extension of Comment Period

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Extension of comment period.

SUMMARY: On January 31, 1996, (61 FR 3334), the NRC published for public comment a proposed rule to add a new requirement for licensees to notify the NRC Operations Center within 24 hours of discovering an intentional or allegedly intentional diversion of licensed radioactive material from its intended or authorized use. The proposed rule would also require licensees to notify the NRC when they are unable, within 48 hours of discovery of the event, to rule out that the use was intentional. The proposed rule would require reporting of events that cause, or have the potential to cause, an exposure of individuals whether or not the exposure exceeds the regulatory limits. The comment period for the proposed rule was to have expired on March 1, 1996. The American College of Nuclear Physicians/Society of Nuclear Medicine (ACNP/SNM) has requested a 60-day extension of the comment period. In addition, a second comment letter from an individual was received requesting that the NRC extend the comment period. The second letter pointed out the one-week after publication time lag involved with obtaining the Federal Register and the additional time lag involved with mailing a comment letter to the NRC. In view of the importance of the proposed rule and the desire to provide an adequate opportunity for public comment while developing a final rule as soon as practicable, the NRC has decided to extend the comment period for an additional 30 days. The comment period now ends on March 31, 1996.

DATES: The comment period has been extended and now expires March 31, 1996. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Send written comments or suggestions to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Service Branch. Copies of comments received may be examined on the NRC Rulemaking Bulletin Board at FedWorld and the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary L. Thomas, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, telephone (301) 415–6230, e-mail MLT1@NRC.GOV.

Dated at Rockville, Maryland, this 21st day of February 1996.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 96–4485 Filed 2–27–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM–94–220–IF]

RIN 1904–AA61; RIN 1904–AA70

Energy Conservation Standards Program for Consumer Products: Test Procedures for Fluorescent and Incandescent Lamps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice reopening comment period.

SUMMARY: On September 28, 1994, the Department of Energy (Department or DOE) published an interim final rule and a proposed rule regarding energy conservation test procedures for fluorescent and incandescent lamps. Based on the public responses, the Department is considering certain revisions of the interim final rule and proposed rule and seeks public comment on options it is considering. The options involve the following topics: determining the wattage of a fluorescent lamp for purposes deciding whether the energy conservation standards and test procedures apply to it; the confidence limit, ''derating factor'' and statistical test used in the test procedure sampling plan; definition of colored lamps; determining the rated voltage or rated voltage range of an incandescent lamp for purposes of deciding whether the energy conservation standards and test procedures apply to it; defining rated voltage for testing incandescent lamps; and defining the bulb shapes for elliptical reflector (ER) and bulged reflector (BR) incandescent lamps.

DATES: Written comments in response to this notice must be received by the Department by April 15, 1996. The Department requests 10 copies of the written comments and, if possible, a computer disk. (The Department uses WordPerfect.)

There will be a public meeting to gather input on these issues in Washington, D.C., on March 5, 1996. The meeting will begin at 9:30 a.m. and will be held at the U.S. Department of Energy, Forrestal Building, Room 2E–069, 1000 Independence Avenue, S.W., Washington, D.C.

ADDRESSES: Written comments are to be submitted to: U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Ms. Sandy Beall, ''Energy Conservation Standards Program for Fluorescent and Incandescent Lamps, Docket No. EE–RM–94–220–IF,'' EE–431, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0121. Telephone: (202) 586–7574; Telefax: (202) 586–4617.

Copies of the transcript of the July 19, 1995 lamp workshop and of the public comments on the interim final rule may be read at the Department of Energy Freedom of Information Reading Room, U.S. Department of Energy, Forrestal Building, Room 1E–190, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–6020, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Terrence L. Logee, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–431, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20585–0121, (202) 586–1689

Edward Levy, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20585–0103, (202) 586–2928

SUPPLEMENTARY INFORMATION:

1. Authority

Part B of Title III of the Energy Policy and Conservation Act, Pub. L. 94–163, as amended (EPCA) or the Act, created the Energy Conservation Program for Consumer Products other than Automobiles (Program). The products currently subject to this Program include certain fluorescent and incandescent lamps and medium based compact fluorescent lamps. EPCA sets minimum energy conservation standards for general service fluorescent and incandescent reflector lamps and requires the Department to develop test procedures.

2. Background

On September 28, 1994, the Department published an interim final rule establishing test procedures for general service fluorescent and incandescent lamps and for medium based compact fluorescent lamps, 59 FR 49468, and a Notice of Proposed Rule for definitions of rough and vibration service incandescent reflector lamps and colored fluorescent and incandescent lamps, 59 FR 49478. In addition DOE held a hearing on the proposed rule on November 15, 1994 and a workshop on these issues on July 19, 1995. The Department received many comments on the interim final rule and on the proposed rule including comments from manufacturers, a national trade association, a professional society, a utility, and a Federal agency. The comments included requests that the Department: (1) modify its test procedure sampling plan to change the confidence limit, ''derating factor,'' and statistical test used to determine compliance of certain lamps with the energy conservation standards; (2) permit testing and compliance for incandescent lamps at a lamp's design voltage, and expand the voltage range from the statutory requirement of 115 through 130 volts to 100 through 150 volts; (3) define the exemption for the bulged reflector (BR) and elliptical reflector (ER) incandescent reflector lamp by reference to the American National Standards Institute (ANSI) C79.1–1994; (4) determine that a new product coming on the market, a fluorescent lamp rated at 25 watts, which is below the 28 watt threshold for coverage under EPCA, is actually a 40 watt fluorescent that is covered by the statutory standards and test procedures; and (5) revise its proposed definition of colored fluorescent and incandescent lamps.

In response to the foregoing suggestions, the Department is considering various options to alter the Interim Final and Proposed Rules. Because the issues raised by these options were not expressly considered in either the preamble to the Interim Final or Proposed Rules, the Department is now seeking comment from interested parties on these options. In particular, the Department seeks any new factual information and data that will assist it in addressing these issues.

3. Discussion

a. *Revision of the Sampling Plan.* DOE's Energy Conservation Program for Consumer Products has been developed and refined since its inception in 1978. Compliance with energy efficiency standards has been assured in part by having each manufacturer certify that its covered products comply with the applicable energy efficiency standard. The certification must be based on tests of the product in accordance with test procedures prescribed by DOE.

In promulgating test procedures applicable to certification, one of the major goals has been to provide a statistically valid approach so that there is a high probability that products which have been tested and certified as being in compliance with the applicable efficiency standards actually comply with those standards. Each DOE test procedure incorporates a sampling plan, and that sampling plan is designed to give reasonable assurance that the true mean performance of the product being manufactured and sold meets or exceeds the DOE energy efficiency standard.

DOE recognizes that units of a product may vary in energy efficiency for a number of valid reasons, including differences in component parts, production and testing. The risk to the public of purchasing a non-complying product, the risk to manufacturers of selling such a product, and the burdens of performing representative testing, are reduced through the application of a statistically meaningful sampling plan and basing the certification decision on the mean energy performance of the sample units.

There are several critical elements of a sampling plan. One is the selection of units for testing. Units must be representative of the product, and be selected randomly from a batch. Sample size is also a critical element of a sampling plan. The results yielded by energy efficiency testing of a product, consisting of tests conducted on a sample of units, will be increasingly more reliable as the size of the test sample increases. This, however, increases the testing burden on the manufacturers. Also, as the variability in performance increases among individual tested units of a product, the reliability of the test results decreases. As a result, DOE's test procedures require sampling plans based on a confidence limit approach. This approach is designed to minimize the manufacturers' testing burden while ensuring accurate determination of compliance within a specified level of confidence.

The interim final rule prescribing test procedures for lamps requires a minimum sample size of 20 units for each model, which must be randomly selected during seven out of 12 months of production. The rule further provides in essence that the lamp efficacy for a given model of lamp shall be the average efficacy for the tested lamps of that model, and ''shall be no greater than the lower of (i) the mean of the sample or (ii) the lower 99 percent confidence limit of the true mean divided by 0.99.'' DOE views the latter calculation as being a one-sided confidence interval using the t-statistic, with the 0.99 divisor constituting a ''derating'' factor. The confidence limit would be calculated using generally accepted methods found in statistics textbooks, based on the sample mean and sample standard deviation.

DOE included the derating factor to take into account variability in the efficiency of products due to many factors, including manufacturing variability, variations in the material (e.g., phosphors), and testing errors, including reference lamp calibration errors. Furthermore, this format (confidence limit divided by a derating factor) is similar to the format required for other appliance products for which DOE has authority to require testing.

The National Electrical Manufacturers Association (NEMA) has proposed loosening the confidence interval to 95 percent, and changing the derating factor to 0.97, which increases its derating effect. It justifies this proposal on the basis of typical production variations and measurement uncertainties, including calibration issues. NEMA submitted estimates of

the magnitude of these variations and their effect on compliance determinations. They estimated an uncertainty of 2 percent due to the reference lamps used in the measurement process, with additional variability among different laboratories.

NEMA has also proposed substituting the z-statistic procedure for the t-statistic procedure. The z-statistic procedure is similar to the t-statistic procedure, except that, for each model of a product, it uses the standard deviation, σ, that applies to the entire population of manufactured units for that model. That standard deviation is assumed to be known from previous measurements. The t-statistic procedure, by contrast, uses the standard deviation, s, of the sample units tested. The z-test also replaces the factor t with another factor z, both of which are found in standard tables.

The effect of going to a 95 percent confidence limit will be to make it slightly easier to demonstrate compliance, while also slightly increasing the chance that a noncompliant product will be judged to be in compliance. In other words, when testing demonstrates compliance at the 95 percent confidence level, there would be a one in twenty chance that a non-tested unit of the product may not meet the standards instead of a one in one hundred chance under the procedure promulgated by the interim final rule.

The effect of using the z procedure instead of the t procedure will be to produce lower confidence limit values which are more favorable to the manufacturers, because the value of the z factor from the tables is less than the value of the t factor, unless the number of sample units, n, is very large. However, the z procedure is more representative than the t procedure because the standard deviation in the z method is determined from a larger population than the standard deviation in the t method. Use of the z procedure requires an accurate measurement of the population standard deviation for each model. Accurate measurement would appear to require, for example, prior tests of a large number of units of that model selected at random, conduct of the prior testing in accredited laboratories, and prior testing conducted under conditions and using test procedures that are comparable to current conditions and procedures.

The Department is considering the option of permitting a manufacturer to use the ''z'' statistic as an alternative to the ''t'' statistic, for tests of any product for which the following criteria are met: (1) the standard deviation used in the test procedure was derived from a minimum sample of 60 or more randomly selected lamps of the same basic model; (2) the statistical data was measured by accredited laboratories; (3) the prior testing was conducted under conditions and using test procedures comparable to current conditions and procedures. When these criteria are not met, a manufacturer would be required to use the ''t-statistic.'' The Department specifically seeks input on whether lamp manufacturers can derive standard deviations for their products from historic test experience. The Department is seeking comment on this approach or other possible uses of the ''z'' statistic. The Department is also considering, and seeks comments on, modification of the derating factor and confidence interval, as suggested by NEMA.

b. *Definition of Rated Voltage, Determination of Test Voltage and Determination of Voltage Range.* When the Department considered test procedures for incandescent lamps in the interim final rule, it noted that neither the definition of incandescent lamp in Section 321(30)(C) of the Act, 42 U.S.C. 6291(30)(C), nor Illumination Engineering Society LM–20, ''Approved Method for Photometric Testing of Reflector-Type Lamps'' defined the test voltage. Therefore, in the interim final rule, the Department requires testing of all incandescent lamps at 120 volts to be consistent with the statutory requirements for labeling. 10 CFR Part 430, Subpart B, Appendix R, Section 4.2.1.

In its comments, NEMA requested that the Department allow testing of incandescent lamps at their design voltage. Otherwise, NEMA claimed that certain 125 and 130 volt lamps would be banned from the market by failing to meet the standards if tested at 120 volts. The industry and NEMA also claim that 125 and 130 volt lamps serve two market niches: regions in the country where power line voltage is greater than the nominal 120 volts and applications requiring long life lamps. Manufacturers claim that they would be forced to sell lamps with decidedly shorter lives than the 125 and 130 volt lamps currently in the marketplace if DOE requires compliance with the standards at 120 volts.

In response to queries by NIST, Philips proposed that the Department consider requiring testing of incandescent lamps at the rated voltage marked on the lamp. Furthermore, when a lamp is marked with a voltage range, Philips proposed that the rated voltage should be taken as the mean of the voltage range. This wording is based on text taken from the International Electrochemical Commission Standard 432–1.

The Department believes that requiring compliance for incandescent lamps at 120 volts will reduce lamp life for some consumers and may also remove most 125 and 130 volt lamps from the marketplace. However, none of the manufacturers define what is meant by design voltage. Therefore, since the statute uses rated voltage, the Department is considering adopting the definition of rated voltage from the Institute of Electrical and Electronics Engineers Standard Dictionary of Terms which defines rated voltage as ''the voltage to which operating and performance characteristics are referred.'' Furthermore, the Department is considering a requirement to test incandescent lamps at the rated voltage, as marked on the lamp, or at the mean of rated voltage range, as marked on the lamp. This approach would provide for testing incandescent lamps at a known reference voltage for certification to the energy efficiency standards while agreeing with the Federal Trade Commission (FTC) requirements for labeling. The Department is also considering the option of requiring that lamps not marked with a voltage will be tested at 120 volts.

With respect to the issue of ''rated voltage range'' the definition of ''incandescent reflector lamp'' in the Act, refers to a ''rated voltage or rated voltage range at least partially within 115 to 130 volts.'' Section 321(30)(C)(ii), 42 U.S.C. 6291(30)(C)(ii). NEMA recommended expansion of the voltage range in the statute to 100 to 150 volts, asserting that the statutory limit could unintentionally allow evasion of the standards requirements for certain products. Under the language in the statute, for example, a product could be rated at 131 volts, thereby removing it from the standard. Yet this product would perform acceptably in a 130 volt environment and could be sold for such applications.

The interim final rule incorporates the statutory definition of incandescent lamp including the voltage range. The Department will continue to use this definition. The Department notes that only one manufacturer currently markets lamps with design voltages greater than 130 volts. However, in response to queries by NIST, several manufacturers agreed that the nominal tolerance for incandescent lamp voltage is ±10 percent. The Department believes that the statutory range of 115 to 130 volts may also be subject to this tolerance. Therefore, the Department is considering the option of treating lamps with voltages greater than 103.5 volts

and less than 143.0 volts as being ''at least partially within a rated voltage range of 115 to 130 volts,'' and subject to the energy efficiency standards.

The Department is seeking comments on the acceptability and workability of these options for rated voltage, test voltage and rated voltage range. Alternative proposals are welcome but the Department requests that these proposals be supported by references to existing or draft industry standards or that the proposals be supported by data.

c. *ER and BR Reflector Lamp Definitions.* The Act contains exemptions for several types of incandescent reflector lamps including those for ER (elliptical reflector) and BR (bulged reflector) bulb shapes. Section 321(30)(C)(ii), 42 U.S.C. 6291(30)(C)(ii). However, these lamps are not defined in the statute or the interim final rule and DOE is concerned that the exemption may be abused without a clear definition of what constitutes an ER or BR bulb.

One commenter provided copies of ANSI Standard C79.1–1994 which contain descriptions of the ER and BR bulb shapes. Another commented that if the ANSI definition was different than what some manufacturers have been using, there would be tooling costs to conform the lamp envelope to the new shape definition and DOE should provide time for manufacturers to implement the new ANSI requirements. In its comments to the workshop, NEMA claimed that there was a consensus to define ER and BR lamps by reference to ANSI Standard C79.1–1994.

An Osram-Sylvania Inc. (OSI) comment claims that: (1) the BR lamp is not marketed for recessed applications; (2) BR lamps are more efficient than rough/vibration service R lamps; (3) the BR lamp is less costly for the residential market than the halogen PAR lamp; (4) OSI has introduced a 65 watt BR lamp which meets the efficiency standards; and (5) the ANSI C79.1–1994 bulb shape standard is a result of the mandatory ANSI 5-year revision cycle and it is fundamental to all lamp/fixture interchangeability. The Department notes, however, that the previous ANSI revision to the bulb shape standard was published in 1984.

During the workshop, the American Council for an Energy Efficient Economy (ACEEE) commented that this exemption was placed in the statute to protect one small manufacturer and that the drafters of the Energy Policy Act of 1992 (EPACT) believed that these products were not sold in large quantities and were expected to disappear from the market. Furthermore, ACEEE comments suggested that the exemption was meant to apply to lamps that are rated with lower wattage than their reflector (R) or parabolic aluminized reflector (PAR) counterparts. In its written comments, ACEEE requested that DOE define ER and BR lamps in a way that would limit exemptions for these lamps as originally intended in EPACT.

The Department believes the definitions of ER and BR bulb shapes in ANSI Standard C79.1–1994 (Figure 1 on page 7) are new definitions of the ER and BR bulb shapes because earlier versions of ANSI Standard C79.1 did not include definitions for either ER or BR bulb shapes in their current form. ANSI C79.1–1984 discusses the bulged (B) and elliptical (E) shape designations as basic bulb shapes of general service incandescent lamps. The ''RE'' elliptical reflector shape in the 1994 ANSI C79.1 standard could be described as cutting off the top half of the basic ''E'' bulb shape in the 1984 document since the elliptical portion of the ''E'' bulb forms that part of the ''RE'' bulb below the major axis or lens of the reflector bulb. However, the bulged reflector bulb would represent a greatly diminished ''B'' shaped bulb with a reflector bulb connected to the top of this small ''B'' shaped bulb. For these reasons, the Department believes the 1994 ANSI document represents a major modification of elliptical and bulged bulbs from the 1984 document.

ER and BR reflector bulb shapes typically have a long neck, a characteristic which is not addressed in ANSI C79.1. This is presumably to extend the lens closer to the end of recessed ceiling fixtures in the ER bulb. Therefore, the Department believes the ANSI C79.1–1994 definitions of the ER and BR bulb shapes are subject to interpretation, and questions whether these definitions agree with the commonly understood bulb shapes being manufactured and which were contemplated by exclusion of ER and BR bulbs from EPCA coverage.

Although the Department believes the ANSI Standard C79.1–1994 does not fully prescribe the ER and BR bulb shapes, the Department is considering adopting ANSI Standard C79.1–1994 as part of the definition of an ER or BR bulb shape, subject to additional criteria, to capture the characteristics of ER and BR bulbs in the marketplace at the time the exemptions were established. One criterion being considered is a longer neck than an R or PAR lamp with either a specified dimension or a dimension stated as a comparison, such as 25 percent longer than similar wattage R or PAR lamps. An additional criterion under consideration for the BR lamp is to require that the bulged shape must be reflectively coated and large enough to redirect light emitted by the filament to the side and rear of the lamp toward the lens. The Department is also considering a requirement for a reduced wattage filament for both ER and BR lamps. The Department is seeking comment on whether to specify a certain wattage reduction or to state this reduction as a percentage comparison to standard R or PAR lamps.

The Department invites comments on the definitions for ER and BR lamps it is considering. The Department also requests copies of catalog listings and other data to help it determine the extent of reduced wattage ER and BR lamps offered in the market.

d. *Determination of Rated Wattage for a Fluorescent Lamp.* EPCA sets standards for fluorescent lamps 48 inches long with rated wattages of 28 watts or more, 96 inches long with rated wattages of 52 watts or more, and 2 foot U-tube lamps with rated wattages of 28 watts or more. Sections 321(30)(A) and 325(i)(1), 42 U.S.C. 6291(30)(A) and 6295(i)(1). The standard levels have the effect of prohibiting the sale, after October 31, 1995, of certain lamps previously on the market, including 4-foot, 40 watt cool white fluorescent lamps.

The 4-foot, 40 watt cool white fluorescent lamp consumes 40 watts of power when used with a conventional high power factor ballast. High power factor ballasts are used in over 85 percent of the fluorescent fixtures using four foot lamps. Such high power factor ballasts are typically used in commercial applications. If a 40-watt cool white lamp is used with the type of low power factor ballast generally used in residential applications, the lamp will consume about 25 watts, which is below the 28 watt threshold that defines the lower limit of coverage in the standards.

Neither the statute nor DOE's existing regulations specify the type of ballast to be used in determining the rated wattage of lamps. In the absence of a specification, some have argued that 4-foot lamps could have their rated wattage determined using a low power factor ballast and if, using this testing method, the rated wattage was less than 28 watts, the lamp would be exempt from the standard.

DOE believes that it is unreasonable to apply this statute so as to permit the continued manufacture and sale of lamps that when used with the most common types of ballasts (i.e., high power factor) would consume 28 or more watts, but fail to meet the

standards prescribed by the statute. In an attempt to address this concern, DOE sent a letter on August 30, 1995, to lamp manufacturers indicating that it would consider any lamp that was electrically the same as the 40-watt cool white lamp to be subject to the same statutory standards. However, manufacturers have since begun to introduce, or indicated that they plan to introduce, slight variations on the 40-watt cool white lamp that would be rated at 25 watts based on use of low power factor ballasts. Despite these modifications, the lamps being marketed or developed would still perform like 40-watt cool white lamps when used in high power factor ballasts.

The Department believes that Congress intended the rated wattage of fluorescent lamps, for purposes of defining the universe of lamps covered by the standards, to be determined by using a high power factor ballast. The wattages included in the table that now appears in section 325(i) of the Energy Policy and Conservation Act appear to assume the use of high power factor ballasts. 42 U.S.C. 6295(i). In addition, when Congress had previously set efficiency standards for ballasts, those standards were only applied to high power factor ballasts.

The Department is now considering a requirement that the rated wattage of a fluorescent lamp, for purposes of determining coverage by the standards, is the measured wattage when the lamp is used with a high power factor ballast. The Department is soliciting public comment on the possibility of requiring the use of high power factor ballasts in determining the rated wattage of fluorescent lamps. Before making a final determination on this matter, the Department also intends to consider other possible means to achieve comparable objectives.

For example, the Department is considering the approach used in the Canadian lamp regulations issued in the November 29, 1995 Canada Gazette, Part II, Volume 129, No. 24, pg 3073. Under this possible approach, the Department would add an additional phrase to the definition for general service fluorescent lamp specifying that, ''General service fluorescent lamp means any fluorescent lamp that is a physical and electrical equivalent of a lamp described in paragraph (a), (b), (c), or (d).'' However, the Department believes that this approach may suffer the same weakness as DOE's attempt to elaborate on the definition of basic model discussed in the DOE letter of August 30, 1995.

The Department also will consider determining whether a particular lamp is covered by the standards by requiring that its measured wattage be compared to the measured wattage of a similar covered lamp using the same ballast. The wattage of the covered lamp divided by the wattage of the lamp in question would be multiplied by the wattage marked on the covered lamp to determine the rated wattage of the lamp in question. However, this approach may not work for new products.

The Department is concerned, however, that if it requires rated wattage to be determined using a high power factor ballast, manufacturers might be inhibited from producing certain products designed and marketed for use exclusively with low power factor ballasts. Even though there are now available a number of lamps that can be safely used in low power factor ballasts, and which would be unaffected by this proposal, the Department does not want to restrict unnecessarily the choices that might be available to users of low power factor ballasts in the future. For this reason, the Department is soliciting public comment and proposals on how it might use its discretionary regulatory authority or its authority to grant certain waivers or exemptions to address this possible problem. Specifically, DOE is interested in identifying specific technical features or performance or other characteristics of lamps that would provide reasonable assurance that such lamps would be used exclusively in low power factor ballasts.

At least one manufacturer has indicated that it believes that a substantially reduced lamp life (e.g., 6,000 hours compared to the industry norm of 20,000 hours) should restrict the usage of such lamps to low power factor ballasts in the residential sector. But DOE is concerned that lamps with useful lives of 6,000 hours may still be widely used with high power factor ballasts. DOE is also concerned that accurately determining average lamp life can be difficult and time consuming and questions the utility to consumers of a requirement that may discourage manufacturers from increasing product life.

The Department recognizes that one of the motivations for introducing modified 40 watt lamps is industry concern that residential and other users of low power factor ballasts might use 34 watt lamps in their fixtures, which would increase the risk of overheating and fires. While consumers have a range of safe alternatives to the 34 watt lamp, and 34 watt lamps are being labeled to warn consumers against their use with low power factor ballasts, DOE believes that these industry concerns may be valid. DOE solicits public comment on these concerns and how DOE might best use its regulatory authorities to ensure consumers are adequately protected.

Finally, in order to better assess these issues, the Department is seeking more information on the size and characteristics of the market for lamps used in low power factor ballasts.

e. *Definition of Colored Fluorescent and Incandescent Lamp.* In the Notice of Proposed Rulemaking, the Department defined colored fluorescent and colored incandescent lamps because Sections 321(30)(B)(iii), 321(30)(C)(ii), 42 U.S.C. 6291(30)(B)(iii) and 42 U.S.C. 6291(30)(C)(ii) of the Act contain exemptions for these lamps without defining them. The Department is seeking definitions of colored lamps which can be determined by measurement of certain characteristics. Therefore, the Department proposed to define colored incandescent and fluorescent lamps by using suitable minimum values of the Color Rendering Index (CRI) or correlated color temperatures (CCT). (59 FR 49478).

Several manufacturers suggested that the upper limit for CRI for colored fluorescent lamps be increased to 40. Phillips Lighting states that a CRI of 40 will prevent the exclusion of gold fluorescent lamps which are used in printing applications. OSI also recommends that the acceptable CRI for amber and red incandescent lamps be raised but DOE believes that this is not necessary with the proposed revisions to the colored incandescent lamp definition because these lamps have a low CCT.

In its comments to the July 19, 1995 lamp workshop, Durotest suggests that CCT limits for colored fluorescent lamps be less than 2,500° K or greater than 6,600° K or with a CRI less than 40. For incandescent lamps, Durotest suggests that the CCT parameters should be less than 2,500° K or greater than 4,600° K or CRI less than 50. NEMA also suggests using the same CCT and CRI parameters as Durotest. It asks DOE to clarify in the preamble that a lamp is considered colored if its CCT falls outside the range above or if its CRI falls below the values above.

The Department appreciates the industry suggestions for revised limits on CCT and CRI. DOE's original proposal would have defined certain green lamps as white lamps based on their CRI. This problem is caused by the difficulty of choosing a reference lamp of equal CCT to the lamp in question and because CRI was originally intended to characterize non-colored lamps.

As a result of industry suggestions and comments, one option the Department is considering is to revise

its proposed definition of a colored lamp by using a maximum value of CRI or a suitable band of CCT. Therefore, the Department is considering a definition of colored fluorescent lamp as a lamp with a CRI value less than 40 or a color correlated temperature not above 2,500° K for red and yellow colors or not below 6,600° K for blue and green colors. The Department is also considering a definition of colored incandescent lamp as a lamp with CRI values below 50 or a lamp color correlated temperature either not above 2,500° K for red and yellow colors or not below 4,600° K for blue and green colors. The Department believes that the measurements required to determine if a lamp is colored by the above definitions are minimal. The CRI is a required measurement for fluorescent lamps and manufacturers would only have to make a CRI measurement for lightly tinted incandescent lamps. The color temperature is derived from spectroradiometric measurements and this data already exists for most lamps.

However, at the July 19, 1995 lamp workshop, NEMA proposed an alternative definition of colored lamps which depends on the excitation purity of a colored source. Excitation purity is defined as the ratio of two collinear distances (NC/ND) on the Commission Internationale de L'eclairage (CIE) chromaticity diagram. NC is the distance between the point representing the sample lamp and a specified reference point. ND is the distance between the point locating the dominant wavelength of the sample lamp and the specified reference point. NEMA suggests that a value of excitation purity greater than 50 percent would be a reasonable lower limiting value defining a colored lamp. NEMA claims that a single definition will suffice for all colors. Plotting one number on the x,y chromaticity diagram which shows the 50 percent excitation purity area marked on it will quickly determine whether a lamp is colored. Furthermore, NEMA requested that the Department not finalize the colored lamp definition until they complete their specification of chromaticity coordinate boundaries.

NEMA notes that the excitation purity method proposed will not discriminate between clear and colored lamps with CCT's from slightly above 2,856°K and lower. This is an inherent drawback of the chromaticity diagram and redefining the excitation purity limit will not correct it. NEMA suggests that the Department define a colored region around the black body locus on the chromaticity diagram as white. The area within the 50 percent excitation purity area is called pastel and lamps in this area must be marked for a specific application to be called colored. Although the excitation purity method fits DOE's criteria for a measurable colored lamp definition, the Department is not inclined to adopt this method because it is complicated to describe due to the use of three zones on the chromaticity diagram.

As a second option, the Department is considering a colored lamp definition using x, y chromaticity coordinates which lie outside of the area bounded by the following points: (0.285,0.332); (0.453,0.440); (0.500,0.440); (0.500,0.382); (0.440,0.382); (0.285,0.264). These boundaries are taken from CIE Publication No. 2.2, Colors of Light Signals.

The Department believes that defining a colored lamp by using the chromaticity coordinates above will satisfy manufacturers' concerns that lamps of low color temperature but near the black body locus should be considered white. Likewise, this method satisfies a DOE concern that valid orange and red colored lamps on or near the black body locus would not be considered colored.

Since an incandescent lamp creates light by heating a filament ''white hot,'' some lightly tinted incandescent lamps lie very near the black body curve on the x-y chromaticity diagram. The Department believes that the x-y chromaticity definition of colored lamps will apply to nearly all colored lamps with a few significant exceptions. Very lightly tinted incandescent lamps, such as jeweler's blue and plant grow lamps, may not meet the colored lamp definitions as they are currently proposed. NEMA recommends an exemption for colored incandescent plant lamps because there is a filter in these lamps which affects the yellow and green parts of the spectrum. NEMA also suggests that DOE require manufacturers provide a generic description of a plant lamp's features and require that these lamps be marketed and designated for plant lighting applications. In addition to the above, GE Lighting proposes to add that colored lamps are not suitable for general lighting applications. Therefore, the Department is considering an additional criteria in the definition of colored incandescent lamps that would require application specific incandescent colored lamps to be designated as such on the lamp and in marketing materials.

Additionally, Durotest has urged the Department to provide an explicit exemption for neodymium lamps because they claim that the color is doped directly into the glass bulb. Therefore, the Department is considering specifying that incandescent lamps with lens filters containing 5 percent or more neodymium are colored lamps. The neodymium filter adjusts the light spectrum for reptile lighting applications.

4. Public Meeting Procedure

At the public meeting, DOE will seek discussion of the points discussed in this notice. Should any party wish to raise any other matter addressed in the Interim Final or Proposed Rules, they should so notify DOE by February 29, 1996.

The meeting will be conducted in an informal, conference style. A court reporter will be present to record the minutes of the meeting. There shall be no discussion of proprietary information, costs or prices, market shares, or other commercial matters regulated by antitrust law. After the meeting and period for written statements, the Department will consider the views presented in formulating a Final Rule regarding fluorescent and incandescent lamp test procedures.

Issued in Washington, DC, February 22, 1996.

Brian T. Castelli,

Chief of Staff, Energy Efficiency and Renewable Energy.

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FEDERAL RESERVE SYSTEM

12 CFR Part 261

[Docket No.R–0917]

Rules Regarding Availability of Information

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is proposing technical amendments to its Rules Regarding Availability of Information (Information Rules). The Board's review of the Information Rules has been conducted in accordance with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994. The proposed amendments clarify certain provisions of the Rules and simplify the processing of requests for access to information in certain circumstances. More specifically, the Board's proposed changes would conform the language of

the Rules to changes in the law with which the Board is in compliance; expand delegations of authority to simplify and expedite the Board's responses to requests for access to information submitted by law enforcement authorities; expand the delegated authority of the General Counsel by including authority to determine requests for permission to use any confidential information of the Board in litigation and pre-litigation investigations; clarify provisions of Subpart B relating to requests for information under the Freedom of Information Act (FOIA), and clarify or simplify various other provisions of the Rules as set forth in **SUPPLEMENTARY INFORMATION.**

DATES: Comments should be received by March 29, 1996.

ADDRESSES: Comments should refer to Docket No. R–0917, and be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551. Comments may also be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard between Constitution Avenue and C Street at any time. Comments may be inspected in Room MP–500 of the Martin Building between 9:00 a.m. and 5:00 p.m weekdays, except as provided in the Board's Rules Regarding Availability of Information.

FOR FURTHER INFORMATION CONTACT: Karen A. Appelbaum, Staff Attorney (202) 452–3389 or Stephen L. Siciliano, Special Assistant to the General Counsel for Administrative Law (202) 452–3920, Legal Division, Board of Governors of the Federal Reserve System, Washington, D. C. 20551. For users of Telecommunication Device for the Deaf (TDD) *only*, please contact Dorothea Thompson (202) 452–3544.

SUPPLEMENTARY INFORMATION: The Board is proposing changes in its Information Rules, 12 CFR part 261. In compliance with section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994, these changes are designed to streamline and improve the efficiency of the Information Rules. The revisions clarify portions of the Information Rules, enhance the delegated authority of the Director of the Division of Banking Supervision and Regulation, the Director of the Division of Consumer and Community Affairs, and the Federal Reserve Banks in order to simplify the disclosure of confidential information for law enforcement and related purposes, enhance the authority of the General Counsel to act on requests for permission to use any confidential information of the Board in litigation, conform the Rules to changes in the law with which the Board is already in compliance, clarify or simplify provisions regarding the processing of Freedom of Information Act requests, and generally facilitate the Board's efforts to cooperate with law enforcement investigations. These changes would not alter the Secretary's authority under the Freedom of Information Act where litigants choose to invoke that authority.

The Board proposes to amend § 261.1(a) by the addition of statutory references and other language to clarify that these Rules authorize the disclosure or production of information in all situations covered by these Rules in which such disclosure or production is necessary or appropriate in carrying out any of the Board's statutory responsibilities in accordance with the procedures and standards set forth in these Rules. The Board has determined that disclosures of information pursuant to these Rules is authorized by law.

Section 261.13 presently authorizes the General Counsel to approve or deny requests for permission to obtain and use confidential supervisory information of the Board in litigation. The Board proposes to amend § 261.13 by expanding its scope to cover all confidential information of the Board, including but not limited to confidential supervisory information. When § 261.13 was adopted in its present form, the Board had virtually no experience with litigation-related demands for confidential information that is not supervisory, but such demands have increased in recent years. In addition, the list of factors to be considered by the General Counsel is expanded. The expanded list incorporates the factors relied upon by the court in *In Re: Subpoena*, 967 F.2d 630 (D.C. Cir. 1992), with regard to requests for confidential supervisory information. It continues to be the Board's intention that persons seeking confidential information of the Board for use in litigation be required to exhaust administrative remedies under § 261.13 before seeking judicial process. *See United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951).

The Board also proposes to expand the delegated authority of Federal Reserve Banks and of certain Board officers and their designees in order to simplify and expedite the transfer of information to law enforcement authorities in accordance with law.

Finally, as noted below, the Board proposes to amend the Information Rules to take account of section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), sections 913 and 931 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), and section 2547 of Title XXV of the Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990 (Bank Fraud Act).[1]

Section 913 of FIRREA and section 2547 of the Bank Fraud Act (codified at 12 U.S.C. 1818(u)) require the Board to ''publish and make available to the public'' final cease and desist, removal, prohibition, and civil money penalty enforcement orders, including any modifications or terminations thereof, supervisory written agreements, and certain other enforceable written actions. Such matters come under the definition of ''confidential supervisory information'', the disclosure of which is restricted under language currently in the Board's Information Rules. *See* 12 CFR 261.2(b) and 12 CFR 261.11.

Section 931 of FIRREA (codified at 12 U.S.C. 1817(a)) requires that any insured depository institution that uses an independent auditor (or that used one in the two years prior to the enactment of FIRREA) transmit to such auditor a copy of its most recent examination report, as well as any supervisory memorandum of understanding with the depository institution, any written agreement between the institution and a Federal or State banking agency, and any report of an enforcement action against the institution or any institution-affiliated party. This provision applies only to insured depository institutions, that is, to banks and savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act. 12 U.S.C. 1813(c)(2) and 1817(a)(8).

With respect to fiscal years beginning after December 31, 1992, Section 112 of FDICIA (codified at 12 U.S.C. 1831m) requires that the financial statements of each insured depository institution be audited annually by an independent public accountant. Pursuant to this section, the insured depository institution must transmit to the independent public accountant retained to perform the institution's audit the most recent examination report of the institution and any supervisory memorandum of understanding or written agreement between the

[1] The Board's Rules have been implemented in a manner consistent with these and other changes described below.

institution and its Federal or state regulators, if such memorandum of understanding or agreement is in effect during the period covered by the audit. The institution must also provide its outside auditor with a report of supervisory actions initiated and civil money penalties assessed by the Board during the period covered by the audit.

To conform to these provisions, the Board proposes to amend the definition of ''confidential supervisory information'' in 12 CFR 261.2(b) to exclude those matters that must be made available to the public under 12 U.S.C. 1818(u), as amended. The proposal would also amend § 261.11 specifically to require insured depository institutions to disclose confidential supervisory information to their independent auditors in accordance with 12 U.S.C. 1817(a)(8) and 12 U.S.C. 1831m (i.e., by providing copies),[2] but to continue to prohibit the auditor from disclosing such information to any third party, or otherwise disclosing in whole or in part any portions of reports of examination and inspection, without prior written approval of the Board or its General Counsel acting pursuant to delegated authority. Bank holding companies, which are not insured depository institutions under 12 U.S.C. 1813(c)(2), would be authorized but not required to provide copies of reports of examination and inspection to their independent auditors in similar circumstances, and subject to the same limitations, as banks. The Board intends that all reports of examination and inspection be subject to this provision, not merely those that address only the financial soundness of the institution. The Board intends further that institutions regulated by the Board but not subject to 12 U.S.C. 1817(a)(8) be able to share examination and inspection reports of all kinds with their auditors as appropriate. This would include, for example, trust company, consumer compliance, and automated data processing reports.

Additional specific amendments are:

1. An amendment to § 261.1(a) to clarify the authority under which the Information Rules are issued. The Federal Register document that announced the present Information Rules erroneously omitted a reference to 12 U.S.C. 1844, although this reference was included under ''Authority'' at the end of the index that was published with the Rules. 53 FR 20815, June 7, 1988. This omission is corrected, and additional statutory references are added to clarify that the Information Rules address the management and disclosure of information pursuant to the Board's supervisory, regulatory, and other statutory responsibilities, in addition to its responsibilities under the Freedom of Information Act;

2. An addition to § 261.2 to define the term *exempt information*. This new definition is pertinent to a proposed amendment to section 261.13, described below, that expands the scope of the General Counsel's delegated authority regarding litigation requests and subpoenas. Under this amendment, the General Counsel's delegated authority to act on all litigation-related requests and subpoenas would extend to all confidential information of the Board (i.e., exempt information) rather than only to confidential information that is supervisory in nature;

3. Additions to § 261.3(c) clarifying that the Secretary of the Board is the Board's agent for service of all process, and that the Board will not accept process on behalf of employees in connection with purely private matters except as provided by applicable law;

4. An amendment to § 261.3(d) to clarify that authority delegated to the General Counsel and other officers of the Board may be subdelegated;

5. An amendment to § 261.6(a)(1) to include the public section of Community Reinvestment Act examination reports among the types of records made available to the public upon request;

6. A revision to § 261.9(a)(1) clarifying that a request made under the Freedom of Information Act may not be combined with any other request to the Board except a request under section 261a.3(a) and 261.13;

7. An amendment to § 261.9(a)(1)(ii) clarifying that if a request is made in connection with on-going litigation, the requester may include a statement indicating whether or not he or she will seek discretionary release of exempt information if the request is denied. If so, the requester shall also address the factors set forth in § 261.13(b), and the Freedom of Information Office will promptly forward any denial or partially denial to the General Counsel for processing under § 261.13.

8. A revision to § 261.9(b)(1) clarifying that the time period for a Freedom of Information response begins when the request is received in the Board's Freedom of Information Office;

9. A revision to § 261.10(a) removing the language that permits the Secretary of the Board to adjust Freedom of Information Act (FOIA) fee schedules;[3]

10. Amendments to § 261.10(g) raising to $100 the cost threshold at which the Secretary must notify a Freedom of Information Act requester of the estimated fee for filling his or her request; and to § 261.10(h)(2), to clarify that this section applies to requests for reduction of fees as well as to requests for waiver of fees;

11. Amendments to § 261.11(b) to permit the Federal Reserve Banks to make exempt information available to outside counsel retained or employed by a Federal Reserve Bank in appropriate circumstances and to clarify that a Federal Reserve Bank may make available to a bank holding company any confidential supervisory information of the Board relating to a subsidiary of the bank holding company.

12. Amendments to § 261.11(c) to clarify that authority may be exercised either upon request or at the initiative of the delegee; to substitute the Office of Thrift Supervision for the Federal Home Loan Bank Board as an agency that may receive confidential supervisory information of the Board from the Director of the Division of Banking Supervision and Regulation or a Federal Reserve Bank; and to add the National Credit Union Administration to the list of agencies that may receive information. Further amendments to this section would delegate authority to the Director to provide such information to the Securities and Exchange Commission pursuant to section 17(c)(3) of the Securities Exchange Act of 1934, 15 U.S.C. 78q(c)(3) (reports regarding transfer agents, clearing agencies, and municipal securities dealers),[4] and section 321 of the Trust Indenture Act of 1939, 15 U.S.C. 77uuu(b) (trustees and prospective trustees); to the Department of the Treasury, the Securities and Exchange Commission and other appropriate authorities pursuant to section 15C(d)(2) of the Securities Exchange Act of 1934, 15 U.S.C. 780–5(d)(2) (government securities broker and dealer activities of State member banks); to the Department of the Treasury pursuant to section 128 of the Bank Secrecy Act, 12 U.S.C. 1951 *et seq.* and 31 U.S.C., Chapter 53; to the Department of Labor, pursuant to section 3004(b) of the Employee Retirement Income Securities Act, 29

[2] The text of the present Information Rules permits disclosure of such information to auditors only on bank premises.

[3] The FOIA now provides that the schedules may be changed only by rule; and the Federal Reserve Act forbids the Board to delegate any of its rulemaking authority. 12 U.S.C. 248(k).

[4] This conforms to a provision in the Delegation Rules, 12 CFR 265.7(f)(8).

U.S.C. 1204;[5] to any Federal Home Loan Bank pursuant to section 22 of the Federal Home Loan Act, 12 U.S.C. 1442, as amended by FIRREA (member financial information);[6] and to any other Federal agency or instrumentality in circumstances in which the General Counsel has determined that disclosure is required by statute. Many of the above authorities concern disclosures that the Board is either required or strongly encouraged to make by statute but that, with few exceptions, have not heretofore been explicitly addressed in the Board's Information Rules. As a practical matter, such omissions have effectively vested disclosure authority in the General Counsel;

13. Amending § 261.11(c) to specify the authority of the Director of the Division of Consumer and Community Affairs to provide exempt information to appropriate federal and state financial institution supervisory agencies;

14. Additions to § 261.12: (1) Authorizing any Federal Reserve Bank, the Director of the Division of Banking Supervision and Regulation and the Director of the Division of Consumer and Community Affairs to refer possible violations of criminal laws and suspicious activities to the Department of Justice and other appropriate Federal law enforcement authorities, and incident to any such referral, to provide the appropriate authority with confidential information of the Board related to any such matter;[7] (2) authorizing Board and Federal Reserve Bank staff to provide supervisory information to General Accounting Office staff consistent with applicable law; (3) delegating to the Director of the Division of Consumer and Community Affairs, authority to refer to consumer law violations to appropriate law enforcement authorities; (4) authorizing Board and Federal Reserve Bank staff to make confidential supervisory information available to the Internal Revenue Service consistent with written policies of the Board regarding confirmation of charge-offs declared for tax purposes.

15. An amendment to § 261.12(a) to clarify that the General Counsel may act either upon request or upon his or her own initiative;

16. An amendment to § 261.12(c)(4) requiring that a person who requests information must identify the source of his or her legal authority to make the request and to receive the requested information.

17. Amendments to § 261.13, which governs the disclosure of information to persons not covered by §§ 261.11 and 261.12, to specify that the section applies to the disclosure of all confidential information of the Board (i.e., to ''exempt information''), not merely to confidential supervisory information. The amendments also expand the factors considered by the Board in deciding a request made under this section, including consideration of the factors set forth in *In Re: Subpoena,* 967 F.2d 630 (D.C. Cir. 1992), where applicable. The amendments state in greater detail the standards applicable to determinations by the General Counsel by adding standards regarding the cost of producing documents and/or testimony;

18. An additional amendment to § 261.13 to state that requests will generally be handled in the order in which they are received. Requesters who desire an expedited response to a request for information must explain why the request should be expedited and address the possible unfairness to other requesters whose pending requests may be delayed;

19. An amendment to § 261.13 stating that following receipt of a request for exempt information, the Board will generally notify the supervised financial institution that is the subject of the requested information.

20. A clarification that the requirement of notice to submitters of confidential information provided for in § 261.17(a), applies only in the case of requests made pursuant to the FOIA;[8]

21. A revision of § 261.17(b)(3) to clarify that a submitter may submit written objections to the disclosure of information by the Board within ten days of oral notice from the Secretary or his or her designee, or if no oral notice is given, within ten days of written notice from the Secretary or his or her designee;

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Board certifies that the proposed amendments will not have a significant economic impact on a substantial number of small entities. These amendments simplify some of the procedures regarding release of information and require disclosure of information in certain instances in accordance with law. The requirements to disclose should not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act Analysis

In accordance with section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Ch. 35; 5 CFR 1320 Appendix A.1), the Board reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget. Comments on the collections of information in this proposed regulation should be sent to the Office of Management and Budget, Paperwork Reduction Act Project (7100–0281), Washington, DC 20503, with copies of such comments to be sent to Mary McLaughlin, Federal Reserve Board Clearance Officer, Division of Research and Statistics, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington, DC 20551.

The collection of information requirements in this proposed regulation are found in 261.9, 261.10 and 261.13. The respondents may include small for-profit institutions. The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to this information collection request unless it displays a currently valid OMB control number. The OMB control number is 7100–0281.

It is estimated that there will be 5,000 annual respondents for requests made under 12 CFR 261.9, including approximately 100 that include requests made under 12 CFR 261.10 to waive fees. The burden per response for these requests ranges from 15 to 60 minutes, with an average of 30 minutes. The estimated total annual burden is 2,500

[5] The Director has already been delegated authority to notify the Department of violations of ERISA in the Delegation Rules, 12 CFR 265.7(e)(3), but repetition of that delegation in the Information Rules is appropriate in the interest of clarity.

[6] Disclosure of information to Federal Home Loan Banks under this provision is presently the subject of a written agreement among those Banks, the Federal Housing Finance Board, and the member agencies of the Federal Financial Institutions Examination Council.

[7] The power of Reserve Banks to refer violations of criminal law is a well established policy of the Board that has not heretofore been memorialized in the Information Rules. Accordingly, it has been necessary in some cases for Reserve Banks to seek approval by the Board's General Counsel, pursuant to delegated authority, to provide information to a United States Attorney in addition to what is provided on the referral form. The Board believes that simplification of this process under the proposed amendment would be beneficial. The Director of the Board's Division of Banking Supervision and Regulation also is delegated authority to make referrals concerning violations of criminal laws. Federal Reserve Banks will be required under a Board policy to consult with Board staff with regard to such referrals.

[8] This clarification makes it clear that § 261.17 is intended only to address matters of the kind covered by Executive Order 12600, June 23, 1987. This clarification does not preclude the Board or its staff from giving notice to submitters in other situations such as, for example, where documents obtained pursuant to a confidentiality commitment are subpoenaed. The Board exercises its discretion in such cases consistent with applicable law. The Board does not disclose its receipt of federal grand jury subpoenas, however, except in accordance with law following consultation with appropriate law enforcement authorities.

hours. Based on an hourly cost of $20, the annual cost to the public is estimated to be $50,000. Generally, requests made under 12 CFR 261.9 and 12 CFR 261.10 are not exempt from disclosure under the Freedom of Information Act.

It is estimated that there will be 30 annual respondents for requests made under 12 CFR 261.13 and a total of 60 hours of annual burden. The estimated average annual burden per respondent for requests made under 12 CFR 261.13 is 2 hours. Based on an hourly cost of $75, the annual cost to the public is estimated to be $4500. The requests made under 12 CFR 261.13 may be exempt from disclosure under the Freedom of Information Act pursuant to exemption (b)(4), 5 U.S.C. 552(b)(4).

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility; (b) the accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the cost of compliance; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

List of Subjects in 12 CFR Part 261

Confidential business information, Federal Reserve System, Freedom of information.

PART 261—RULES REGARDING AVAILABILITY OF INFORMATION

1. The authority citation for Part 261 is revised to read as follows:

Authority: 5 U.S.C. 552; 12 U.S.C. 248(i) and (k), 321 *et seq.*, 611 et seq., 1442, 1817(a)(2)(A), 1817(a)(8), 1818(u) and (v), 1821(o), 1821(t), 1830, 1844, 1951 *et seq.*, 2601, 2801 *et seq.*, 2901 *et seq.*, 3101 et seq, 3401 *et seq.*; 15 U.S.C. 77uuu(b), 78q(c)(3); 29 U.S.C. 1204; 31 U.S.C. 5301 *et seq.*; 42 U.S.C. 3601; 44 U.S.C. 3510.

2. In § 261.1, paragraph (a) is revised to read as follows:

§ 261.1 Authority, purpose, and scope.

(a) *Authority.* (1) This part is issued by the Board of Governors of the Federal Reserve System (the Board) pursuant to the Freedom of Information Act, 5 U.S.C. 552; Sections 9, 11, and 25A of the Federal Reserve Act, 12 U.S.C. 248(i) and (k), 321 *et seq.*, (including section 326), 611 *et seq.*; Section 22 of the Federal Home Loan Bank Act, 1442; the Federal Deposit Insurance Act, 1817(a)(2)(A), 1817(a)(8), 1818(u) and (v), 1821(o); section 5 of the Bank Holding Company Act, 1844; the Bank Secrecy Act, 1951 *et seq.* and Chapter 53 of Title 31; the Home Mortgage Disclosure Act, 2801 *et seq.*; the Community Reinvestment Act, 2901 et seq.; the International Banking Act, 3101 *et seq.*; the Right to Financial Privacy Act, 3401 *et seq.*; the Securities and Exchange Act, 15 U.S.C. 77uuu(b), 78q(c)(3); the Employee Retirement Income Security Act, 29 U.S.C. 1204; the Money Laundering Suppression Act, 31 U.S.C. 5301, the Fair Housing Act, 42 U.S.C. 3601; the Paperwork Reduction Act, 44 U.S.C. 3510; and any other applicable law that establishes a basis for the exercise of governmental authority by the Board.

(2) Accordingly, this part authorizes the Board or its delegees to disclose confidential information of the Board, in accordance with the procedures set forth in this part, whenever it is necessary or appropriate to do so in the exercise of any of the Board's statutory authority. The Board has determined that such disclosures are authorized by law. In addition, the Board has determined that it is authorized by law to disclose information to a law enforcement or other federal or state government agency that has the authority to request and receive the information or in response to a valid order of a court of competent jurisdiction or of a duly constituted administrative tribunal.

* * * * *

3. Section 261.2 is amended as follows:

a. Paragraphs (b) through (g) are redesignated as paragraphs (c) through (h), respectively;

b. A new paragraph (b) is added;

c. Newly designated paragraph (c) is revised.

The addition and revision read as follows:

§ 261.2 Definitions.

* * * * *

(b) *Exempt information* means information that is exempt from disclosure under § 261.8.

(c)(1) *Confidential supervisory information* means exempt information consisting of reports of examination, inspection and visitation, confidential operating and condition reports, and any information derived from, related to, or contained in them, information gathered by the Board in the course of any investigation, cease-and-desist orders, civil money penalty enforcement orders, suspension, removal or prohibition orders, or other orders or actions under the Financial Institutions Supervisory Act of 1966, as amended, the Bank Holding Company Act of 1956, as amended, the Federal Reserve Act of 1913, as amended, the International Banking Act of 1978, as amended, and the International Lending Supervision Act of 1983, as amended, except:

(i) Such final orders, amendments, or modifications of final orders, or other actions or documents that are specifically required to be published or made available to the public pursuant to section 913 of the Financial Institutions Reform, Recovery, and Enforcement Act, and section 2547 of the Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act, codified at 12 U.S.C. 1818(u), or other applicable law, including the record of litigated proceedings; and

(ii) The public section of Community Reinvestment Act examination reports, 12 U.S.C. 2906(b).

(2) *Confidential supervisory information* may consist of documents prepared by, on behalf of, or for the use of the Board, a Federal Reserve Bank, a Federal or State financial institutions supervisory agency, or a bank or bank holding company or other regulated financial institution.

* * * * *

4. Section 261.3 is amended by revising paragraphs (b), (c), and (d) to read as follows:

§ 261.3 Custodian of records; certification; service; alternative authority.

* * * * *

(b) *Certification of record; Secretary of the Board.* The Secretary, or his or her designee, may certify the authenticity of any record of the Board, or of any copy of such record, for any purpose, and for or before any duly constituted Federal or State court, tribunal, or agency.

(c) *Service of subpoenas or other process.* Subpoenas or other judicial or administrative process, demanding access to any records of the Board or making any claim against the Board, shall be addressed to and served upon the Secretary of the Board at the Board's offices in Washington, D.C. 20551. Neither the Board nor the Secretary are agents for service of process on behalf of any employee in respect of purely private legal disputes, except as specifically provided by law.

(d) *Alternative authority.* Any action or determination required or permitted by this part to be done by the General Counsel or by the Director of any Division may be done by any employee who has been duly designated for this purpose by the General Counsel or by the appropriate Director.

5. Section 261.6 is amended by redesignating paragraphs (a)(4) and (a)(5) as paragraphs (a)(5) and (a)(6),

respectively; and by adding a new paragraph (a)(4) to read as follows:

§ 261.6 Records available to public upon request.

(a) * * *

(4) The public section of Community Reinvestment Act examination reports;

* * * * *

6. Section 261.9 is amended by revising paragraphs (a)(1) introductory text, (a)(1)(ii), and (b)(1) to read as follows:

§ 261.9 Procedures for making requests for identifiable records; processing of requests; review of denial of request; time extensions.

(a) * * * (1) *Contents of request.* A request for identifiable records shall reasonably describe the records to which access is sought in a way that enables the Board's staff to identify and produce the records with reasonable effort and without unduly burdening or disrupting any of the Board's operations. The request shall be submitted in writing to the Secretary of the Board, and the envelope clearly marked ''Freedom of Information Act Request.'' A request may not be combined with any other request to the Board except for a request under § 261a.3(a) of this chapter (Rules Regarding Access to And Review of Personal Information in Systems of Records) and a request made under § 261.13(b) as described in paragraph (a)(1)(ii) of this section. The request shall contain the following information:

* * * * *

(ii) If the request is being made in connection with on-going litigation, a statement indicating whether or not the requester will seek discretionary release of exempt information from the General Counsel in the event the request to the Secretary under this section is denied. A requester who intends to make such a request to the General Counsel may also address the factors set forth in § 261.13(b); and in the event of a denial by the Secretary, the Freedom of Information Office will promptly forward the request and denial directly to the Board's General Counsel for consideration under § 261.13;

* * * * *

(b) *Procedures for responding to requests*—(1) *Time limits.* In response to any request that satisfies paragraph (a) of this section, the Board shall, if necessary, cause an appropriate search to be conducted of records of the Board in existence on the date of receipt of the request, and shall determine within ten working days of receipt of the request whether to comply with the request, unless the running of such time is suspended for payment of fees pursuant to § 261.10(g)(3), or such period is extended, pursuant to paragraph (e) of this section or § 261.7. The date of receipt for any request, including one that is addressed incorrectly or that is referred to the Board by another agency or by a Federal Reserve Bank, is the date the Board's Freedom of Information Office actually receives the request.

* * * * *

7. Section 261.10 is amended by revising paragraphs (a), (g)(2), and (h)(2) introductory text, and by adding a new paragraph (h)(5) to read as follows:

§ 261.10 Fee schedules; waiver of fees.

(a) *Fee schedules.* Records of the Board available for public inspection and copying are subject to a written schedule of fees for search, review and duplication. (*See* Appendix A to this section for schedule of fees.) The fees set forth in the schedule of fees reflect the full allowable direct costs of search, duplication, and review.

* * * * *

(g) * * *

(2) *Advance notification of fees.* If the Secretary estimates that charges are likely to exceed $100, the Secretary shall notify the requester of the estimated amount of fees, unless the requester has indicated in advance his or her willingness to pay fees as high as those anticipated. Upon receipt of such notice, the requester may confer with the Secretary as to the possibility of reformulating the request in order to lower the costs.

* * * * *

(h) * * *

(2) * * * The Secretary shall normally deny a request for a waiver or reduction of fees that does not include:

* * * * *

(5) *Effect of requests for waivers.* The Secretary shall make a determination on the request for a waiver or reduction of fees and shall notify the requestor accordingly. A denial may be appealed to the Board in accordance with § 261.9(d)(1). If a waiver is requested and the requester has not indicated in writing that he or she will pay the applicable fees if the waiver request is denied, the request for information shall be deemed not to have been received until a determination has been made on the request for a waiver or reduction.

* * * * *

8. Section 261.11 is amended by revising the section heading, paragraphs (a), (b), (c), (e), and (g) to read as follows:

§ 261.11 Exempt information made available to supervised financial institutions and financial institution supervisory agencies.

(a) *Disclosure of exempt information to supervised financial institutions.* Exempt information, including confidential supervisory information, concerning a supervised bank or bank holding company (including subsidiaries), a U.S. branch or agency of a foreign bank, or any other institution examined by the Federal Reserve System (supervised financial institution) may be made available by the Board or the appropriate Federal Reserve Bank to the supervised financial institution.

(b) *Disclosure of confidential supervisory information by supervised financial institutions and by Federal Reserve Banks—(1) Parent bank holding company, directors, officers, and employees.* Any supervised financial institution lawfully in possession of confidential supervisory information of the Board pursuant to this section may disclose such information, or portions thereof, to its directors, officers, and employees, and to its parent bank holding company and its directors, officers, and employees. The appropriate Federal Reserve Bank may also make such information available to a parent bank holding company when such information relates to any subsidiary of the parent bank holding company.

(2) *Legal counsel.* (i) Any supervised financial institution lawfully in possession of confidential supervisory information of the Board pursuant to this section, which information relates to the affairs of the supervised financial institution, may disclose such information, or portions thereof, to any legal counsel employed or retained by the supervised financial institution to represent it, subject to the condition that the legal counsel shall review the confidential supervisory information only on the premises of the supervised financial institution, and shall not make or retain any copies of such information.

(ii) A Federal Reserve Bank may make exempt information available to outside counsel retained by the Federal Reserve Bank when needed by the outside counsel in connection with its representation of the Federal Reserve Bank.

(3) *Independent auditors.* (i) Each insured depository institution that engages the services of an independent auditor to audit such institution shall transmit to the auditor to the extent permitted or required by applicable statutes:

(A) A copy of the most recent report of examination received by the insured depository institution (including but not limited to all formal bank examination reports such as trust company, consumer compliance, and automated data processing reports) and a copy of the most recent report of condition made by the institution pursuant to any provision of law; and

(B) A copy of any supervisory memorandum of understanding with the insured depository institution and any written agreement between a Federal or State banking agency and the insured depository institution which are in effect during the period covered by the audit; and

(C) A report of any action initiated or taken by the Board or the Federal Deposit Insurance Corporation during such period under subsection (a),(b), (c), (e), (g), (i), (s) or (t) of section 8 of the Federal Deposit Insurance Act; any action taken by any appropriate State bank supervisor under State law which is similar to any such action; and any other civil money penalty assessed under any other provision of law with respect to the insured depository institution or any institution-affiliated party.

(ii) For purposes of this section, *insured depository institution* means any bank or savings association the deposits of which are insured by the Federal Deposit Insurance Corporation pursuant to Chapter 16 of Title 12, United States Code. Any financial institution supervised by the Board that is not an insured depository institution, including a bank holding company, may make copies of documents identified in this paragraph (b) available to its independent auditor in the same circumstances, and subject to the same conditions and limitations, as an insured depository institution.

(iii) Any insured depository institution or other financial institution supervised by the Board also may make such information available to independent auditors, whose engagements do not include audits within the scope of 12 U.S.C. 1817(a)(8), in the manner specified in paragraph (b)(2) of this section, where access to such information is needed for the performance of functions within the scope of the engagement.

(4) *Limitation.* Any legal counsel or independent auditor given access to confidential supervisory information pursuant to paragraphs (b)(2) and (b)(3) of this section shall not disclose the confidential supervisory information for any purpose without the prior written approval of the Board's General Counsel, except as necessary to provide advice to the supervised financial institution, its parent bank holding company, or the officers, directors, and employees of the supervised financial institution or parent bank holding company.

(c) *Disclosure to certain agencies, including Federal financial institution supervisory agencies*—(1) *Disclosure to certain agencies by the Director of the Division of Banking Supervision and Regulation.* Upon request or on his or her initiative, the Director of the Division of Banking Supervision and Regulation or an officer of the appropriate Federal Reserve Bank may make available exempt information (including confidential supervisory information), and other appropriate information relating to a bank, bank holding company (including subsidiaries), U.S. branch or agency of a foreign bank, or other supervised financial institution, to the following agencies and their regional offices and representatives:

(i) The Comptroller of the Currency;

(ii) The Federal Deposit Insurance Corporation;

(iii) The Office of Thrift Supervision;

(iv) The National Credit Union Administration;

(v) The Securities and Exchange Commission pursuant to 15 U.S.C. 77uuu(b) and 15 U.S.C. 78q(c)(3);

(vi) The Department of the Treasury pursuant to the Bank Secrecy Act, 12 U.S.C. 1951 *et seq.* and subchapter II of Chapter 53 of Title 31, U.S. Code;

(vii) The Department of the Treasury, the Securities and Exchange Commission and other appropriate authorities pursuant to 15 U.S.C. 78o-5(d)(2); and

(viii) The Department of Labor pursuant to section 3004(b) of the Employee Retirement Income Security Act (29 U.S.C. 1204); or

(ix) Any other Federal agency or instrumentality in circumstances in which the Board's General Counsel has determined that disclosure is required by statute.

(2) *Disclosure to a Federal Home Loan Bank.* In accordance with 12 U.S.C. 1442, the Director of the Division of Banking Supervision and Regulation may make confidential supervisory information available to any Federal Home Loan Bank.

(3) *Disclosure of information acquired under Board regulations G, T, U, and X.* The Director of the Division of Banking Supervision and Regulation may disclose to appropriate financial institution supervisory agencies information acquired under Board Regulations G, T, U, and X (12 CFR parts 207, 220, 221, 224).

(4) *Disclosure to certain agencies by the Director of Consumer and Community Affairs.* Upon request or upon his or her own initiative, the Director of the Board's Division of Consumer and Community Affairs may provide exempt information (including confidential supervisory information) and other appropriate information to federal and state financial institution supervisory agencies in connection with: A possible violation, or a consumer complaint alleging a violation of the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*), Fair Lending Act (42 U.S.C. 3601 *et seq.*), Home Mortgage Disclosure Act (12 U.S.C. 2801 *et seq.*), Truth in Lending Act (15 U.S.C. 1601 *et seq.*), Truth in Savings Act (12 U.S.C. 4301 *et seq.*), Electronic Fund Transfers Act (15 U.S.C. 1693 *et seq.*), Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*), Fair Debt Collections Practices Act (15 U.S.C. 1692 *et seq.*), Real Estate Settlement Procedures Act (12 U.S.C. 2601 *et seq.*), or any regulations promulgated under any of those statutes.

* * * * *

(e) *Discretionary disclosures.* The Board may determine, from time to time, to authorize other disclosures of legally obtained confidential information as necessary.

* * * * *

(g) *Other disclosure prohibited.* All confidential supervisory information or other information made available under this section shall remain the property of the Board. No supervised financial institution, financial institution supervisory agency, person, or any other party to whom confidential supervisory information is made available under any provision of Subchapter C, or any officer, director, employee or agent thereof, may disclose such information without the prior written permission of the Board's General Counsel except in published statistical material that does not disclose, either directly or when used in conjunction with publicly available information, the affairs of any individual, corporation, or other entity. No person obtaining access to confidential supervisory information pursuant to this section may make a personal copy of any such information; and no person may remove confidential supervisory information from the premises of the institution or agency in possession of such information except as permitted by specific language in this part or by the Board.

* * * * *

9. Section 261.12 is amended as follows:

a. The section heading, paragraphs (a), (c)(4), and (g) are revised; and

b. New paragraphs (h) and (i) are added.

The revisions and additions read as follows:

§ 261.12 Exempt information made available to law enforcement agencies and other nonfinancial institution supervisory agencies.

(a) *Disclosure.* Upon written request to the General Counsel pursuant to paragraph (c) of this section, or on the initiative of the Board or the General Counsel, the Board may make available to appropriate law enforcement and to other government agencies for use where necessary in the performance of official duties, reports of examination and inspection, confidential supervisory information, other exempt information of the Board concerning banks, bank holding companies and their subsidiaries, U.S. branches and agencies of foreign banks, other examined institutions, and other information in accordance with applicable law.

* * * * *

(c) * * *

(4) The head of the law enforcement agency shall address a letter request to the Board's General Counsel, specifying whether the requested disclosure is permitted or restricted in any way by applicable law or regulation. The requester must identify the source of his or her legal authority to make the request and to receive the requested information;

* * * * *

(g)(1) *Referrals of violations of criminal law.* Notwithstanding any other provision of this section, Federal Reserve Banks, the Director of the Board's Division of Banking Supervision and Regulation, and the Director of the Board's Division of Consumer and Community Affairs may refer possible violations of criminal law and suspicious activities to the Department of Justice and other appropriate Federal law enforcement authorities and incident to any such referral, may provide to the appropriate law enforcement authority exempt information, including confidential supervisory information related to such matter in addition to the information initially provided on the applicable referral form.

(2) *Referrals of consumer law violations.* Upon request or upon his or her own initiative, the Director of the Board's Division of Consumer and Community Affairs may provide exempt information, including confidential supervisory information, or other appropriate information to appropriate law enforcement authorities in connection with: A possible violation, or a consumer complaint alleging a violation of the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*), Fair Housing Act (42 U.S.C. 3601 *et seq.*), Home Mortgage Disclosure Act (12 U.S.C. 2801 *et seq.*), Truth in Lending Act (15 U.S.C. 1601 *et seq.*), Truth in Savings Act, (12 U.S.C. 4301 *et seq.*), Electronic Fund Transfers Act (15 U.S.C. 1693 *et seq.*), Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*), Fair Debt Collections Practices Act (15 U.S.C. 1692 *et seq.*), Real Estate Settlement Procedures Act (12 U.S.C. 2601), or any regulations promulgated under any of those statutes.

(h) *Disclosure to General Accounting Office and Internal Revenue Service.* Notwithstanding any other provision of this section, the Director, Division of Banking Supervision and Regulation and any Federal Reserve Bank may disclose information to the U.S. General Accounting Office of the kind and subject to the conditions specified in 31 U.S.C. 714, and the Director, a Federal Reserve Bank, or any Federal Reserve examiner may disclose confidential supervisory information to the Internal Revenue Service in accordance with the Board's Supervisory Letter, SR 92–39 (October 30, 1992) and any subsequent authorized revisions of SR 92–39 (For availability of copies, see § 261.5(f).)

(i) *Other disclosure prohibited.* All reports and information made available under any provision of subpart C of this part shall remain the property of the Board. Any person in possession of such information shall not use or disclose such information for any purpose except as authorized under this part.

10. Section 261.13 is revised to read as follows:

§ 261.13 Other disclosure of exempt information.

(a) *Board policy.* (1) It is the Board's policy regarding confidential supervisory information that such information is confidential and will not normally be disclosed to the public. Requests for disclosure of confidential supervisory information under this section will not be approved unless the person requesting disclosure meets the criteria set forth in this section. In addition, it is the policy of the Board to reserve to itself or its General Counsel the authority to authorize production of exempt information, including confidential supervisory information, for use in any civil or administrative litigation. Requests for discretionary release of exempt information for use in litigation made pursuant to § 261.9(a)(1)(ii) will be forwarded to the General Counsel for consideration.

(2) The Board generally will process requests in the order in which they are received. A requester seeking an expedited response must explain why the request should be expedited and, in so doing, must address the possible unfairness to other requesters whose pending requests may be delayed.

(b) *Requests for disclosure—(1) Requests from litigants for information or testimony.* Any person (except agencies referred to in §§ 261.11 and 261.12) seeking access to exempt information (including confidential supervisory information) or seeking to obtain the testimony of present or former Board or Reserve Bank employees on matters involving exempt information of the Board, whether by deposition or otherwise, for use in litigation before a court, board, commission, agency, or other tribunal, may file a written request with the General Counsel of the Board. The request shall describe:

(i) The particular information, kinds of information, and where possible, the particular documents to which access is sought;

(ii) The judicial or administrative action for which the exempt information is sought, including the caption and docket number of the case and the name, address, and telephone number of counsel to each party in the case;

(iii) A description of any prior judicial decisions or pending motions that may bear upon the asserted relevance of the requested information;

(iv) The relationship of the exempt information to the issues or matters raised by the judicial or administrative action;

(v) The requesting person's need for the information;

(vi) Whether the requested disclosure is permitted or restricted in any way by applicable law or regulation and the requester's source of authority to make the request and receive the requested information;

(vii) The reason why the requesting person cannot obtain suitable and needed information from any other source (and in the case of a request for trial testimony, the reason why a deposition will not suffice);

(viii) A commitment to obtain an enforceable protective order including, if applicable, a judicial sealing order, acceptable to the Board from the appropriate tribunal preserving the confidentiality of any information that is provided;

(ix) A statement of all reasonably foreseeable requests or demands for

Board information the party will make during the course of the litigation;

(x) A statement identifying all previous requests or demands for such information or similar information made by the requester to the Board or any other Federal or state agency, and the disposition of each such request; and

(xi) A statement addressing any issue that may bear upon the question of waiver of privilege by the Board.

(2) *All other requests.* Any other person (including any financial institutions supervised and regulated by the Board, but excluding agencies referred to in §§ 261.11 and 261.12, seeking access to exempt information for any other purpose may file a written request with the General Counsel of the Board. The request shall describe the purpose for which such disclosure is sought.

(3) *Notice to supervised financial institution.* Following receipt of a request for exempt information, the Board generally will notify the supervised financial institution that is the subject of the requested information, unless the Board, in its discretion, determines that to do so would unjustly advantage or would prejudice any of the parties in the matter at issue.

(c) *Action on request*—(1) *Determination of approval.* The General Counsel of the Board may approve a request made under this section provided that he or she determines that:

(i) The person making the request has shown a substantial need for exempt information that outweighs the need to maintain confidentiality;

(ii) Disclosure is consistent with the supervisory and regulatory responsibilities and policies of the Board;

(iii) Approval would not be otherwise inappropriate or contrary to the public interest;

(iv) The requester has made a commitment to pay the costs of production by the Board and/or any Federal Reserve Bank(s) which is deemed satisfactory in the circumstances.

(2) *Factors taken into consideration by the General Counsel.* In determining whether to approve a request for confidential supervisory information under paragraph (c)(1) of this section, the General Counsel shall consider without limitation:

(i) The relevance of the evidence sought to be protected;

(ii) The availability of other evidence;

(iii) The ''seriousness'' of the litigation and the issues involved;

(iv) The role of the Board in the litigation; and

(v) The possibility that Board employees may be reluctant to be candid for fear that their supervisory opinions and communications may be made available to persons outside of the Board or to persons not involved in the bank supervision and regulation process.

(3) *Conditions or limitations.* The General Counsel of the Board may, in approving a request, impose such conditions or limitations on use of any information disclosed as the General Counsel deems necessary to protect the confidentiality of the Board's information.

(4) *Request for opinion or expert testimony.* The General Counsel will not normally authorize opinion or expert testimony by persons based on information of the Board acquired in the scope and performance of their official duties with the Board or any Federal Reserve Bank, except on behalf of the United States or a party represented by the Department of Justice.

(d) *Exhaustion of administrative remedies for discovery purposes in civil, criminal, or administrative action.* Action by the General Counsel of the Board on a request under this section shall be required to exhaust administrative remedies for discovery purposes in any administrative, civil or criminal proceeding. A request made pursuant to § 261.9 does not exhaust administrative remedies for discovery purposes. Therefore, it is not necessary to file a request pursuant to § 261.9 to exhaust administrative remedies under this section.

(e) *Other disclosure prohibited.* All exempt information made available under this section shall remain the property of the Board. Any person in possession of such information under this section or any provision of subpart C of this part, including any banking organization supervised and regulated by the Board, shall not use or disclose such information for any purpose other than that authorized in writing by the General Counsel of the Board.

11. Section 261.17 is amended by revising paragraphs (a)(1) introductory text, (b) introductory text, and (b)(3) to read as follows:

§ 261.17 Confidential commercial or financial information.

(a) * * * (1) The Secretary shall notify a submitter of any request made pursuant to the Freedom of Information Act under § 261.9 and 5 U.S.C. 552, for access to all or a portion of information provided to the Board by the submitter, if:

* * * * *

(b) * * * The notice given to the submitter upon a request for confidential information pursuant to paragraph (a) of this section shall:

* * * * *

(3) Give the submitter a reasonable opportunity, not to exceed ten working days from the date of oral notice or, if no oral notice is given, ten working days from the date of written notice, to submit written objections to disclosure of the information; and

* * * * *

By order of the Board of Governors of the Federal Reserve System, February 21, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–4341 Filed 2–27–96; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–161–AD]

Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes, Excluding Model A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A300 B2 and B4 series airplanes. This proposal would require measurements of the thickness of the inner skin of the longitudinal lap joint from the inside of the fuselage at certain stringers. The proposed AD would also require inspections to detect stress corrosion cracking in the subject area, and repair, if necessary. This proposal is prompted by reports of corrosion cracking found in the skin at the longitudinal lap joint at certain stringers of the fuselage, which was caused by the increased stress level in the subject area when it was reworked beyond certain limits. The actions specified by the proposed AD are intended to prevent such stress corrosion cracking which, if not detected and corrected in a timely manner, could result in rapid depressurization of the airplane.

DATES: Comments must be received by April 8, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport

Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–161–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed 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 summarizing each FAA-public contact concerned with the substance of this proposal 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 95–NM–161–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–161–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A300 B2 and B4 series airplanes. The DGAC advises that, during regularly scheduled maintenance of two in-service airplanes, significant skin cracking was found in the longitudinal lap joint at stringer 57 between frames 67 and 68 of the fuselage. One of the airplanes had accumulated 23,893 total flight hours and 22,936 total flight cycles. The other airplane had accumulated 28,957 total flight hours and 23,574 total flight cycles.

Investigation revealed that the subject area on these airplanes, including the longitudinal lap joint at stringer 52, had been reworked to remove corrosion. However, the rework removed far more material than that allowed by the Structural Repair Manual (SRM). Such reduction in the thickness of the material increases the stress level in the skin. This condition, in conjuction with a corrosive environment, renders the subject area susceptible to stress corrosion cracking. Stress corrosion cracking in the longitudinal lap joints of the fuselage, if not detected and corrected in a timely manner, could result in rapid depressurization of the airplane.

Airbus has issued All Operator Telex (AOT) AOT 53–05, Revision 1, dated August 16, 1993. The AOT describes procedures for measurements of the thickness of the inner skin of the longitudinal lap joint from the inside of the fuselage at stringer 57 between frames 65 and 72, and at stringer 52 (left- and right-hand) between frames 58 and 65. The measurement involves using an ultrasonic thickness measurement method. The AOT also describes procedures for high frequency eddy current (HFEC) inspections to detect cracking in the subject area. The DGAC classified this AOT as mandatory and issued French airworthiness directive 93–150–147(B), dated September 1, 1993, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require measurements of the thickness of the inner skin of the longitudinal lap joint from the inside of the fuselage at certain stringers using the ultrasonic thickness measurement method. The proposed AD would also require HFEC inspections to detect cracking in the subject area. The actions would be required to be accomplished in accordance with the AOT described previously. If any crack is found or if the thickness of the inner skin is less than or equal to certain limits, it would be required to be repaired in accordance with a method approved by the FAA.

The FAA estimates that 17 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 32 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $32,640, or $1,920 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket.

A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 USC 106(g) 40113, 44701.

§ 39.13 [Amended]

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

Airbus Industrie: Docket 95–NM–161–AD.

Applicability: Model A300 B2 and B4 series airplanes, excluding Model A300–600 series airplanes; manufacturer serial numbers 003 through 156 inclusive; on which Airbus Modification 2611 has not been installed; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes 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 (e) 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 stress corrosion cracking in the longitudinal lap joints of the fuselage, which could result in rapid depressurization of the airplane, accomplish the following:

Note 2: Any of the inspections and measurements required by this AD that were performed before the effective date of this AD in accordance with Airbus All Operator Telex (AOT) 53–05 (original issue), dated August 16, 1995, are considered acceptable for compliance with the applicable requirements of this AD.

(a) Within 60 days after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) of this AD in accordance with Airbus All Operator Telex (AOT) 53–05, Revision 1, dated August 16, 1993.

(1) Measure the thickness of the inner skin of the longitudinal lap joint from the inside of the fuselage at stringer 57 between frames 65 and 72 using the ultrasonic thickness measurement method, in accordance with the AOT. If the thickness is less than or equal to the limits specified in the AOT, prior to further flight, repair the longitudinal lap joint in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(2) Perform a high frequency eddy current (HFEC) inspection to detect cracking of the longitudinal lap joint at stringer 57 between frames 65 and 72, in accordance with the AOT. If any cracking is detected, prior to further flight, repair the longitudinal lap joint in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(b) Within 6 months after the effective date of this AD, accomplish paragraphs (b)(1) and (b)(2) of this AD in accordance with Airbus AOT 53–05, Revision 1, dated August 16, 1993.

(1) Measure the thickness of the inner skin of the longitudinal lap joint from the inside of the fuselage at stringer 52 (left- and right-hand) between frames 58 and 65 using the ultrasonic thickness measurement method, in accordance with the AOT. If the thickness is less than or equal to the limits specified in the AOT, prior to further flight, repair the longitudinal lap joint in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(2) Perform a HFEC inspection to detect cracking of the longitudinal lap joint at stringer 52 (left- and right-hand) between frames 58 and 65, in accordance with the AOT. If any cracking is detected, prior to further flight, repair the longitudinal lap joint in accordance with a method approved by the Manager, Standardization Branch, ANM–113.

(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, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on February 22, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–4509 Filed 2–27–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–113–FOR]

Pennsylvania Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Pennsylvania regulatory program (hereinafter the ''Pennsylvania program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Pennsylvania rules pertaining to: Surface and underground mining—definitions, incidental coal extraction, permit approval, permit renewal, coal exploration, and bonding; surfacing mining—ground and surface water permit application information, operation and reclamation plans, and environmental protection performance standards; anthracite coal mining—permit applications, environmental protection performance standards, bank removal and reclamation standards, refuse removal standards, coal preparation facilities, and underground mines; underground mining of coal and coal preparation plants—erosion and sedimentation control standards, information requirements, performance standards, impoundments, subsidence control, and coal preparation; and coal refuse disposal—permit applications and performance standards. The amendment is intended to revise the Pennsylvania program to be consistent with the corresponding Federal regulations.

DATES: Written comments must be received by 4:00 p.m., E.S.T. March 29, 1996. If requested, a public hearing on the proposed amendment will be held on March 25, 1996. Requests to speak at the hearing must be received by 4 p.m., E.S.T. on March 14, 1996.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Robert J. Biggi, Director, at the address listed below.

Copies of the Pennsylvania program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for

public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Harrisburg Field Office.

Robert J. Biggi, Director, Harrisburg Field Office, Office of Surface Mining Reclamation and Enforcement, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, PA 17101, Telephone: (717) 782–4036.

Maryland Bureau of Mines, 160 South Water Street, Frostburg, Maryland 21532, Telephone: (301) 689–4136.

FOR FURTHER INFORMATION CONTACT: Robert J. Biggi, Director, Harrisburg Field Office, Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program

On July 31, 1982, the Secretary of the Interior conditionally approved the Pennsylvania program. Background information on the Pennsylvania program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 31, 1982, Federal Register (47 FR 33050). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 938.11, 938.12, 938.15, and 938.16.

II. Description of the Proposed Amendment

By letter dated January 23, 1996, (Administrative Record No. PA–838.00) Pennsylvania submitted a proposed amendment to its program pursuant to SMCRA in response to the required program amendments at 30 CFR 938.16(g) through (ii) with the exception of (h). The provisions of the regulations that Pennsylvania purposes to amend are found at sections 86–90 of its Coal Mining Regulations. They were published in the Pennsylvania Bulletin on December 16, 1995 (vol. 25, no. 50). Due to the voluminous nature of the proposed changes, they will be summarized to the extent possible.

Chapter 86—Surface and Underground Mining: General

At section 86.1—Definitions, Pennsylvania proposes to add the following definitions:

''Cumulative Measurement Period''—for purposes of section 86.5 (relating to the extraction of coal incidental to noncoal surface mining), the period of time over which both cumulative production and cumulative revenue are measured.

''Cumulative Production''—for purposes of section 86.5, the total tonnage of coal or other minerals extracted from a mining area during the cumulative measurement period.

''Cumulative Revenue''—for purposes of section 86.5, the total revenue derived from the sale of coal or other minerals and the fair market of coal or other minerals transferred or used, but not sold, during the cumulative measurement period.

''MSHA''—the Mine Safety and Health Administration, United States Department of Labor.

''Mining Area''—for purposes of section 86.5, an individual excavation site or pit from which coal, other minerals, and overburden are removed.

''Other Minerals''—for purposes of section 86.5, a commercially valuable substance mined for its mineral value, excluding coal, topsoil, waste and fill material.

''Surface Mining Activities''—added to the existing definition of this term is the inclusion of the construction of a road or similar disturbance for any purpose related to a surface mining activity, including that of moving or walking a dragline or other equipment or for the assembly or disassembly or staging of equipment.

At section 86.5—Extraction of Coal Incidental to Noncoal Surface Mining, Pennsylvania proposes to require that a person who intends to extract coal incidental to the extraction of other minerals must do so under the provisions of a noncoal surface mining permit and subject to the regulations specified in this section. Certain exemptions apply. The operator shall select and consistently use one of two identified methods for determining the beginning of the cumulative measurement period. A request for exemption must be filed by the operator prior to the extraction. If extraction has begun, the operator must file a request by February 14, 1996. Public notice requirements must be met by both the operator and the Department of Environmental Protection (PADEP). A request for exemption must include certain information including, but not limited to, name and address of applicant; list of minerals to be extracted; estimates of annual production, revenues, and fair market values of coal; maps of the mining area; evidence of publication of public notice; and other pertinent information. The PADEP will approve the request for exemption if certain, specified criteria are satisfied. A person whose request has been approved must conduct operations in accordance with the approved request, file an annual report, maintain certain information, and comply with notification provisions. Stockpiling of coal will be considered if certain provisions are met.

At section 86.37—Criteria for Permit Approval or Denial, Pennsylvania proposes at subsection (b) to prohibit an incremental phase approval of a permit if PADEP has already issued an incremental phase approval for the area to another permittee, except for an area used for access or haul roads.

At section 86.55—Permit Renewals: General Requirements, Pennsylvania proposes at subsection (c) to require that if a permittee provides a written notice to PADEP under subsection (i), the notice shall be filed at least 180 days before the expiration date of the permit. At subsection (g)(6), a permit will not be renewed if the permittee has failed to provide evidence of having liability insurance. At subsection (i), the permittee may provide written notice in lieu of submitting a complete application for renewal and providing public notice if certain conditions are met pertaining to coal extraction, preparation, refuse disposal, and treatment facilities. At subsection (j), if a permittee has provided written notice as specified in subsection (i) and determines prior to the permit expiration date that coal extraction, preparation, or disposal will occur or treatment facilities will be required after the expiration date, a renewal application shall be submitted.

At section 86.133—General Requirements for Coal Exploration, Pennsylvania proposes at subsection (g) to add the requirement that a person who conducts coal exploration by means of boreholes or coreholes meet the requirements of sections 89.54 and 89.83.

At section 86.134—Coal Exploration Performance and Design Standards, Pennsylvania proposes at subsection (8) to require that each exploration hole, borehole, well, or other underground opening meet the requirements of sections 87.93, 89.54, and 89.83.

At section 86.156—Form of the Bond, Pennsylvania proposes at subsection (b) to require banks and other institutions to certify that they will notify the State of any action filed alleging the insolvency or bankruptcy of the permittee. The word ''supervision'' is replaced by ''suspension.''

At section 86.175—Schedule for Release of Bonds, Pennsylvania proposes at subsection (b)(3) for underground mines and coal preparation plants to permit release of an additional amount of bond on the

permit area or designated phase upon completion and approval of PADEP of Stage 2 reclamation but retaining an amount sufficient to cover the cost of reestablishing vegetation and reconstructing drainage structures.

At section 86.182—Procedures, Pennsylvania proposes at subsection (e) to use funds collected from bond forfeiture to complete the reclamation plan, or remaining portion thereof. At subsection (f), if the forfeited amount is insufficient, the operator is liable for remaining costs. If the forfeited amount is more than necessary, the excess funds shall be used for certain purposes specified in the statutes.

At section 86.193—Assessment of Civil Penalty—Pennsylvania proposes to delete subsection (h) which provided for the assessment of a penalty against corporate officers, directors, or agents as an alternative to, or in combination with, other penalty actions.

Chapter 87—Surface Mining of Coal

At section 87.1—Definitions, Pennsylvania proposes to revise the definition of ''Surface Mining Activities'' to include the construction of a road or similar disturbance for any purpose related to a surface mining activity, including that of moving or walking a dragline or other equipment, or for the assembly or disassembly or staging of equipment.

At section 87.45—Groundwater Information, Pennsylvania proposes at subsection (a)(4) to specify minimum water quality descriptions.

At section 87.46—Surface Water Information, Pennsylvania proposes at subsection (b)(3) to require that water quality data show conductance corrected to 25 degrees C. and total aluminum in milligrams per liter.

At section 87.54—Maps, Cross Sections, and Related Information, and section 87.65—Maps and Plans, Pennsylvania proposes at subsections (b) that to prepare and certify maps and cross sections, a qualified, professional geologist also be registered.

At section 87.69—Protection of Hydrologic Balance, Pennsylvania proposes at sections (b) (4) and (5) to require that each permit application contain a plan which identifies monitoring locations and sampling frequency, and logically relate to the determination of probable hydrologic consequences (PHC). The determination must address certain, specified parameters.

At section 87.73—Dams, Ponds, Embankments, and Impoundments—Pennsylvania is proposing at subsection (c)(1) that a detailed design plan for a structure be prepared with assistance, as necessary from experts in related fields when impoundments meet or exceed prescribed size classifications. For impoundments not meeting the size classification, the plan shall be prepared by a qualified registered professional engineer or qualified registered land surveyor. An impounding structure constructed of coal refuse or used to impound coal refuse may not be retained permanently unless it develops into a fill meeting certain construction requirements.

At section 87.92—Signs and Markers, Pennsylvania proposes at subsection (g) to require that ground and surface water monitoring locations and sampling points used to obtain background information be clearly marked and identified. Marking requirements may be waived for aesthetic reasons.

At section 87.93—Casing and Sealing of Drilled Holes, Pennsylvania proposes at subsection (d) to reference the Oil and Gas Act.

At section 87.102—Hydrologic Balance: Effluent Standards, Pennsylvania is proposing at subsection (a) to change certain groups of effluent criteria.

At section 87.108—Hydrologic Balance: Sedimentation Ponds, Pennsylvania is proposing at subsection (c) to require the sedimentation ponds be maintained until the disturbed area has been stabilized and revegetated. The ponds may not be removed sooner than two years after the last augmented seeding, unless PADEP finds that the disturbed area has been sufficiently revegetated and stabilized.

At section 87.112—Impoundments—Design, Construction, and Maintenance, Pennsylvania proposes at subsection (b) to require a minimum static safety factor of 1.3. At subsection (b)(1), impoundments exceeding certain classification sizes shall be designed with assistance, as necessary, from experts in related fields. Impoundments not meeting the classification size shall be designed and certified by a qualified registered professional engineer or qualified registered professional land surveyor. Each impoundment must be certified. At subsection (d), impoundments that require a permit or meet the classification size are subject to periodic inspections by a qualified registered professional engineer. Impoundments not requiring a permit or not meeting the classification size are subject to the same periodic inspections but the inspection may be made by a qualified registered professional land surveyor. Both the engineer and land surveyor must be experienced in the construction of impoundments. At subsection (f), PADEP may consider Mine Safety and Health Administration's (MSHA) review for impoundments. However, PADEP will review impoundments in certain cases.

At section 87.116—Hydrologic Balance: Groundwater Monitoring, Pennsylvania proposes at subsection (b) to specify minimum monitoring standards and parameters and require that results be reported every three months for each location. At subsection (d), PADEP may require that the operator conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 87.117—Hydrologic Balance: Surface Water Monitoring, Pennsylvania proposes to require that surface water be monitored for parameters that relate to the suitability of the surface water for current and approved postmining land uses and to specify minimum monitoring standards and parameters. Results are to be reported every three months for each location. At subsection (b), PADEP may require that the operator conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 87.125—Use of Explosives, Pennsylvania proposes at subsection (a) to clarify the notification procedures for operators pertaining to preblasting surveys.

At section 87.127—Use of Explosives: Surface Blasting Requirements, Pennsylvania proposes at subsection (e)(2) to require that PADEP specify lower maximum allowable airblast levels than prescribed to prevent damage. At subsection (h), maximum peak particle velocity standards are specified. At subsection (i)(2), exceptions to the maximum peak particle velocity limitations are specified pertaining to waivers for structures located on the permit area. At subsection (j), the detonation formula is changed to W=(D/Ds) squared, where Ds equals the scaled distance factor. At subsection (k), the seismograph record within 30 days becomes part of the blast record and shall be analyzed by an independent qualified party. At subsection (p), a blast level chart is provided to determine the maximum allowable ground vibration. The operator is required to provide a seismograph record for each blast. The vibration frequency must be displayed and analyzed over a specified frequency range. The permittee is required to obtain PADEP approval of the analytical method used before application.

At section 87.129—Use of Explosives: Records of Blasting Operations, Pennsylvania proposes at subsection (4) to add public buildings and other

structures to the list of structures for which direction and distance must be measured.

At section 87.131—Disposal of Excess Spoil, Pennsylvania proposes at subsection (n) to require that the inspecting engineer's report certify that the fill has been maintained in accordance with the approved design, in accordance with the approved plan, and in accordance with all applicable performance standards. The report shall also contain any appearances of instability, structural weakness and other hazardous conditions.

At section 87.136—Disposal of Noncoal Waste, Pennsylvania proposes to require that noncoal waste disposal be conducted in accordance with the Solid Waste Management Act and related regulations.

At section 87.138—Protection of Fish, Wildlife and Related Environmental Values, Pennsylvania proposes at subsection (c) to prohibit surface mining activity which would result in the unlawful taking of a golden or bald eagle, its nest, or eggs. Upon notification that a nest is within the permit area, PADEP is required to consult with appropriate agencies to determine whether and under what conditions the operator may proceed.

Chapter 88—Anthracite Coal

At section 88.24—Geology, Pennsylvania proposes at subsection (b)(4) to require that chemical analyses identify coal and overburden that may contain acid-forming or toxic-forming materials to determine their content and include total sulfur. A waiver may be granted if PADEP makes a written determination that other equivalent information is available.

At section 88.25—Groundwater, Pennsylvania proposes at subsection (a)(4) to specify minimum water quality descriptions.

At section 88.26—Surface Water Information, Pennsylvania proposes at subsection (b)(2) to specify that water quality data show specific conductance corrected to 25 degrees C. and total aluminum in milligrams per liter.

At section 88.31—Maps and Plans and section 88.44—Operation Maps and Operation Plans, Pennsylvania proposes at subsection (b) that the qualified professional geologist be registered.

At section 88.49—Protection of Hydrologic Balance, Pennsylvania proposes at subsection (b)(2) to require that the ground and surface water quality and quantity data plan be done in accordance with prescribed regulations and identify monitoring locations, and sampling frequency and logically relate to the determination of PHC. At subsection (b)(3), the determination must address certain, specified parameters.

At section 88.82—Signs and Markers, Pennsylvania proposes at subsection (c) to require that ground and surface water monitoring locations and sampling points used to obtain background information be clearly marked and identified. Marking requirements may be waived for aesthetic reasons.

At section 88.83—Sealing of Drilled Holes: General Requirements, Pennsylvania proposes at subsection (d) to reference the Oil and Gas Act.

At section 88.92—Hydrologic Balance: Effluent Standards, Pennsylvania proposes at subsection (a) to change certain groups of effluent criteria.

At section 88.102—Hydrologic Balance: Dams, Ponds, Embankments, and Impoundments, Pennsylvania proposes at subsection (b) to require a minimum static safety factor of 1.3.

At section 88.105—Hydrologic Balance: Groundwater Monitoring, Pennsylvania proposes at subsection (b) to specify minimum monitoring standards and parameters and require that results be reported every three months for each location. At subsection (c), PADEP may require that the operator conduct additional hydrologic tests. At subsection (d), PADEP may require that the operator conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 88.106—Hydrologic Balance: Surface Water Monitoring, Pennsylvania proposes at subsection (a) to require that surface water be monitored for parameters that relate to the suitability of the surface water for current and approved postmining land uses and to specify minimum monitoring standards and parameters. Results are to be reported every three months. At subsection (b), PADEP may require the operator to conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 88.182—Signs and Markers, Pennsylvania proposes at subsection (b) to require that ground and surface water monitoring locations and sampling points used to obtain background information be clearly marked and identified. Marking requirements may be waived for aesthetic reasons.

At section 88.187—Hydrologic Balance: Effluent Standards, Pennsylvania proposes at subsection (a) to change certain groups of effluent criteria.

At section 88.197—Hydrologic Balance: Ponds, Embankments and Impoundments, Pennsylvania proposes at subsection (b) to require a minimum static safety factor of 1.3.

At section 88.201—Hydrologic Balance: Groundwater Monitoring, Pennsylvania proposes at subsection (b) to require minimum monitoring standards and parameters and require that results be reported every three months for each location. At subsection (c), PADEP may require that the operator conduct additional hydrologic tests. At subsection (d), PADEP may require that the operator conduct monitoring and reporting more frequently than every three months and to monitor additional parameters.

At section 88.202—Hydrologic Balance: Surface Water Monitoring, Pennsylvania proposes to require that surface water be monitored for parameters that relate to the suitability of the surface water for current and approved postmining land uses and to specify minimum monitoring standards and parameters. Results are to be reported every three months for each location. At subsection (b), PADEP may require that the operator conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 88.282—Signs and Markers, Pennsylvania proposes at section (c) to require that ground and surface water monitoring locations and sampling points used to obtain background information be clearly marked and identified. Marking requirements may be waived for aesthetic reasons.

At section 88.283—Sealing of Drilled Holes: General Requirements, Pennsylvania proposes at section (d) to reference the Oil and Gas Act.

At section 88.284—Sealing of Drilled Holes and Exploratory Openings, Pennsylvania proposes to require that drilled holes and boreholes to be used to return coal refuse to abandoned underground workings and wells to be used to monitor groundwater conditions be temporarily sealed before used and protected during use.

At section 88.292—Hydrologic Balance: Effluent Standards, Pennsylvania proposes at subsection (a) to change certain groups of effluent criteria.

At section 88.302—Hydrologic Balance: Dams, Ponds Embankments and Impoundments, Pennsylvania proposes at subsection (b) to require a minimum static safety factor of 1.3.

At section 88.305—Hydrologic Balance: Groundwater Monitoring, Pennsylvania proposes at subsection (b)

to specify minimum monitoring standards and parameters and require that results be reported every three months for each location. At subsection (c), PADEP may require that the operator conduct additional hydrologic tests. At subsection (d), PADEP may require that the operator conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 88.306—Hydrologic Balance: Surface Water Monitoring, Pennsylvania proposes at subsection (a) to require that surface water be monitored for parameters that relate to the suitability of the surface water for current and approved postmining land uses and to specify minimum monitoring standards and parameters. Results are to be reported every three months. At subsection (b), PADEP may require the operator to conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 88.321—Disposal of Noncoal Wastes, Pennsylvania proposes to require that noncoal waste disposal be conducted in accordance with the Solid Waste Management Act and related regulations. Certain waste materials with low ignition points may not be deposited on or near a coal refuse disposal pile.

At section 88.381—General Requirements, Pennsylvania proposes to require at subsection (c)(7) that monitoring plans be presented in accordance with certain, specified regulations.

At section 88.491—Minimum Requirements for Information on Environmental Resources, Pennsylvania proposes at subsection (c)(1)(iv) to specify minimum water quality description. At subsection (d)(2)(ii), water quality data must show specific conductance corrected to 25 degrees C., total aluminum in milligrams per liter, and other information PADEP determines to be relevant. At subsection (j), the referenced qualified professional geologist must be registered and maps and plans must be prepared with assistance, as necessary, from experts in related fields.

At section 88.492—Minimum Requirements for Reclamation and Operation Plan, Pennsylvania proposes at subsection (d)(2)(iii) to require that the plan identify monitoring locations and sampling frequency, and logically relate to the determination of PHC. At subsection d(3), the determination shall address the parameters measured in accordance with section 88.491.

Chapter 89—Underground Mining of Coal and Coal Preparation Facilities

At section 89.24—Sedimentation Ponds, Pennsylvania proposes at subsection (c) to require that sedimentation ponds be maintained until the disturbed areas has been stabilized and revegetated. The ponds may not be removed sooner than two years after the last augmented seeding, unless PADEP finds that the disturbed area has been sufficiently revegetated and stabilized.

At section 89.34—Hydrology, Pennsylvania proposes at subsection (a)(1) to specify minimum water quality descriptions, and to specify the standards for the groundwater monitoring plan. At (a)(2), specific conductance standards are required and the standards for the surface water monitoring plan are specified.

At section 89.51—Signs and Markers, Pennsylvania proposes at subsection (h) to require that ground and surface water monitoring locations and sampling points used to obtain background information be clearly marked and identified. Marking requirements may be waived for aesthetic reasons.

At section 89.52—Water Quality Standards, Pennsylvania proposes a subsection (c) to change certain groups of effluent criteria.

At section 89.63—Disposal of Noncoal Wastes, Pennsylvania proposes to require that noncoal waste disposal be conducted in accordance with the Solid Waste Management Act and related regulations.

At section 89.101—General Requirements, Pennsylvania proposes at subsection (a) to require that impoundments exceeding certain classification sizes be designed with assistance, if necessary, from experts in related fields. At subsection (b), impoundments which do not meet certain classification sizes are subjected to periodic inspections and certified by specified registered professionals. At subsection (d), PADEP may consider MSHA's review for impoundments. However, PADEP will review impoundments in certain cases.

At section 89.112—Impoundments, Pennsylvania proposes to require a minimum static safety factor of 1.3. Impoundments must be certified that certain conditions have been met.

At section 89.141—Application Requirements, Pennsylvania proposes at subsection (d) to reference the Oil and Gas Act.

At section 89.142—Maps, Pennsylvania proposes at subsection (a) to require that major electric lines be identified by name or numerical reference.

At section 89.143—Performance Standards, Pennsylvania proposes at subsection (b) to specify that a pillar lying partially within the support area shall be considered part of the support area and be consistent with the other support pillars in size and pattern.

At section 89.144—Public Notice, Pennsylvania proposes at subsection (a) to require that the operator comply with certain, specified notification procedures.

At section 89.172—Informational Requirements, Pennsylvania proposes at subsection (b) to specify that PADEP will not issue a permit unless it finds, in writing, that the activity will be conducted in compliance with specified performance standards.

Chapter 90—Coal Refuse Disposal

At section 90.13—Groundwater Information, Pennsylvania proposes at subsection (1) to specify minimum water quality descriptions.

At section 90.14—Surface Water Information, Pennsylvania proposes at subsection (b)(3) to specify that water quality data show specific conductance corrected to 25 degrees C. and total aluminum in milligrams per liter.

At section 90.35—Protection of the Hydrologic Balance, Pennsylvania proposes at subsection (b)(3) to require that the ground and surface water quality plan identify monitoring locations and sampling frequencies and logically relate to the determination of the PHC.

At section 90.39—Ponds, Impoundments, Banks, Dams, Embankments, Piles and Fills, Pennsylvania proposes at subsection (e) to require that each plan provide for the removal of impoundments constructed of or used to impound coal refuse as part of site reclamation.

At section 90.46—Maps, Pennsylvania proposes at subsection (3) to require that the qualified geologist be registered.

At section 90.92—Signs and Markers, Pennsylvania proposes at subsection (g) to require that ground and surface water monitoring locations and sampling points used to obtain background information be clearly marked and identified. Marking requirements may be waived for aesthetic reasons.

At section 90.102—Hydrologi Balance: Water Qualify Standards, Pennsylvania propose at subsection (a) to change certain groups of effluent criteria.

At section 90.108—Hydologic Balance: Sedimentation Ponds, Pennsylvania proposes at subsection (c) to require that sedimentation ponds not be removed until the disturbed area has been stabilized and revegetated and not

removed sooner than two years after the last augmented seeding, unless PADEP finds that the disturbed area has been sufficiently revegetated and stabilized.

At section 90.111—Impoundments, Pennsylvania proposes at subsection (7) to require that impoundments which are constructed of or used to impound coal refuse be developed into fills meeting specified construction requirements.

At section 90.112—Dams, Embankments and Impoundments, Pennsylvania proposes at subsection (b) to require a status safety factor of 1.3 and impoundments must be certified according to certain standards. At subsection (f), PADEP may consider MSHA's review for impoundments. However, PADEO will review impoundments in certain cases.

At section 90.113—Coal Processing Waste Dams and Embankments, Pennsylvania proposes at subsection (i) to specify that impoundments constructed of coal processing wastes or used to impound wastes not be retained permanently as part of the postmining land use unless certain conditions are met.

At section 90.115—Groundwater Monitoring, Pennsylvania proposes at subsection (b) to specify minimum monitoring standards and parameters and require that results be reported every three months for every location. At subsection (d), PADEP may require that the operator conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 90.116—Surface Water Monitoring, Pennsylvania proposes at subsection (a) to require that surface water be monitored for parameters that relate to the suitability of the surface water for current and approved postmining land uses and to specify minimum monitoring standards parameters. Results are to be reported every three months for each location. At subsection (b), PADEP may require that the operator conduct monitoring and reporting more frequently and to monitor additional parameters.

At section 90.120—Permanent Postdisposal Renovation, Pennsylvania proposes to require that impoundments constructed of coal refuse or used to impound coal refuse be developed into fills meeting certain construction requirements.

At section 90.130—Coal Refuse Dams, Pennsylvania proposes to delete the requirement that the specified structures may not be retained permanently as part of the approved postmining land use.

At section 90.133—Disposal of Noncoal Wastes, Pennsylvania proposes to require that noncoal waste disposal be conducted in accordance with the Solid Waste Management Act and related regulations.

Public Comment Procedures

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

Written Comments

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

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., E.S.T. on March 14, 1996. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

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

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

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

Public Meeting

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

IV. Procedural Determinations

Executive Order 12866

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

Executive Order 12778

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

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5

U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 16, 1996.

Allen D. Klein,

Assistant Director, Appalachian Regional Coordinating Center.

[FR Doc. 96–4430 Filed 2–27–96; 8:45 am]

BILLING CODE 4310–05–M

POSTAL SERVICE

39 CFR Part 233

Screening of Mail Reasonably Suspected of Containing Nonmailable Firearms

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service hereby requests comments on its proposed regulation outlining the treatment of mail which is reasonably suspected of being dangerous to persons or property. The rule also contains language which allows for the screening of mail reasonably suspected of containing nonmailable firearms.

EFFECTIVE DATE: Comments must be received on or before March 29, 1996.

ADDRESSES: Written comments should be directed to Chief Counsel, Enforcement, Law Department, U.S. Postal Service, Room 6319, 475 L'Enfant Plaza SW, Washington, DC 20260–1148. Copies of all written comments will be available at this address for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: George C. Davis (202) 268–3076.

SUPPLEMENTARY INFORMATION: This document creates a new 233.11 of title 39, Code of Federal Regulations, to include the requirements for the treatment of mail which is reasonably suspected of being dangerous to persons or property. This rule is currently contained in the Administrative Support Manual (ASM) as part 274, but this publication will make it more widely available to the public.

Sections 233.11(a) and (a)(4) contain new language which allows for the screening of mail reasonably suspected of containing nonmailable firearms. Formerly, part 274 of the ASM allowed the examination of mail only to identify explosives or other materials that would pose a danger to life or property. This (proposed) rule would expand the existing rule to permit screening for nonmailable firearms under the same restrictions respecting mail privacy and delay.

The Postal Service has been advised by the Honorable Pedro Rosello, Governor of Puerto Rico, that illegal firearms entering Puerto Rico by various means, including the mails, pose a serious threat to the safety of citizens of Puerto Rico. This information has been confirmed in meetings with the Attorney General of Puerto Rico, local and federal law enforcement officials, and officials of the U.S. Department of Justice.

Practical and legal constraints limit our ability to ensure that the mails are free of nonmailable firearms. These constraints were summarized in the Federal Register at the time the rule permitting limited screening of mail reasonably suspected of containing dangerous matter was initially proposed and remain applicable today. See 55 FR 29637 (July 20, 1990).

Taking these constraints into account, this (proposed rule) would authorize the least intrusive, least dilatory response to credible situations where firearms already declared ''nonmailable'' by statute or regulation are reasonably suspected of being in the mails. Nonmailable firearms are defined in Section C024.1.0 of the Domestic Mail Manual. They consist, primarily, of pistols, revolvers, and other concealable firearms. Unloaded rifles and shotguns are mailable, although the provisions of the Gun Control Act of 1968, 18 U.S.C. 921, et seq. and regulations of the Bureau of Alcohol, Tobacco and Firearms apply to the shipment of such weapons by mail or otherwise.

The proposed rule would attempt to balance the need to protect personal safety, enforce existing laws, and regulations against the mailing of nonmailable firearms, and protect personal privacy in the use of the mails. As envisioned by the proposed rule, when the chief postal inspector determines that a credible threat exists that certain mail might contain nonmailable firearms, the inspector may authorize the use of technology that is capable of identifying mail containing such firearms in order to obtain probable cause for the issuance of a Federal warrant to search and seize such mail. The rule would not permit any screening method that would involve opening of sealed mail or the reading of the contents of correspondence in sealed mail, without the consent of the sender or addressee or under authority of a Federal warrant. Moreover, the only screening which may be authorized must be limited to the least quantity of mail necessary to respond to the threat, and the screening must be performed without avoidable delay of the mail. Any mail not of sufficient weight, for example, to contain a nonmailable firearm will not be screened. In addition, international transit mail will not be screened unless the postal treaties are appropriately amended. Sworn reports of all screening methods conducted by, or under supervision of, the Postal Service would be reported to senior postal managers.

In view of the matters discussed above, although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rule making by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed new section 233.11 of title 39, Code of Federal Regulations.

List of Subjects in 39 CFR Part 233

Law enforcement, Postal Service.

Accordingly, title 39 CFR, part 233, is proposed to be amended as follows:

PART 233—INSPECTION SERVICE/ INSPECTOR GENERAL AUTHORITY

1. The authority citation for part 233 continues to read as follows:

Authority: 39 U.S.C. 101, 401, 402, 403, 404, 406, 410, 411, 3005(e)(1); 12 U.S.C. 3401–3422; 18 U.S.C. 981, 1956, 1957, 2254, 3061; 21 U.S.C. 881; Inspector General Act of 1978, as amended (Pub. L. No. 95–452, as amended), 5 U.S.C. App. 3.

2. Part 233 is amended by adding § 233.11 as follows:

§ 233.11 Mail reasonably suspected of being dangerous to persons or property.

(a) *Screening of mail.* When the Chief Postal Inspector determines that there is a credible threat that certain mail may contain bombs, explosives, or other material that would endanger lives or property, including firearms which are not mailable under section C024 of the Domestic Mail Manual, the Chief Postal Inspector may, without a search warrant or the sender's or addressee's consent, authorize the screening of such mail by any means capable of identifying explosives, nonmailable firearms, or other dangerous contents in the mails.

The screening must be within the limits of this section and without opening mail that is sealed against inspection or revealing the contents of correspondence within mail that is sealed against inspection. The screening is conducted according to these requirements.

(1) Screening of mail authorized by paragraph (a) of this section must be limited to the least quantity of mail necessary to respond to the threat.

(2) Such screening must be done in a manner that does not avoidably delay the screened mail.

(3) The Chief Postal Inspector may authorize screening of mail by postal employees and by persons not employed by the Postal Service under such instruction that require compliance with this part and protect the security of the mail. No information obtained from such screening may be disclosed unless authorized by this part.

(4) Mail of insufficient weight to pose a hazard to air or surface transportation or to contain firearms which are not mailable under section C024 of the Domestic Mail Manual and international transit mail must be excluded from such screening.

(5) After screening conducted under paragraph (a) of this section, mail that is reasonably suspected of posing an immediate and substantial danger to life or limb, or an immediate and substantial danger to property, may be treated by postal employees as provided in paragraph (b) of this section.

(6) After screening, mail sealed against inspection that presents doubt about whether its contents are hazardous, that cannot be resolved without opening, must be reported to the Postal Inspection Service. Such mail must be disposed of under instructions promptly furnished by the Inspection Service.

(b) *Threatening pieces of mail.* Mail, sealed or unsealed, reasonably suspected of posing an immediate danger to life or limb or an immediate and substantial danger to property may, without a search warrant, be detained, opened, removed from postal custody, and processed or treated, but only to the extent necessary to determine and eliminate the danger and only if a complete written and sworn statement of the detention, opening, removal, or treatment, and the circumstances that prompted it, signed by the person purporting to act under this section, is promptly forwarded to the Chief Postal Inspector.

(c) *Reports.* Any person purporting to act under this section who does not report his or her action to the Chief Postal Inspector under the requirements of this section, or whose action is determined after investigation not to have been authorized, is subject to disciplinary action or criminal prosecution or both.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 96–4552 Filed 2–26–96; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DE013–5915b; FRL–5425–1]

Approval and Promulgation of Air Quality Implementation Plans; State of Delaware; Emission Statement Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Delaware. This revision consists of an emission statement program for stationary sources that emit volatile organic compounds (VOCs) and/or nitrogen oxides (NO_x) at or above specified actual emission threshold levels within the state of Delaware (Kent, New Castle, and Sussex Counties). In the Final Rules section of this Federal Register, EPA is approving the Delaware's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by March 29, 1996.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA office listed above; and the Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 597–3164, at the EPA Region III address.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title (Delaware Emission Statement Program) which is located in the Rules and Regulations section of this Federal Register.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 2, 1996.

W. T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. 96–4446 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[FRL–5328–6]

Revision to the Maryland State Implementation Plan—Continuous Emission Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision establishes and requires continuous emission monitoring requirements for certain sources of air pollution. In the Final Rules section of this Federal Register, EPA is approving the State's SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule described in item (Conclusion) in the Technical Support document. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by March 29, 1996.

ADDRESSES: Written comments on this action should be addressed to Marcia Spink, Associate Director, Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency,

Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and State of Maryland Department of the Environment, Air Management Association, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Linda Miller (215) 597–7547.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this Federal Register.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: October 24, 1995.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 96–4443 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 764

[OPPTS–62089A; FRL–5349–4]

RIN 2070–AC17

Re-opening of Rulemaking Record on Proposed Ban of Acrylamide and N-methylolacrylamide Grouts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Re-opening of rulemaking record and request for comment.

SUMMARY: This Notice re-opens the rulemaking record for 30 days on the proposed rule banning acrylamide and NMA grouts. The rulemaking record is being re-opened in order to obtain data bearing on the durability of NMA grouts relative to acrylamide grouts.

DATES: Submitted data must be received on or before March 29, 1996.

ADDRESSES: Comments and data should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Rm. E–G99, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. The envelope should be marked attention: ''Grout Durability Data.''

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551, e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA proposed a rule in the Federal Register of October 2, 1991 (FR 56 49863), that would have ultimately banned all manufacture, importation, distribution and use of acrylamide and N-methylolacrylamide (NMA) grouts. The public comment period closed in March of 1992, and a Public Hearing was held on March 2, 1992. The Agency is now considering dropping NMA from the regulation.

Both acrylamide and NMA grouts are used mainly to prevent the infiltration of ground and surface water into sewer systems, in order to maintain the functional capacity of sewer water treatment works. The grouts are injected into joints, cracks and fissures in sewer lines and manholes. Following application, these grouts solidify into a stiff impervious gel. Sewer line sealing entails sealing main and lateral sewer line pipes and joints remotely using closed-circuit video cameras, an inflatable packer, and a grout delivery system. Manhole sealing is accomplished manually by a worker using a hand-held device to inject grouts into holes that have been drilled into the sides of manholes. Grouts have two additional minor uses: structural water control and geotechnical applications.

Acrylamide grouts generally consist of a 19:1 mixture of acrylamide and a cross-linking agent. The grout is prepared by adding water and small amounts of other chemicals, including catalysts, activators or accelerators, and inhibitors. In gel form, the grout contains less than 0.05 percent free acrylamide. These grouts were first introduced into U.S. commerce about 40 years ago, and quickly became popular because of their low cost and superior performance. Acrylamide grouts are first mixed into a solution formed by combining the grout with triethanolamine, an activator, and water. A separate solution of ammonium persulfate, an initiator, and water is also required. When the grout solution and the initiator solution are mixed together, they react to form a stiff polymerized gel.

NMA grouts were explicitly developed as a substitute for the more hazardous acrylamide grouts, and have been in use for about 9 years. Commercial NMA is a chemical mixture consisting of about 90 percent N-methylolacrylamide monomer and small amounts of acrylamide, formaldehyde, and methylene bisacrylamide. NMA grouts are mixed in the same way as acrylamide grouts, except that sodium persulfate is used as the initiator rather than ammonium persulfate. They are applied in the same manner as acrylamide grouts, using the same equipment for generally the same applications.

Although the rule proposed in 1991 would have ultimately banned both acrylamide grouts and NMA grouts, the Agency is now leaning heavily toward dropping NMA from the rule because of: (1) NMA's lower toxicity relative to acrylamide; (2) a lowered estimate of the size of the population at risk; (3) NMA's efficacy as a substitute for acrylamide grouts; and (4) NMA's low cost relative to other potential substitutes. Based upon these four factors, EPA is re-considering its earlier conclusion that NMA grouts present an unreasonable risk. Of the four factors, the only one about which there may be some doubt is the third--the efficacy of NMA as a substitute for acrylamide. The only question in this regard, moreover, has to do with the relative durability of NMA--i.e., will joints, cracks, and other fissures sealed with NMA grouts remain sealed as long as those sealed with acrylamide grouts, all else being equal.

Although the information presently available to the Agency suggests that the two grouts are equally durable, some have questioned whether this is the case. Specifically, the National Association of Sewer Service Companies (NASSCO) submitted two letters, dated August 15 and 17, 1995, that they asserted call into question the relative durability of NMA grouts. Both submissions are being made a part of the rulemaking record, and are available for inspection in the public docket. At a subsequent meeting held with NASSCO on October 3, 1995, however, they agreed that the submitted data do not indicate that NMA grouts are less durable than acrylamide grouts. Although the NASSCO representatives then agreed to submit such data, none has been received to date. A summary of that meeting has also been placed into the public docket. In view of the foregoing, and in order to obtain the best information available on this specific issue, the Agency is re-opening the rulemaking record for 30 days, and requesting any empirical and reliable

data anyone may have regarding the durability of NMA grouts relative to acrylamide grouts. Useful information, for this purpose, would include controlled experimental data that explicitly compare the potential longevity of NMA grouts to acrylamide grouts under verifiable and replicable conditions. Other data will be considered to the extent that they are reliable and permit direct comparison of the durability of acrylamide to NMA grouts. In contrast, anecdotal information regarding experiences with these grouts following application in sewers or manholes will generally not be useful. Such extraneous factors as the competence of the grouters, the quality of their equipment and grouting material, the conditions of the pipes being grouted, the nature of the surrounding soil, and the frequency and rigor of follow-up inspections shape these real world outcomes more than the particular grout used. In addition, such data cannot address the relative durability of the two grouts, since only one is generally applied in any given operation.

Submitted information will be most useful if provided with sufficient documentation to ensure credibility. Such documentation would include:

1. Copies of the original research.
2. Quality assurance plans prepared for the research.
3. Peer reviews conducted on the research.
4. The statistical significance of the findings.
5. Copies, or at least citations, of any research replicated by the submitted research.
6. Statements regarding agreement or conflict with other research.
7. Discussion of the practical significance of the findings.

In addition, the Agency is interested in promotional material that sellers of acrylamide and NMA grouts (both importers and grouters) make available to purchasers in which the grouting properties of the chemicals are discussed, and annual sales volume data, in comparable units, for both acrylamide and NMA grouts since NMA was introduced onto the market. Sales information would be particularly helpful if broken down by use (i.e., sewer lines, manholes, etc.).

EPA is re-opening the record to solicit information concerning the relative durability and efficacy of acrylamide and NMA because the Agency has received recent assertions that credible information relating to this subject exists, but has never been provided to the Agency. EPA has not received any suggestions that other new information exists that may materially affect some issue relevant to this rulemaking other than the relative durability of acrylamide and NMA. If any person has material information, which was not previously submitted, relating to any other issue relevant to the determination of whether acrylamide and/or NMA grouts present an unreasonable risk to health or the environment, that information may be submitted during the comment period. For example, any neurotoxicity information with regard to acrylamide and NMA. Such submissions should be accompanied by a brief cover letter explaining why the submitter considers the information relevant to this rulemaking and why the information was not submitted during the initial comment period. If significant new information on other issues is presented during the comment period, that information may be considered by the Agency in its preparation of a final rule. If any person believes it necessary to respond to any new information submitted during this comment period, a response to the new information may be submitted within 2 weeks of the close of the comment period.

Anyone responding to this request for information may assert a claim of confidentiality for the information submitted. Any claim of confidentiality must accompany the information when it is submitted to EPA. Information claimed as confidential must be clearly marked with the statement ''Confidential,'' ''Trade Secret,'' or other appropriate designation. EPA will disclose information subject to a claim of confidentiality only to the extent permitted by TSCA section 14 and 40 CFR part 2, subpart B. If a person does not assert a claim of confidentiality for information at the time it is submitted to EPA, EPA may make the information public without further notice to that person.

List of Subjects

Environmental protection, Acrylamide and N-methylolacrylamide, Reporting and recordkeeping.

Dated: February 13, 1996.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 96–4028 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 96–6; DA 96–225]

Flexible Service Offerings in the Commercial Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time.

SUMMARY: In this *Order*, we extend the period which comments and reply comments must be filed in the CMRS Flex proceeding (WT Docket No. 96–6). We grant NARUC's motion for extension of time because the deadline of February 26, 1996 for filing initial comments falls two days before the conclusion of its previously scheduled winter meeting. With respect to the date for filing reply comments, we find that the deadline does not give NARUC's members sufficient time to review initial comments and formulate a response. The intended effect of this *Order* is to extend the comment date to March 1, 1996 and extend the reply comment date to March 25, 1996.

DATES: Comments are due on before March 4, 1996, reply comments are due on or before March 25, 1996.

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

FOR FURTHER INFORMATION CONTACT: Mika Savir, Wireless Telecommunications Bureau, Commercial Wireless Division, at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This *Order* in WT Docket No. 96–6, adopted February 22, 1996, and released February 22, 1996, is available for inspection and copying during normal business hours in the FCC Reference Center, Room 230, 1919 M Street NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street NW., Suite 140, Washington DC 20037 (202) 857–3800.

Synopsis of Order

1. The Commission released the *Notice*, Amendment to the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services, *Notice of Proposed Rulemaking*, WT Docket No. 96–6, FCC 96–17, 61 FR 6189 (February 16, 1996) (*Notice*), on January 25, 1996. The National Association of Regulatory Utility Commissioners (''NARUC'') has

filed a motion to extend the dates that initial and reply comments are due in the above-referenced docket. Specifically, NARUC requests that the date that initial comments are due be extended from February 26, 1996 to March 1, 1996 and the date reply comments are due be extended from March 18, 1996 to March 26, 1996.

2. NARUC states that the present deadline of February 26, 1996 for filing initial comments falls two days before the conclusion of its previously scheduled winter meeting. With respect to the date for filing reply comments, NARUC states that the deadline does not give its members sufficient time to review initial comments and formulate a response. Therefore, the Commission is issuing this *Order* to extend the period which comments and reply comments must be filed in the CMRS Flex proceeding (WT Docket No. 96–6).

3. The deadlines for the filing of all comments and reply comments in this proceeding are revised. The Commission recognizes that NARUC is attempting to overcome concrete timing problems beyond its own control and that granting an extension permits NARUC to develop a consensus position and ensures that each of its members has a chance to actively participate in these proceedings. Accordingly, initial comments will be due on March 4, 1996 and reply comments will be due on March 25, 1996.

4. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments on or before March 4, 1996, and reply comments on or before March 25, 1996. To file formally in this proceeding, parties must file an original and four copies of all comments, reply comments, and supporting comments. For each Commissioner to receive a personal copy of the comments, parties must file an original and nine copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street NW., Room 222, Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street NW., Room 239, Washington, DC 20554.

Ex Parte Rules—Non-Restricted Proceeding

This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. 47 CFR §§ 1.1202, 1.1203, 1.1206.

Ordering Clauses

It is ordered that, pursuant to Sections 1, 4, 201–205, 215, 218, 220, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 201–205, 215, 218, 220, and 303(r), the motion for extension of time filed by NARUC is granted to the extent described herein and otherwise denied.

It is further ordered, that comments in WT Docket No. 96–6 will be due March 4, 1996 and reply comments will be due March 25, 1996.

Federal Communications Commission.

David Furth,

Acting Chief, Commercial Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 96–4633 Filed 2–27–96; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF AGRICULTURE

Office of Operations

48 CFR Parts 401 through 453

RIN 0599–AA00

Agriculture Acquisition Regulation; Review and Revision

AGENCY: Office of Operations, Department of Agriculture.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Agriculture Acquisition Regulation (AGAR) is the Department of Agriculture's agency acquisition regulation, issued to implement or supplement the Federal Acquisition Regulation (FAR). The Department of Agriculture has started to revise the AGAR to eliminate obsolete and unnecessary material and to incorporate regulatory changes required by recent statutes, Executive Orders, Office of Federal Procurement Policy Letters, and changes to the FAR. The Department of Agriculture is seeking public comment to assist its effort to streamline and to revise the AGAR.

DATES: Comments must be submitted on or before April 29, 1996. However, the revision is an ongoing process and comments received after the due date will be considered.

ADDRESSES: Submit written comments to: U.S. Department of Agriculture, Office of Operations, Procurement Policy Division, Room 1546–S, Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT:

Joseph J. Daragan, Office of Operations, U.S. Department of Agriculture, Washington, DC 20250, (202) 720–5729.

SUPPLEMENTARY INFORMATION: The AGAR implements the FAR, where further implementation is needed, and supplements the FAR when coverage is needed for subject matter not covered by the FAR. The AGAR was first published in the Federal Register in March, 1984 (49 FR 12111, March 28, 1984). Since then, three changes to the AGAR have been published in the Federal Register. The last published change to the AGAR was Agriculture Acquisition Circular Number 3, which was published in March, 1990 (55 FR 7334, March 1, 1990). The bulk of material in the AGAR dates to its initial publication, or to Agriculture Acquisition Circular Number 2, an amendment to the AGAR published in February, 1988 (53 FR 6062, February 29, 1988). The AGAR thus contains a number of obsolete references which must be updated or stricken from the AGAR. A thorough revision of the AGAR is necessary to reflect the regulatory changes in the FAR which implement the Federal Acquisition Streamlining Act of 1994. The AGAR must also incorporate other changes necessitated by Executive Orders and recent Office of Federal Procurement Policy Letters. Furthermore, the AGAR is being revised as part of the National Performance Review (NPR) program to eliminate unnecessary regulations and improve those that remain in force.

As an initial step in the NPR regulatory review initiative, the Department of Agriculture identified parts of the AGAR which required updating or streamlining. The Department's review indicated that almost all parts required revision. Accordingly, the Department plans to revise all parts of the AGAR and to republish the entire regulation in the Federal Register. To develop the revised regulation, the Department is seeking comments and suggestions from the public concerning what changes should be made to the AGAR. Both general comments concerning the AGAR and comments concerning specific sections of the AGAR (48 CFR parts 401 through 453) are invited.

List of Subjects in 48 CFR Parts 401 through 453

Government contracts, Government procurement.

Ira L. Hobbs,

Director of Operations.

[FR Doc. 96–4499 Filed 2–27–96; 8:45 am]

BILLING CODE 3410–98–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Species; Notice of Reclassification of 96 Candidate Taxa

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of candidate taxa reclassification.

SUMMARY: In this document, the U.S. Fish and Wildlife Service (Service) provides explanation for changes in the status of 96 taxa of plants and animals that are under review for possible addition to the List of Endangered and Threatened Wildlife and Plants (List) under the Endangered Species Act (Act) of 1973, as amended.

ADDRESSES: Comments and questions concerning this notice should be sent to the Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 1849 C Street, N.W., Mail Stop ARLSQ–452, Washington, D.C., 20240.

FOR FURTHER INFORMATION CONTACT: E. LaVerne Smith, Chief, Division of Endangered Species, at telephone number (703/358–2171).

SUPPLEMENTARY INFORMATION:

Background

In December 1992, the Service reached a settlement agreement (agreement) with the plaintiffs in the Fund For Animals *et al.* v. Lujan *et al.* case (D.D.C. Civ. No. 92–800) that provides for the Service to review the listing status of species regarded as Category 1 candidates as of September 1, 1992. For any species covered by the agreement and removed from candidate (Category 1) status because listing is no longer considered to be warranted, the Service must publish a notice in the Federal Register that provides explanation for the reclassification. This notice is published to comply with the above requirement.

It is important to note that candidate assessment is an ongoing function and changes in status should be expected. Species that are removed from the candidate list may very well be restored to candidate status if additional information supporting such a change becomes available to the Service. Requests for such information were issued by the Service in the 1993 Plant Notice of Review (58 FR 51144; September 30, 1993) and the 1994 Animal Notice of Review (59 FR 58982; November 15, 1994). A combined plant and animal notice of review, requesting updated information on candidate species, is being published elsewhere in today's Federal Register.

Findings

Candidate species are those species for which the Service has on file sufficient information to support issuance of a proposed rule to list under the Act. The Service recently completed a review of all candidate species to assure that this definition is uniformly applicable. The results of this review indicate that 88 plant taxa and 8 animal taxa included in the settlement exhibits should be removed from candidate status. There are four primary explanations for these reclassifications: (1) The taxon is believed or known to be extinct; (2) the taxon is not a listable entity or is the subject of taxonomic review; (3) the taxon is more widespread than previously thought or not subject to identified threats; and (4) Service files contain insufficient information on status and threats to justify issuing a proposed rule. This notice provides specific explanations for each of the 96 reclassifications.

The Ciervo aegialian scarab beetle (*Aegialia concinna*) is a flightless, fossorial beetle that was first described in 1977: long-term information on species trends is not available. General threats from urban, suburban, and agricultural development were identified when this species was first designated as a candidate. Additional populations have been discovered in Fresno, San Joaquin, and Costa Counties. These discoveries include new habitat types and suggest that the species is not likely to become threatened or endangered in the foreseeable future. The species is removed from candidate status because of the recent discoveries and limited information on habitat requirements, life history, and status needed to prepare a proposed listing.

Allium aaseae (Aase's onion) is a small, perennial plant that is endemic to southwestern Idaho. The species occurs on relatively barren, xeric habitats with gentle to steep slopes and is usually associated with sparsely vegetated bitterbrush (*Purshia tridentata*) or bitterbrush/sagebrush (*Artemisia tridentata*) communities. Recent survey information indicates there are at least 66 extant populations of Aase's onion (containing approximately 400,000 individuals), with 49 of these populations having more than 1,000 individuals. Because threats from suspected hybridization with other species have been shown to be unfounded and because of the size and distribution of extant populations, *A. aaseae* is removed from candidate status.

Allium dictuon (Blue Mountain onion) is known only from the vicinity of Weller Butte in the Blue Mountains of Columbia County, Washington. Five occurrences of this plant are historically and currently known within a range of about 4 square miles. Population estimates for this species range between 1,000 and 3,000 plants. The species is removed from candidate status because it is believed to be stable and the threats associated with recreational use are uncertain. Cattle grazing does occur in the vicinity of Weller Butte, but the impact of this activity on *Allium dictuon* is uncertain and data currently available to the Service do not indicate that listing is warranted.

Allium hickmanii (Hickman's onion) occurs in Monterey and San Luis Obispo Counties (California) and is associated with closed-cone coniferous forests, chaparral, coastal prairie, coastal scrub, and valley and foothill grasslands. Additional populations of Hickman's onion have been found in the last five years, indicating the species is more widespread than previously known. Also, information in Service files is currently insufficient to support issuance of a proposed listing, so this species is removed from candidate status.

Artemisia campestris wormskioldii (northern wormwood) was historically known from the banks of the Columbia River near the mouth of the John Day River in Wasco County, Oregon, westward to the vicinity of the Hood River. Today it is known from two widely disjunct sites along the Columbia River in Washington. Possible trampling associated with recreational activity is the only identified threat to this species. The most recent status information indicated a declining trend, but those data are from 1989. It is removed from candidate status primarily because the Service lacks sufficient information on current status to issue a proposed listing.

Aster jessicae (Jessica's aster) is endemic to mesic grasslands or steppe vegetation of the Palouse region in southeast Washington and northern Idaho. The species is currently known

from three population centers, two in Idaho and one in Washington. Review of file information indicates that the threats from grazing, non-native plants, and land use practices are not sufficiently severe to support a proposed listing. Also, additional information on the status of this species is needed. It is removed from candidate status primarily because the Service lacks current information on biological vulnerability and threats needed for preparation of a proposed listing.

Aster puniceus ssp. *elliotti* var. *scabricaulis* (*Synphyotrichum puniceum* var. *scabricaule;* rough-stemmed aster) inhabits wetland areas in east-central Texas. Recent survey work has discovered three additional populations and extended the range to a new (Cherokee) county. A recent taxonomic study has placed this taxon in the genus *Synphyotrichum* and the validity of the taxon is being reviewed. In addition, the species' status appears to be stable, in part due to development and implementation of management plans for roadside populations by the Texas Department of Transportation.

Astragalus agnicidus (Humboldt milk-vetch) is limited to a single occurrence on an 8-acre privately-owned ranch in southern Humboldt County, California. The population is afforded protection by an agreement between the landowner and the California Nature Conservancy to reduce threats by delaying logging and excluding cattle.

Astragalus australis var. *olympicus* (Cotton's milk-vetch) is found at elevations above 5,000 feet on talus slopes in arctic-alpine habitats that are characterized by a variety of associated, low-growing cushion plants. Most of the known populations are found on federal lands managed by the National Park Service or the U.S. Forest Service. The only known threat to this species is overgrazing or trampling by non-native mountain goats (*Oreamus americanus*). The species is currently believed to be stable.

Astragalus beatleyae (Beatley's astragalus) is known only from the vicinity of Pahute Mesa, Nye County, Nevada, where it occurs on lands managed by the Department of Energy and the Department of Defense. The Department of Energy recently completed extensive studies of the distribution and life history of the species which indicate that listing is not warranted. The species is no longer regarded as a candidate because the identified threats have been resolved.

Astragalus columbianus (Columbia milk-vetch) is a short-lived perennial that occurs in sagebrush/bunchgrass shrub-steppe habitat along the Columbia River in Kittitas, Yakima, and Benton counties in Washington. Though once presumed extirpated in Washington, 29 populations have been documented in the past 15 years, four of these in 1994. Approximately 55,000 plants are known to exist and viable seeds are being produced. The recent discovery of additional populations and apparent stability justify removal from candidate status.

Astragalus mulfordiae (Mulford's milk-vetch) is endemic to the western Snake River plain in Idaho and Oregon. Removal from candidate status is justified by identification of 36 extant populations and a lack of information on threats to the species. The estimated population size is approximately 15,000 individuals in Oregon and between 3,000 and 4,000 individuals in Idaho. Because of poor documentation of threats and the existence of stable populations, the species is removed from candidate status.

Bloomeria humilis (dwarf goldenstar) is known from two populations that occur on private lands in northwestern San Luis Obispo County, California. Current land uses, which have not been shown to be detrimental, include light cattle grazing and periodic shrub removal. No imminent threats are known at this time and no population losses have been documented.

Calochortus clavatus var. *avius* (Pleasant Valley mariposa lily) was historically known from only 13 locations containing approximately 450 plants. Two of the historical occurrences were possibly extirpated. Recent surveys conducted by the Eldorado National Forest discovered additional occurrences within the original range. The variety is now known from 125 locations with an estimate of 45,000 plants. The variety is removed from candidate status.

Calochortus greenei (Greene's mariposa) generally grows in pinyon-juniper woodland or upper montane coniferous forests. It is known from southern Jackson and Klamath counties, Oregon and Siskiyou and Modoc counties, California. Estimated abundance was 1,610 individuals in Oregon and 6,840 individuals in California, but these data are from 1988 surveys. The threats posed by habitat destruction, harvest, and grazing are not severe and the species is not particularly narrow in its choice of substrate. Given the broad habitat tolerance, lack of severe threats, and lack of current status information on which to base a proposed listing, this species is removed from candidate status.

Calochortus nitidus (broad-fruit mariposa lily) is a perennial herb with large, showy flowers that is endemic to mid-elevation grassland habitats of the Palouse region in north-central Idaho. The taxon was previously known from southeast Washington but is now considered to be extirpated from the State. *C. nitidus* is currently known from more than 100 populations that range in size from a few individuals to several thousand plants. The species is believed to be stable and faces only weak threats from grazing, nonindigenous plants, logging, and agriculture. A conservation agreement was signed in 1991 to conserve *C. nitidus* on a parcel of land transferred from the Bureau of Land Management to private ownership and numerous other populations occur on BLM lands.

Calochortus westonii (Shirley Meadows mariposa lily) is a perennial found in meadows and in the understory of broadleaf upland forests and lower montane coniferous forests of the southern Sierra on lands administered by Sequoia National Forest. The U.S. Forest Service Species Management Guide allows for selective timber harvest at infrequent intervals in *C. westonii* habitat. This action helps maintain suitable habitat for the species and combined with recent population discoveries justifies removal of this species from candidate status.

Cardamine pattersonii (Saddle Mountain bittercress) is endemic to four mountaintops in the Coast Ranges of Clatsop and Yamhill counties, Oregon. The species grows on moss mats over bare rocks or on grassy balds, and in the gravel of small creeks. Total habitat for this species covers about 100 to 150 acres and there are roughly 3,000 individuals known. The only known threats are from recreational use of a trail and possible construction of a radio repeater on nearby private land. Neither of these threats are severe and inclusion as a candidate is therefore not warranted.

Castilleja salsuginosa (Monte Neva paintbrush) is known only from a 15-acre area of private land in White Pine County, Nevada. However, information in Service files cast considerable doubt on the distinctiveness of this taxon. Botanist Mark Egger (in litt.) has concluded that material identified as *C. salsuginosa* is probably at best a variety of the widespread species *C. nana* and other botanists question even the varietal distinctiveness of the Monte Neva paintbrush. *C. salsuginosa* is removed from candidate status while its taxonomic status is under review.

Caulanthus amplexicaulis var. *barbarae* (Santa Barbara jewelflower) is

a serpentinite endemic, known from five occurrences in Santa Barbara County, California. It inhabits bluffs, dry disturbed slopes, openings in chaparral, under ghost pines, and Sargent cypress forest. The species is believed to be stable and the only potential threats are from grazing and road grazing. Since serpentinite supports limited forage, threats from grazing are unlikely. The species is removed from candidate status.

Chamaesyce remyi var. *hanaleiensis* (no common name) was endemic to the island of Kauai. The plant has not been observed or collected in this Century and is believed to be extinct. It is therefore removed from candidate status.

The greenest tiger beetle (*Cicindela tranquebarica viridissima*) was recently rediscovered and returned to candidate status (see 60 FR 34226, June 30, 1995). However, experts for the family Cicindelidae acknowledge that the taxonomy of *C. tranquebarica* is in need of serious revision. Recent studies indicate that *C. t. viridissima* is in fact synonymous with *C. t. vibex*, so candidate status for *C. t. viridissima* is no longer appropriate.

Claytonia lanceolata var. *peirsonii* (Peirson's spring beauty) occurs on scree slopes in subalpine forests. The variety is known from five populations in the eastern San Gabriel Mountains of Los Angeles County, California. In 1980, the number of individuals was estimated at about 3,300 but a major fire severely depressed the population later that year. By 1987 the estimated number of individuals had risen to about 1,400. Its current status is unknown. In the most recent taxonomic treatment of the genus, this variety was not recognized as distinct from the parent species *C. lanceolata*, so the variety is removed from candidate status. This treatment has been challenged by the California Native Plant Society so the Service will follow the resolution of the taxonomic issues.

The San Joaquin dune beetle (*Coelus gracilis*) is a flightless, fossorial beetle restricted to dunes of fine-grained sand. It was described from the Antioch dunes (Contra Costa County, California) in 1939 but has not been found there recently despite searches. Current information on the status of the species is lacking and the known threats from habitat alteration caused by nonindigenous tumbleweeds (*Salsola kali*) or off-road vehicle use are believed to be slight. The species is removed from candidate status primarily because the Service lacks current status information needed for preparation of a proposed listing.

Collomia rawsoniana (Rawson's flaming trumpet) was first described in 1888 from specimens collected in the higher valleys of the Sierra Nevada. The species is found within riparian zones of the upper watershed of the San Joaquin River and the Fresno River at elevations between 3,500 and 6,300 feet. The species is removed from candidate status because it is believed to be stable. Threats associated with logging have been alleviated by restricting logging in habitat areas as part of an interagency agreement between the Service and the U.S. Forest Service.

Cordylanthus nidularius (Mt. Diablo bird's-beak) is found in a single population on Mt. Diablo in Contra Costa County, California on serpentine soils of Mt. Diablo State Park. The species is believed to be stable and protected from threats by Park guidance.

Cordylanthus rigidus ssp. *littoralis* (seaside bird's-beak) is an annual member of the snapdragon family that flowers in mid-summer. Habitat occurs in limited areas of loose sandy soils of stabilized dunes in openings in maritime chaparral, oak woodland, and closed cone pine forest communities. Seventeen extant populations have been identified and threats to these populations are believed to be few. Recent discoveries on Fort Ord property indicate that this species is more widespread than previously known. Protections afforded for six of the 17 extant occurrences, including the Fort Ord population, justify removal from candidate status.

Coryphantha recurvata (Santa Cruz cactus) occurs at elevations of 4,000–6,000 feet in grassland and oak woodland in the rolling hills of the Atascosa Mountains in south-central Arizona and Sonora, Mexico. Survey work conducted in 1994 identified previously unknown sites, suggesting the species is more widespread than previously thought. The species is removed from candidate status primarily because of recently discovered populations. Preparation of a proposed listing would only be possible with additional status information that contradicts the known data.

Cupressus stephensonii (Cuyamaca cypress) is a small tree or shrub that grows in clay soils in closed conifer forest, chaparral, and along riparian drainages. It is known from two small populations in San Diego County, California. This species has received considerable taxonomic revision and was recently deemed synonymous with *C. arizonica*. Based on these changes, *C. stephensonii* does not meet the Act's definition of species and is therefore removed from candidate status.

Cymopterus deserticola (desert cymopterus) is a perennial herb that grows on loose sandy soils in the western Mojave Desert at about 45 feet in elevation. The species is restricted to about 10 occurrences over a 30 mile range. The plant occurs within the area being addressed by the West Mojave Coordinated Management Plan, which will function as a multi-species habitat conservation plan and this action will alleviate many of the threats to the species.

Delphinium pavonaceum (peacock larkspur) is endemic to the central portion of the Willamette Valley, Oregon and to Benton, Clackamus, Marion, and Polk counties. There are 53 reported occurrences, but only 31 of these have been confirmed since 1985. A status report prepared in 1980 does not provide site specific threats, population size, or population trends. Candidate status is not justified based on the lack of specific information on threats and population status.

Delphinium variegatum ssp. *thornei* (Thorne's royal larkspur) is a perennial herb restricted to southern San Clemente Island. Roughly 13,000 individuals are known from 13 populations. The recent removal of goats from the island has removed the only known threat to this species.

Delphinium viridescens (Wenatchee larkspur) is found in moist meadows at mid-elevation of the Wenatchee Mountains of Washington. Roughly 5,000 stems of the species are known from 20 populations in Chelan and Kittitas counties. Conservation efforts by the U.S. Forest Service and the Washington Department of Natural Resources have reduced threats to the species and warrant its removal from candidate status.

Dudleya cymosa ssp. *costafolia* (Pierpoint Springs dudleya) is known only from its type locality. The only known threats are associated with use or construction of summer homes. Significant threats are lacking and it is removed from candidate status.

Dudleya viscida (sticky dudleya) is a perennial succulent that occurs on steep rocky cliffs and outcrops in chaparral and coastal sage scrub. The species is estimated to number between 100,000 and 250,000 individuals and appears to be stable. It is more abundant than previously thought and is being removed from candidate status for that reason.

The spring pygmy sunfish (*Elassoma alabamae, formerly known as Elassoma* sp.) was discovered in 1938 in a spring in Lauderdale County, Alabama near the Tennessee River. The species was thought extinct until 1973 when it was

found in part of Beaverdam Creek in Limestone County. The species has been successfully introduced into other waters and its distribution has increased outside the range of introduction. Tennessee Valley Authority biologists recently discovered additional populations, including one on Wheeler National Wildlife Refuge. The known populations, each exceeding 1,000 individuals, are increasing. This species is removed from candidate status.

Eriogonum brandegei (Brandegee wild-buckwheat) is a long-lived perennial plant found in sagebrush stands or in pinyon-juniper woodlands between 5,700 and 7,500 feet in elevation. Prior to the late 1980s the total known population was 700 individuals. However, inventories conducted in 1989, 1992, and 1993 resulted in population estimates between 100,000 and several million individuals. The species is removed from candidate status.

Eriogonum breedlovei var. *breedlovei* (Piute buckwheat) is restricted to dolomite and limestone substrates within the Piute Mountains in the southern Sierra Mountains of California. Previously identified threats associated with gold mining were overstated and the species is being removed from candidate status due to lack of known threats to the species.

Eriogonum chrysops (golden buckwheat) is a perennial herb limited to the Dry Creek drainage in central Malheur County, Oregon. Roughly 9,500 individuals were known from five sites in 1988 but current status information is lacking. Former threats from herbicide use, grazing, off-road vehicles, and nonindigenous plants are now regarded as inconsequential, justifying removal from candidate status.

Eriogonum ericifolium var. *thornei* (Thorne's buckwheat) is restricted to two populations in the New York Mountains of San Bernardino County, California. When elevated to candidate status, threats from mining and grazing were identified but it is uncertain whether these activities still threaten the species' existence due to the transfer of management of the areas occupied by this plant to the National Park Service.

Eriophyllum lanatum var. *hallii* (Fort Tejon woolly-sunflower) is currently known from three populations in eastern Santa Barbara and western Kern counties, California. The two Santa Barbara populations were estimated to contain 800 and 12 individuals respectively and the Kern County population has an estimated 500 individuals. Development on private lands appears unlikely and hypothesized threats from erosion and road grading on Forest Service lands are questionable. Similarly, potential threats by cattle grazing and insects do not appear to be problematic. In addition, current status information needed to support a proposed listing is not available, so this species is being removed from candidate status.

Erythrina eggersii (Piñon Espinoso Cock's spur) is a spiny tree known only from Puerto Rico and the U.S. Virgin Islands. On the island of St. John it is known from four sites within the National Park; threats to the St. John population are not known. In Puerto Rico it is known primarily from the northern limestone hills, but its distribution and abundance within this habitat type is poorly known. Given secure status on St. John and the lack of status information that would be needed for preparation of a proposed listing in Puerto Rico, it is removed from candidate status.

The Florida mastiff bat (*Eumops glaucinus floridanus*) is known from Florida, Cuba, Jamaica, Central America, and South America. The studies upon which the original candidate classification was based were seriously flawed in that they used a technique with low likelihood of detecting mastiff bats. While native habitat appears to be declining, the species also appears to have adapted to human presence by using Spanish tile roofs. The current or historic number of mastiff bats in Florida is unknown. This species is being removed from candidate status because current status information is not available to prepare a proposed listing, recent surveys indicate that mastiff bats in south Florida may be more abundant than previously known, and adaptation to human presence suggests that the species is unlikely to become threatened or endangered in the foreseeable future.

Franklinia alatamaha (Franklin tree) was last seen in the wild in McIntosh County, Georgia in 1803. The type locality has been searched repeatedly over the past 200 years, but no specimens have been observed. While probably extinct in the wild, the species is extant through cultivation and widely distributed as an ornamental. It is removed from candidate status because the species is not threatened or endangered.

Gilia maculata (little San Bernardino Mountains gilia) is restricted to sandy wash terraces at the base of the Little San Bernardino Mountains in San Bernardino County, California. Recent surveys have increased the number of known locations for this species, reduced the intensity of threats to the species, and its status is believed to be stable. Therefore, it is removed from candidate status.

Hackelia cronquistii (Cronquist's stickseed) is found on sandy moist sagebrush slopes in eastern Oregon and Idaho. The species is being removed from candidate status due to stable populations in Oregon and large amounts of potential habitat that are believed to be suitable for this species.

Hackelia venusta (showy stickseed) grows in openings within the Ponderosa pine and Douglas fir forests of open, steep slopes on dry, loose, granitic well-drained soils. The species appears to be restricted to a single population in Tumwater Canyon, Chelan County, Washington. Two other potential populations have been identified near the Alpine Lakes Wilderness, also in Chelan County, but the taxonomic status of these populations is uncertain. Tumwater Canyon was designated a Botanical Area by the Wenatchee National Forest and the State of Washington has developed management guidelines to protect the species. The species is being removed from candidate status due to poorly documented threats, management actions to supplement the wild population with outplantings of disease-free plantings, and an uncertain taxonomic status.

Haplopappus (=*Pyrrocoma*) *insecticruris* (bugleg goldenweed) is endemic to Camas, Elmore, and Blaine counties, Idaho. It occurs in two habitat types: the densely vegetated habitat of the Cama prairie found in mesic areas with deep soils, and less vegetated, somewhat xeric habitats of the *Artemisia arbuscula* or shrub/grassland type. The species' known distribution has increased from four populations in 1983 to more than 83 populations in 1985 surveys. It appears to occupy disturbed and undisturbed habitats. The Idaho Native Plant Society recently recommended removing this species from candidate status and the Service concurs.

Haplopappus radiatus (Snake River goldenweed) is endemic to the dry, rolling hills, ridge, and canyon slopes of the Snake River in eastern Oregon and western Idaho. The habitat is generally a grazing-modified sagebrush/grassland community. Estimated abundance in Idaho is approximately 35,000 individuals from 22 known populations. Total abundance of the 37 known Oregon populations may exceed 100,000 individuals. This species is too widely distributed and abundant to be considered a candidate species.

Hastingsia bracteosa (large-flowered rush-lily) is a lilaceous plant growing from bulbs and is found in serpentine bogs at lower elevations in Jackson and

Josephine counties, Oregon, and Siskiyou and Del Norte counties, California. The species is historically known from 43 locations in Oregon but the most recent status information on the species is from 1980. It is being removed from candidate status due to weak or unclear data on threats and due to the lack of current status information.

Hemizonia arida (Red Rock tarplant) is associated with clay soils in desert scrub. Its distribution is limited to a few square miles in the Mojave desert, Kern County, California. Threats posed by off-road vehicles have been relieved via transfer of the land to the California Department of Parks and Recreation and the species is therefore removed from candidate status.

Hesperolinon didmyocarpum (Lake County dwarf-flax) is known from six populations on a combined area of less than five acres. The current range is comparable to its known historical range and only one population is subject to threatened habitat degradation. The species is believed to be stable and is removed from candidate status due to a lack of documented threats.

Hibiscadelphus crucibracteatus (hau kuahiwi) was historically found on the island of Lanai but is now believed to be extinct. The last known specimen, discovered in 1981, died in 1985. The species is removed from candidate status.

Ivesia aperta var. *canina* (Dog Valley ivesia) is known only from Dog Valley, Sierra County, California on lands managed by the Toiyabe National Forest. The population size was estimated at 2,700 individuals in 1989, but has increased by about 33 percent since then. Potential threats from grazing, recreation, and dam construction have not materialized and the species' status is improving. The species is removed from candidate status.

Juncus leiospermus var. *ahartii* (Ahart's rush) is known from Butte, Calaveras, and Placer counties, California. Since the late 1980s, several additional populations of this plant have been discovered. Only the Oroville population in Butte County is known to face threats associated with habitat degradation. Because of insufficient information on status, distribution, and threats, the species is removed from candidate status.

Lavatera assurgentiflora ssp. *assurgentiflora* and *L. a. glabra* were combined in a 1993 taxonomic treatment to form *Lavatera assurgentiflora* (island tree mallow). The species is widespread and cultivated as an ornamental or windbreak on the mainland and it also occurs on the Santa Cruz islands, Santa Catalina Island, and San Clemente Island. Given the widespread distribution and taxonomic uncertainty, the two subspecies are removed from candidate status.

Layia leucopappa (Comanche layia) is known only from a small area of the Tejon Ranch and surrounding area in Kern County, California. Five of the six known populations occur on the privately owned ranch. Although the plant has a very limited distribution, only one population faces potential threats from grazing. The species is removed from candidate status.

The Hawaiian stream goby ‘o‘opu alamo‘o (*Lentipes concolor*) occurs in freshwater streams throughout the main Hawaiian Islands. The species has an amphidromous life-history pattern that allows for transfer of genetic material among the various island populations. Although populations on the island of Oahu have declined, recent studies indicate that the species is not sufficiently threatened with extinction to be considered a candidate species.

Lilium maritimum (coast lily) grows in closed-cone coniferous forest, coastal prairie, and coastal scrub habitats of Mendocino and Sonoma counties, California. Populations from Marin, San Mateo, and San Francisco counties may have been extirpated. Today, many populations are found in roadside ditches at elevations from 30 to 1,100 feet. Although the species faces threats associated with horticultural collecting, the Service lacks current status information needed to justify candidate status.

Limnanthes floccosa ssp. *pumila* (dwarf wooly meadow-foam) is endemic to two basalt formations in Jackson County, Oregon. The plant occurs at the edges of deep vernal pools and during most years the populations number in the thousands of individuals. While this species has a limited distribution, it faces only limited threats and is generally abundant. It is removed from candidate status.

Lomatium erythrocarpum (red-fruited desert-parsley) is a perennial herb that is restricted to western Baker County, Oregon, along the Elkhorn Ridge of the Blue Mountains. It occurs on loose gravel or talus on east- or south-facing slopes at elevations between 7,500 and 8,500 feet. Although the species has a limited distribution and is rare, it faces only minor threats associated with trampling by ungulates or humans. The species is removed from candidate status.

Lomatium greenmanii (Greenman's desert-parsley) is endemic to the summit region of Mount Howard in the Wallowa Mountains of northeast Oregon. The total population of 20,000 individuals occupies roughly 20 acres of subalpine and alpine meadows. This rare endemic has a stable population that appears to be fully using its available habitat. It is removed from candidate status.

Lotus argophyllus ssp. *adsurgens* (San Clemente Island silver hosackia) is restricted to 10 populations at the southern tip of San Clemente Island, California. Former threats posed by grazing and rooting pigs have been alleviated by removal of feral goats and pigs from the island. Therefore, candidate status is no longer justified.

Luina serpentina (colonial luina) is a stout branching plant that forms colonies or large mats which hug the ground. The species is known only from two sites and grows on steep, rocky, open serpentine slopes. There are no known threats and the last survey was conducted in 1980, so status information necessary to support listing is not available.

Lunania buchii (no common name) was originally described from specimens collected by the U.S. Forest Service from Luquillo and Maricao, Puerto Rico. This species had previously been reported from Haiti. Studies by H.O. Sleumer, conducted in 1980, placed *L. buchii* in synonymy with *L. eckmanii,* a species common to Hispaniola. More recent studies of the Puerto Rican specimens suggest that they are not fully consistent with *L. eckmanii,* further clouding the taxonomic status of the species. The species is withdrawn from candidate status.

Lupinus aridus ssp. *ashlandensis* (Mount Ashland lupine) is a perennial lupine that grows in granitic outcrops only on the summit of Mount Ashland in Jackson County, Oregon. The population was estimated at roughly 350,000 individuals in 1991 and faces no verified threats. It is believed to be stable and is therefore removed from candidate status.

Malacothamnus abbottii (Abbott's bush-mallow) is known from private lands in southern Monterey County, California. It was originally described from a single location in 1896 and was thought extinct until its rediscovery in 1990. At least five populations have been located and the species appears to persist in areas with surface disturbance. The species is more abundant than originally believed and although it is globally rare, threats are unknown. Current information on the distribution, abundance, and life history is insufficient to support candidate status.

Oenothera psammophila (St. Anthony evening primrose) is part of the early successional community dominated by *Elymus flavescens* and *Psoralea lanceolata.* In 1983, approximately 50,000 individuals were known from 298 colonies. By 1994 this number had grown to roughly 85,000 individuals in 685 colonies. Recent studies indicate that threats from trampling and off-road vehicles are less than previously believed. In light of reduced levels of threat and improving status, this species is removed from candidate status.

Oenothera wolfii (Wolf's evening primrose) is known from six sites in Mendocino, Humboldt, and Del Norte counties, California and seven sites in Curry County, Oregon. The species faces limited threats from slope stabilization, road widening, and bridge replacement. Also, review of file information indicates insufficient status information to support issuance of a proposed listing for this species. The species is removed from candidate status.

Ophioglossum concinnum (pololei) was thought to be endemic to the Hawaiian Islands but taxonomic revisions have placed it within *o. polyphyllum,* a species found in Asia, South America, and Africa. This revision greatly increases the range and abundance of the species and it is removed from candidate status.

Orobanche parishii ssp. *brachyloba* (short-lobed broom-rape) occurs on the Pacific coast from San Luis Obispo south to Baja California and on the Channel Islands. It is associated with sandy soils in coastal bluff scrub, coastal dunes, and coastal scrub. Several new populations have recently been discovered on San Nicolas Island and San Miguel Island, supporting removal from candidate status.

Penstemon discolor (Catalina beardtongue) is known to occur in the Santa Catalina, Dragoon, Atascosa, Winchester, and Galiuro mountains of southeastern Arizona. Since 1991, several additional populations have been discovered. These discoveries lessen the significance of threats posed to the Santa Catalina population and supports removal from candidate status because a listing proposal is no longer warranted.

Pentachaeta exilis ssp. *aeolica* (slender pentachaeta) is a small, ephemeral plant associated with dry grasslands. Based on status information from 1977, the species is restricted to three populations in Monterey and San Benito counties, California. The only potential threat is grazing by cattle. The extent of this threat is not presently sufficient to warrant a proposed listing. Given the lack of recent status information to support issuance of proposed listing, and a lack of clearly identified threats, maintaining this species in candidate status is not warranted.

Phlox idahonis (Clearwater phlox) is endemic to moist meadows and streambanks in the Clearwater Mountains of north-central Idaho. The species occurs in relatively flat grassland/shrub habitats, ranging from 2,800 to 3,275 feet in elevation and is the only phlox occurring in mountain meadows of northern Idaho. This species is known from four metapopulations (eight occurrences), all within four miles of the town of Headquarters, Idaho. Although the timing and intensity of grazing may adversely affect the species, the threat from grazing is not sufficient to warrant a proposed listing for this plant. It is therefore being removed from candidate status.

Pleuropogon oregonus (Oregon semaphore grass) grows in moist meadows and marshlands at about 2,500 to 4,000 feet in elevation with numerous aquatic and semiaquatic associates. The species is known from two widely separated regions of Oregon. There are eight known populations, four in Lake County and four in Union County. Because the species faces only minor threats from grazing and stream channelization and is believed to be stable, removal from candidate status is justified.

Polemonium pectinatum (Washington polemonium) is found primarily along the outer margins of riparian areas near the transition with xeric vegetation in Lincoln, Whitman, and Adams counties, Washington and is believed extirpated from Spokane County. Currently there are 35 extant populations with an estimated total of 15,000 to 20,000 individuals. Minor threats have been reduced by a conservation agreement aimed at reducing the populations of noxious weeds and removal from candidate status is justified.

Polyctenium williamsiae (Williams' combleaf) is presently known from five occurrences in Washoe and Nye counties, Nevada. The species occurs on sandy clay margins and bottoms of ephemeral pools in sagebrush scrub. At its spring 1995 meeting, the Northern Nevada Native Plant Society Rare Plant Committee recommended removing this species from Category 1 candidate status but retaining it in Category 2 status. A listing proposal is no longer warranted for this species in light of the potential for locating additional populations and Federal agency efforts to conserve this plant, so it is removed from candidate status.

Potentilla basaltica (Soldier Meadows cinquefoil) occupies alkali meadows, seeps, and occasionally, marshes bordering thermal springs, outflow streams, and depressions in Soldier Meadows, Humboldt County, Nevada. The total population in 1990 was estimated to be 85,000 individuals in 10 sub-populations. More recently, a small, disjunct population was discovered on private lands in Lassen County, California. The Bureau of Land Management has adopted conservation practices to protect *P. basaltica* and the threatened desert dace (*Eremichthys acros*), thereby reducing the threats from grazing, wetland alteration, and recreational use and justifying removal from candidate status.

The Pecos springsnail (*Pyrgulopsis* [=*Fontelicella*] *pecosensis*) is endemic to southeastern New Mexico, occurring on mud and pebble substrates near the margins of springs. Threats to the water quality of the spring have been alleviated by purchase of the water rights and this species' status is believed to be improving. Potential threats from oil and gas development do not appear relevant since reserves that would affect the springs have not been identified.

The dusky gopher frog (*Rana areolata sevosa*) is part of a group of frogs that is subject to considerable taxonomic debate. One treatment considers gopher frogs as conspecific with crawfish frogs under *R. areolata.* An alternate treatment splits the gopher frogs from crawfish frogs, assigning the gopher frogs to *R. capito.* Neither designation is universally accepted. The distribution of the various subspecies of gopher frogs is also problematic. This taxon is removed from candidate status, pending resolution of the taxonomic and distribution questions raised above.

Ranunculus reconditus (obscure buttercup) is a perennial forb that historically grew in Wasco County, Oregon and across the Columbia River in Klickitat County, Washington. The Oregon sites were believed extirpated until 1988, when two populations were discovered. The estimated population sizes from 1988 surveys were 7,400 plants in Washington and 250–400 plants in Oregon. Minor threats from grazing and nonindigenous plants, coupled with the need for updated status information, justify removal of this species from candidate status.

Rorippa subumbellata (Tahoe yellow cress) occurs on sandy substrates, along lake margins, near stream mouths, and in back-beach depressions. Occurrence and availability of suitable habitat for *R. subumbellata* are correlated with lake water surface elevation. A dam constructed on the Truckee River

outflow in 1871 allows lake surface elevation to fluctuate between 6,223 feet and 6,229.1 feet. Surveys of the entire lake shore conducted in 1993 counted approximately 6,500 individuals at 35 locations. The persistence of these populations over the last 15 years and recent colonization of new sites as water levels recede indicate that *R. subumbellata* should not be considered a candidate species.

Rubus nigerrimus (northwest raspberry) occurs primarily along the banks and channels of small streams that are tributary to the Snake River. The species is found at elevations ranging from 700 to 2,200 feet. It is known from 18 locations scattered among approximately 80 square miles in Whitman and Garfield counties, Washington. Most populations are small, consisting of 15 to 30 individuals and seedling establishment appears to be low. Removal of this species from candidate status is based primarily on a lack of current status information needed to support issuance of a proposed listing.

Scrophularia macrantha (Mimbres figwort) is a narrowly endemic herbaceous perennial found in the Mimbres Mountains and the Cooks Range in Grant and Luna counties, New Mexico. It is generally restricted to north-facing igneous cliffs and steep talus slopes from 6,500 to 8,200 feet in elevation. Status surveys conducted in 1982 and 1994 indicate the species is stable and previously identified threats from grazing and recreational use were over-emphasized since these activities did not occur in the species' habitat. It is hereby removed from candidate status.

Senecio huachucanus (Huachuca groundsel) is a herbaceous perennial that grows on steep, mesic, high elevation mountain slopes. The species is known from the Santa Rita and Huachuca Mountains in Arizona and the Sierra Azul, Sonora, Mexico. Aside from one population in the Santa Rita Mountains, populations tend to be isolated and small (less than a few hundred plants). The Santa Rita population probably contains thousands of plants on many acres in remote, wilderness lands. Since 1991, populations at two sites in the Huachuca Mountains, one site in the Sierra Azula, and the large population in the Santa Rita Mountains have been discovered, indicating the species is more widespread than previously believed and should be removed from candidate status.

Sidalcea covillei (Owens Valley checkermallow) grows in alkaline and subalkaline meadows in the Owens River drainage in California. It is restricted to 31 sites in Inyo County and occurs on habitat protected in part by conservation efforts in the eastern Mohave Desert. The primary threat to the species was believed to be hydrologic alteration and grazing, but these threats no longer exist. The species is removed from candidate status.

Sidalcea stipularis (Scadden Flat checkerbloom) is known from only two occurrences: one on private land and the second on a utility right-of-way. No threats to the species have been identified. *S. stipularis* is believed to be stable and does not warrant status as a candidate species.

Sphaeromeria compacta (Charleston tansy) is known only from the Spring Mountains, Clark County, Nevada, where it occurs at timberline and above. It occurs on talus slopes, in frost-heave broken rubble, and on gravelly slopes in limestone-derived soils. The species is known from three separate populations but individual numbers are unknown. The primary threat is trampling by hikers. In the face of limited status data and minor threats, the species is removed from candidate status.

Streptanthus albidus ssp. *peramoenus* (most beautiful jewelflower) is the subject of an ongoing taxonomic revision. New subspecies of *S. albidus* may be named and some new populations of *S. albidus* ssp. *peramoenus* may be identified. As a result, the range and current status are unknown, supporting removal from candidate status pending the results of the taxonomic revisions.

Streptanthus brachiatus ssp. *brachiatus* (Socrates Mine jewelflower), *Streptanthus brachiatus* ssp. *hoffmanii* (Freed's jewelflower), and *Streptanthus morrisonii* ssp. *hirtiflorus* are very rare and vulnerable subspecies that are the subjects of ongoing status reviews. The Bureau of Land Management (BLM) protects known locations from disturbance and the potential for habitat loss from geothermal development in the Geysers Geothermal Steamfield has been reduced by BLM protection and reduced rates of geothermal exploitation. Information in Service files is currently insufficient to support issuance of proposed listings, so these subspecies are removed from candidate status.

Streptanthus morrisonii ssp. *elatus* (Three Peaks jewelflower) is known only from a few serpentine barrens in Lake County, California. Habitat for this species has been seriously impacted by mining and road-building, but recent actions by BLM will protect habitat for this species. Information in Service files is currently insufficient to support issuance of proposed listings, so this subspecies is removed from candidate status.

Synthyris ranunculina (Charleston kittentails) is found in permanently damp areas, moist meadows, along creek corridors, snow banks, on moss-covered rock, and moist cliff crevices. All known sites are on the eastern flank of the Spring Mountains Range at elevations ranging from 8,600 to 11,800 feet. The species is known only from lands within the Toiyabe National Forest's Spring Mountains Recreation Area and the Service and U.S. Forest Service are developing an ecosystem-level conservation agreement to provide for long-term conservation of this species. Minor historic threats (from trampling by horses and hikers and spring manipulation) support removal from candidate status.

Trifolium polyodon (Pacific Grove clover) was included as part of the common *Trifolium variegatum* in a recent taxonomic revision. This species is removed from candidate status because it is no longer a listable entity under the Act.

Author

This notice was compiled from materials supplied by the Service's staff biologists located throughout the country in regional and field offices. The materials were compiled by Dr. Richard E. Sayers, Jr., Division of Endangered Species, U.S. Fish and Wildlife Service, 1849 C Street, NW., Mailstop ARLSQ–452, Washington, DC 20240 (phone 703/358–2105; facsimile 703/358–1735).

Authority: The authority for this notice is the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

Dated: February 16, 1996.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 96–4413 Filed 2–27–96; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 61, No. 40
Wednesday, February 28, 1996

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. FV95–997]

Notice for Extension and Revision 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 (Pub. L. 104–13), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection in support of the AMS/Provisions Regulating the Quality of Domestically Produced Peanuts Handled by Persons Not Subject to the Peanut Marketing Agreement based on re-estimates.

DATES: Comments on this notice must be received by April 29, 1996.

ADDITIONAL INFORMATION OR COMMENTS: Contact Richard Lower, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, D.C., 20090–6456, (202) 720–2020 or Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION:

Title: Provisions Regulating the Quality of Domestically Produced Peanuts Handled by Person's Not Subject to the Peanut Marketing Agreement.

OMB Number: 0581–0163.

Expiration Date of Approval: March 31, 1996.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: After aflatoxin was found in peanuts in the mid-1960's, the domestic peanut industry has sought to minimize aflatoxin contamination in peanuts and peanut products. Under authority of the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601–674), Peanut Marketing Agreement No. 146 and the Peanut Administrative Committee (Committee) were established by the Secretary in 1965. The Agreement was signed by a majority of domestic peanut handlers (signatory handlers).

Public Law 101–220, enacted December 12, 1989, amended section 608b of the Act to require that all handlers who have not signed the Agreement (non-signatory handlers) be subject to quality, handling, and inspection requirements to the same extent and manner as are required under the Agreement. Regulations to implement Pub. L. 101–220 were issued and made effective on December 4, 1990 (55 FR 49983). It is estimated that 5 percent of the domestic peanut crop is marketed by non-signatory handlers and the remainder of the crop is handled by signatory handlers.

The objective of the Agreement and the non-signatory handling regulations (7 CFR part 997) is to ensure that only wholesome peanuts enter edible market channels. Under both regulations, farmers stock peanuts with visible *Aspergillus flavus* mold (the principal source of aflatoxin) are required to be diverted to non-edible uses. Both regulations also provide that shelled peanuts meeting minimum outgoing quality requirements must be chemically analyzed for aflatoxin contamination.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .33 hours per response.

Respondents: Peanut handlers and service industries.

Estimated Number of Respondents: 45.

Estimated Number of Responses per Respondent: 26.

Estimated Total Annual Burden on Respondents: 377.55 hours.

Copies of this information collection can be obtained from Richard Lower, Marketing Specialist, at (202) 720–2020.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of USDA's oversight of the program; (2) the accuracy of the collection burden estimate and the validity of the methodology and assumptions used in estimating the burden on respondents; (3) ways to enhance the quality, utility and clarity of the information to be requested; and (4) ways to minimize the burden, including the use of automated and electronic technologies.

Comments should reference OMB No. 0581–0163 and be sent to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, D.C., 20090–6456. Comments should reference the docket number and the date and page number of this issue of the Federal Register. All comments received will be available for public inspection in the Office of the Docket Clerk during regular business hours at the same address.

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.

Dated: February 22, 1996.

Martha B. Ransom,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–4503 Filed 2–27–96; 8:45 am]

BILLING CODE 3410–02–P

[Docket No. FV95–948]

Notice of Request for Extension and Revision 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 (Pub. L. 104–13), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for Irish Potatoes Grown in Colorado, Marketing Order 948.

DATES: Comments on this notice must be received by April 29, 1996 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, U. S. Department of Agriculture, 1220 SW Third Avenue, Room 369, Portland, OR 97204, Tel: (503) 326–2724, Fax (503) 326–7440.

SUPPLEMENTARY INFORMATION:

Title: Irish Potatoes Grown in Colorado, Marketing Order 948.

OMB Number: 0581–0111.

Expiration Date of Approval: April 30, 1996.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruits, vegetables and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674), industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order operations and issue regulations recommended by a committee of representatives from each commodity industry.

The information collection requirements in this request are essential to carry out the intent of the AMAA, to provide the respondents the type of service they request, and to administer the Colorado marketing order program, which has been operating since 1941.

Under the Colorado potato marketing order, potatoes sent to processing are exempt from inspection and grade requirements but must be shipped under a special purpose shipment exemption. To ensure high quality fresh market shipments, producers must notify the Colorado Potato Committee (committee) of such special purpose shipments. Further, any business which operates as a potato canner, freezer, processor, or pre-peeler must register with the committee. These forms enable the committee, and thus, the Secretary to better monitor exempt shipments and ensure compliance with provisions of the marketing order and the AMAA.

Potato producers and handlers who are nominated by their peers to serve as representatives on the committee must file nomination forms with the Secretary.

Formal rulemaking amendments to the order must be approved in referenda conducted by the Secretary. Also, the Secretary may conduct a continuance referendum to determine industry support for continuation of the order. Such referenda ballots are included in this request.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Division regional and headquarter's staff, and authorized employees of the committee. AMS is the primary user of the information and authorized committee employees are the secondary user.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.1494 hours per response.

Respondents: Potato producers and for-profit businesses handling fresh and processed potatoes produced in Colorado.

Estimated Number of Respondents: 526.

Estimated Number of Responses per Respondent: 7.074.

Estimated Total Annual Burden on Respondents: 556 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the functioning of the Colorado marketing order program and USDA's oversight of that program; (2) the accuracy of the collection burden estimate and the validity of methodology and assumptions used in estimating the burden on respondents; (3) ways to enhance the quality, utility, and clarity of the information requested; and (4) ways to minimize the burden, including use of automated or electronic technologies.

Comments should reference OMB No. 0581–0111 and the Colorado Marketing Order No. 948, and be sent to USDA in care of Teresa Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, U. S. Department of Agriculture, 1220 SW Third Avenue, Room 369, Portland, OR 97204. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: February 22, 1996.

Martha B. Ransom,

Acting Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–4504 Filed 2–27–96; 8:45 am]

BILLING CODE 3410–02–P

[Docket No. TB–96–15]

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 for a currently approved information collection in support of the Tobacco Statistics Act of 1929, the Agricultural Marketing Act of 1946, and Regulations Governing the Tobacco Stocks and Standards.

DATES: Comments on this notice must be received by April 29, 1996.

ADDITIONAL INFORMATION: Contact Henry R. Martin, Chief, Market Information and Program Analysis Branch, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 505 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456, (202) 205–0489.

SUPPLEMENTARY INFORMATION:

Title: Tobacco Stocks Report and the Quarterly Report of Manufacture and Sales of Snuff, Smoking, and Chewing Tobacco.

OMB Number: 0581–0004.

Expiration Date of Approval: September 30, 1996.

Type of Request: Extension of a currently approved information collection.

Abstract: The Tobacco Statistics Act of 1929 (7 U.S.C. 501–508) provides for the collection and publication of statistics of tobacco by the Department of Agriculture with regard to quantity of leaf tobacco in all forms in the United States and Puerto Rico, owned by or in the possession of dealers, manufacturers, growers' cooperative associations, and others with the exception of the original growers of the tobacco.

The statistics shall show the quantity of tobacco in such detail as to types, as the Secretary of Agriculture shall deem to be practical and necessary and shall be summarized as of January 1, April 1, July 1, and October 1 of each year and are due within 15 days of the summarized dates.

The information furnished under the provisions of this Act shall be used only for statistical purposes for which it is supplied. No publication shall be made by the Secretary of Agriculture whereby the data furnished by any particular establishment can be identified, nor shall anyone other than the sworn employees of the Department of Agriculture be allowed to examine the individual reports.

The regulations governing the Tobacco Stocks and Standards Act (7

CFR Part 30) issued under the Tobacco Statistics Act specifically address the reporting requirements. Tobacco in leaf form or stems is reported by types of tobacco and whether stemmed or unstemmed. Tobacco in sheet form shall be segregated as to whether for cigar wrapper, cigar binder, for cigarettes, or for other products.

Tobacco stocks reporting is mandatory. The basic purpose of the information collection is to ascertain the total supply of unmanufactured tobacco available to domestic manufacturers and to calculate the amount consumed in manufactured tobacco products. This data is also used for the calculation of production quotas for individual types of tobacco and for price support calculations.

The Quarterly Report of Manufacture and Sales of Snuff, Smoking, and Chewing Tobacco is voluntary. Prior to 1965, information on the manufacture and sale of snuff, smoking, and chewing tobacco products was available from Treasury Department publications on the collection of taxes. With repeal of the Federal tax in 1965, the industry requested that the collection of basic data be continued to maintain the statistical series and all the major manufacturers agreed to furnish information. Federal taxes were reimposed in 1985 for snuff and chewing tobacco and the Treasury Department began reporting data on these products, but not in the detail desired by the industry. Data from this report is also used in the calculations to determine the production quotas of types of tobacco used in these products.

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) directs and authorizes the Secretary of Agriculture to collect, tabulate, and disseminate statistics on marketing agricultural products including market supplies, storage stocks, quantity, quality and condition of such products in various positions in the marketing channel, utilization of sub-products, shipments, and unloads.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.92 hours per response.

Respondents: Primarily tobacco dealers, manufacturers, and growers—cooperative associations including small businesses or organizations.

Estimated Number of Respondents: 101.

Estimated Number of Responses per Respondent: 4.

Estimated Total Annual Burden on Respondents: 372 hours.

Copies of this information collection can be obtained from Henry R. Martin, Chief, Market Information and Program Analysis Branch, at (202) 205–0489.

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 appropriated automated, electronic, mechanical, or other forms of information technology. Comments may be sent to Henry R. Martin, Chief, Market Information and Program Analysis Branch, Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 505 Annex Building, P.O. Box 96456, Washington, D.C. 20090–6456 and will be available for public inspection in Room 505 Annex Building, USDA, AMS, Tobacco Division, Market Information and Program Analysis Branch, 300 12th Street, S.W., Washington, D.C. 20250. Comments should reference the docket number and the date and page number of this issue of the Federal Register.

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.

Dated: February 22, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–4505 Filed 2–27–96; 8:45 am]

BILLING CODE 3410–02–P

[CN–95–004]

Recommendations of Advisory Committee on Universal Cotton Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) held a meeting of the Universal Cotton Standards Advisory Committee in Memphis, Tennessee on June 15 and 16, 1995. This notice announces that the Advisory Committee recommended that the Universal Cotton Standards be expanded to include the current USDA High Volume Instrument (HVI) Calibration Cottons, laboratory atmospheric conditions and sample conditioning practices and procedures.

DATES: Comments must be received by March 29, 1996.

ADDRESSES: Comments and inquiries should be addressed to Ross Griffith, Cotton Division, AMS, USDA, Room 2641–S., P.O. Box 96456, Washington, D.C. 20090–6456. Comments will be available for public inspection during regular business hours at the above office in Rm. 2641–S., 14th & Independence Avenue, SW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ross Griffith, (202) 720–3193.

SUPPLEMENTARY INFORMATION: The Universal Cotton Standards Advisory Committee meets triennially to consider any necessary changes to the Universal Cotton Standards and to review freshly prepared sets of Universal Cotton Standards for conformity with the existing standards.

At this meeting, the committee recommended expanding the Universal Cotton Standards to include the current USDA High Volume Instrument (HVI) Calibration Cottons (Long-Strong and Short-Weak); laboratory atmospheric conditions of 70 degrees Fahrenheit , plus or minus one degree, and 65 percent Relative Humidity, plus or minus two percent; and sample conditioning practices and procedures as follows: ''Samples of cotton must be directly exposed to approved laboratory atmospheric conditions until their moisture content reaches equilibrium with that of the atmosphere. This equilibrium moisture content usually ranges from 6.75 percent to 8.25 percent. Conditioning of samples in sacks, wrappers, or other coverings is not permissible''.

High Volume Instrument (HVI) Classing of cotton has been available on an optional basis since 1980. Since 1991, HVI classification has been provided on all cotton classed by USDA along with the classer color grade and leaf grade which conform to the Universal Grade Standards. HVI systems provide the most scientific and reliable sources of cotton quality information available. The advisory committee includes representatives of all segments of the U.S. cotton industry and the 21 overseas cotton associations that are signatories to the Universal Cotton Standards Agreement. Adoption of this recommendation should result in the establishment of a universal language for the marketing of U.S. cotton under the HVI Classification System.

Authority: United States Cotton Standards Act (7 U.S.C. 51 *et seq.*)

Dated: February 22, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–4506 Filed 2–27–96; 8:45 am]

BILLING CODE 3410–02–P

Forest Service

Olympic Cross Cascade Pipeline Project, Mt. Baker-Snoqualmie National Forest, Snohomish, King, Kittitas, Grant, Adams, and Franklin Counties, Washington

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, USDA, as lead federal agency will prepare an environmental impact statement on a proposal by Olympic Pipe Line Company (OPL) to construct a new 230-mile underground/aboveground pipeline to deliver motor gasoline, diesel fuel, and aviation jet fuel from north of OPL's Woodinville Station, Washington to a new distribution facility near the City of Kittitas, Washington and an existing facility in Pasco, Washington. This environmental impact statement will be a combined NEPA/SEPA document. The lead state agency will be the Energy Facility Site Evaluation Council. If approved, construction would commence in 1997 and be completed in about one year.

DATES: Comments concerning the scope of the analysis should be received in writing by April 8, 1996.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to: Dennis E. Bschor, Forest Supervisor, Mt. Baker-Snoqualmie National Forest, 21905—64th Avenue West, Mountlake Terrace, WA 98043–2278.

FOR FURTHER INFORMATION CONTACT: Steve Johnson, Project Manager, North Bend Ranger District, 42404 SE North Bend Way, North Bend, WA 98045; phone (206) 888–1421.

SUPPLEMENTARY INFORMATION: The Olympic Pipe Line Company (OPL), located in Renton, Washington, proposes to construct a new 230-mile-long, 14-inch-diameter pipeline from north of OPL's Woodinville Station near the King/Snohomish County line, in western Washington, to a new distribution facility near the City of Kittitas and to the existing terminal facility in Pasco, in southeastern Washington. It would start as a 14-inch pipeline in Snohomish County north of the King/Snohomish County line, travel eastward and then southeast to North Bend, run east along/near the Interstate 90 highway corridor, and cross over Snoqualmie Pass. The pipeline would then continue eastward along/near I–90 to the City of Kittitas where it will change to a 12-inch pipeline, continue past Ellensburg and the Yakima Training Center, cross under the Columbia River downstream of Wanapum Dam, run toward the Columbia National Wildlife Refuge, and then travel south to Pasco where it would connect with existing facilities. The pipeline would be placed underground and above-ground, depending upon design requirements, and six pump stations would be placed along the pipeline route. The pipeline would transport motor gasoline, diesel fuel, and aviation jet fuel.

If approved, construction would commence in 1997 and be completed in about one year. Construction of the pipeline would require a 2- to 3-foot-wide and 36- to 60-inch-deep (or deeper) trench. Construction typically occurs in about a 60-foot-wide area and the permanent right-of-way would typically be about 30 feet wide. The pipeline, which would be transported in 40- to 80-foot lengths, would be made of high-grade steel coated with a polyolefin-type material to prevent corrosion. The welds of the pipeline would be X-ray tested, and the entire line would be hydrostatically tested to 125% of the maximum pressure allowed during operation of the pipeline.

Scoping meetings to receive public comments on the project, and the associated open houses and land use hearings, will occur as follows: March 12, 1996 (Ellensburg High School, Ellensburg, WA); March 13, 1996 (Jackson High School, Mill Creek, WA); March 14, 1996 (Snoqualmie Middle School, Snoqualmie, WA); March 26, 1996 (Royal High School, Royal City, WA); March 27, 1996 (Columbia Basin Community College, Pasco, WA); and March 28, 1996 (Othello High School, Othello, WA). Each meeting date will begin with an open house at 5 p.m., followed by a land use hearing and a scoping meeting. Potential issues of concern for the environmental impact statement include the risk of a spill; impacts to health and safety, soil erosion, stream and river crossings, water quality, fish and wildlife, wetlands, agriculture, forest land, and transportation and utilities; and compatibility with existing land uses.

Three alternatives are considered for this project, including: constructing an east-west pipeline route as proposed above; building a new north-south pipeline from Renton, WA, to Portland, OR, and continuing barging on the Columbia River to Pasco; or continuing with the current no action alternative. Optional subcomponents to the proposed action include: (1) Shortening the pipeline so that it terminates in Moses Lake and rebuilding the Moses Lake-to-Spokane pipeline; (2) using the same initial route but turning south near Ellensburg and going through the Yakima Valley to Pasco; (3) routing a 300-mile pipeline through one of two alternative routes across Stevens Pass and terminating it in Pasco; (4) routing the pipeline through one of two other routes through Snoqualmie Pass and terminating in Pasco; and (5) routing the pipeline through Stampede Pass and terminating in Pasco. The no action alternative (existing practices) includes the following subcomponents: (1) Piping to Portland and then barging from there to Pasco on the Columbia River; (2) shipping by barge or tanker from Puget Sound, south along the Washington coast to Portland, and then transferring to river barges for shipment to Pasco on the Columbia River; and (3) transporting by tanker truck across the Cascade Mountains to Pasco. The only permit required for the project is an Energy Facility Site Evaluation Council Site Certification.

The Forest Service will be the lead federal agency. Cooperating agencies include the Bureau of Land Management (Joseph Buesing, Spokane District Manager), Bureau of Reclamation (John W. Keys, III, Regional Director), and Department of the Army (Lieut. General C.G. Marsh, Installation Commander, Headquarters, I CORPS and Fort Lewis). This environmental impact statement will be a combined NEPA/SEPA document. The lead state agency under the Washington State Environmental Policy Act will be the Energy Facility Site Evaluation Council (Allen J. Fiksdal, EFSEC Project Manager).

Interested parties are invited to provide suggestions and comments about the proposed project in writing to the address provided above, or at the public hearings that will be held throughout the state. At this time, it is estimated the draft environmental impact statement will be issued during the summer of 1996. The final environmental impact statement will be issued early in 1997.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes it is important to give reviewers notice at this early stage of the project of several

court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review process so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.).

Dated: February 15, 1996.

Gene R. Cyrus,

Acting Forest Supervisor.

[FR Doc. 96–4511 Filed 2–27–96; 8:45 am]

BILLING CODE 3410–11–M

Small Business Timber Sale Set-Aside Program; Notice and Comment Opportunity on Recomputation of Shares

AGENCY: Forest Service, USDA.

ACTION: Notice of availability.

SUMMARY: The Forest Service gives notice that it has revised its internal administrative direction in Forest Service Handbook 2409.18 regarding recomputation of shares under the Small Business Timber Sale Set-Aside Program to provide a procedure for timber industry review and comment prior to a final decision on recomputed shares. This prior notice and comment opportunity is intended to respond to industry's concerns about losing the privilege of administrative appeal of recomputation decisions when agency appeal regulations at 36 CFR parts 215, 217, and 251 were revised in response to statutory direction in 1992. The new procedures have been issued as Interim Directive Number 2409.18–96–1.

EFFECTIVE DATE: The Interim Directive was effective February 9, 1996.

ADDRESSES: Single copies of the Interim Directive may be obtained by calling or writing local Forest Service offices as listed in 36 CFR 200.4, by telephoning the person listed under **FOR FURTHER INFORMATION CONTACT** or by writing Director, Timber Management, (3NW Aud. Bldg.), USDA Forest Service, P.O. Box 96090, Washington, DC 20090–6090.

FOR FURTHER INFORMATION CONTACT: Rod Sallee, Timber Management Staff, (202) 205–1766.

SUPPLEMENTARY INFORMATION:

Background

The Forest Service Small Business Timber Sale Set-Aside Program was adopted July 26, 1990 (55 FR 30485). The agency administers the program in cooperation with the Small Business Administration (SBA) under the authorities of The Small Business Act, The National Forest Management Act of 1976, and SBA's regulations at Part 121 of Title 13 of the Code of Federal Regulations (13 CFR part 121). The program is designed to ensure that small business timber purchasers have the opportunity to purchase a fair proportion of National Forest System timber offered for sale.

Direction to guide administration of the Set-Aside Program is issued in Forest Service Manual (FSM) Chapter 2430 and Chapter 90 of Forest Service Timber Sale Preparation Handbook (FSH 2409.18). The Program requires the Forest Service to recalculate the shares of timber sales to be set-aside for small business, based on the actual history of harvest and/or purchase by small business every 5 years. Shares also must be recomputed, if there is a change in manufacturing capability, if purchaser size class changes, or if certain purchasers discontinue operations.

Prior to 1992, there was opportunity for administrative appeal of decisions associated with recomputation of new shares. In 1992, the agency adopted new administrative appeal procedures at 36 CFR part 215 in response to new statutory direction. Under the rules adopted at 36 CFR part 215, the Forest Service appeal process no longer covers decisions related to the recomputation of shares under the Small Business Set-Aside Program, because these decisions are not subject to National Environmental Policy Act regulations or procedures. These decisions also are not conditions of special use authorizations appealable under 36 CFR part 251, subpart C.

The small business share decision is based on technical information from the harvest and/or sales history of defined market areas and other information. Rather than providing a separate appeal procedure that allows challenge of decisions, the agency believes the decisionmaking process will be improved by allowing purchasers the opportunity to review and comment on proposed changes in shares and by allowing the decisionmaker to consider these comments in making the final decision. Accordingly, at Section 91.19 of FSH 2409.18, the agency has established procedures for giving notice to the affected timber purchasers in the area, for obtaining and considering comment, and for documenting the comments received and the agency's response as part of the final decision. The Interim Directive establishing these procedures as issued to Forest Service employees is set out at the end of this notice.

Dated: February 15, 1996.

Gray F. Reynolds,

Deputy Chief for National Forest System.

!!ID 2409.18–96–1

Expiration Date: 8/9/97

Forest Service Handbook

Washington, D.C.

FSH 2409.18—Timber Sale Preparation Handbook

Interim Directive: 2409.18–96–1.
Effective Date: February 9, 1996.
Expiration Date: August 9, 1997.
Chapter: 90—Programs With Small Business Administration.

Posting Notice: Last ID was 2409.18–95–2 to chapter 40.

This interim directive (ID) establishes new procedures at section 91.19 for giving timber purchasers notice and opportunity to comment on proposed share recomputations for the timber sale set-aside program. With adoption of the administrative appeal rules at 36 CFR part 215, share recomputation decisions were no longer appealable. These procedures in section 91.19 reinstate an opportunity for purchaser involvement in the recomputation decision.

Sterling J. Wilcox,

Acting Deputy Chief.

91.19—Establishing New Small Business Shares. Request review of all scheduled,

periodic market share recomputations as well as any recomputation arising from a determination of structural change from the Small Business Administration (SBA) Regional Representative. If there are any disagreements between the SBA representative and the Forest Supervisor, refer the matter to the Regional Forester for resolution before giving notice of the proposed share recomputation to timber purchasers.

Following the review by the Small Business Administration, the responsible line officer shall take the following actions:

1. Give direct notice of the proposed new share to all timber purchasers on bidders' lists within the affected area, and invite their comment.

a. Advise the timber purchasers of the information used in recomputing shares and invite comment on the information used by the agency or on information that purchasers believe should have been considered. Also advise timber purchasers of the location where they can inspect the information used.

b. All comments postmarked within 30 calendar days following the date of mailing must be considered in arriving at the final share decision.

2. Following the 30-day review and comment period, consider the comments, make adjustments as may be appropriate, and prepare a letter or other document setting forth the final decision.

3. Give notice of the final decision to all purchasers on the bidders' lists within the affected area. Be sure to include a statement that the decision is not subject to administrative appeal. Make any new share effective at the beginning of the first 6-month analysis period following the decision to implement it.

4. In the notice of the final decision or an attachment to it, summarize the comments received, identify the number of persons who or entities that provided comments, and provide the deciding official's response to them.

[FR Doc. 96–4495 Filed 2–27–96; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

(Docket 12–96)

Foreign-Trade Zone 116—Beaumont, Texas; Application for Subzone Status, Clark Refining and Marketing, Inc. (Oil Refinery Complex), Jefferson County, Texas

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign Trade Zone of Southeast Texas, Inc., grantee of FTZ 116, requesting special-purpose subzone status for the oil refinery complex of Clark Refining and Marketing, Inc., located in Jefferson County, Texas. 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 16, 1996.

The refinery complex (5,079 acres, 855 employees) consists of 4 sites and related pipelines in Jefferson County, Texas: *Site 1* (3,975 acres)—main refinery complex (215,000 BPD) located at 1801 S. Gulfway Drive, 3 miles southwest of Port Arthur; *Site 2* (775 acres)—Lucas/Beaumont Terminal storage facility (1.7 mil. barrels) located at 9405 West Port Arthur Road, 15 miles northwest of the refinery; *Site 3* (243 acres)—Fannett LPG storage terminal (3 mil. barrels) located at 16151 Craigen, near Fannett, some 25 miles west of the refinery; and *Site 4* (86 acres)—Port Arthur Products storage facility (1.8 mil. barrels) located at 1825 H.O. Mills Road, 4 miles northwest of the refinery. The refinery, storage facilities and pipelines operate as an integral part of the refinery complex.

The refinery complex is used to produce fuels and petrochemical feedstocks. Fuels produced include gasoline, jet fuel, distillates, diesel, and residual fuels. Petrochemical feedstocks include methane, ethane, propane, butane, butylene, propylene. Refinery by-products include sulfur and petroleum coke. About 65 percent of the crude oil (95 percent of inputs), and some feedstocks and motor fuel blendstocks used in producing fuel products are sourced abroad.

Zone procedures would exempt the operations involved from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the finished product duty rate (nonprivileged foreign status—NPF) on certain petrochemical feedstocks and refinery by-products (duty-free). The duty on crude oil ranges from duty-free to 10.5¢/barrel. The application indicates that the savings from zone procedures would help improve the refinery'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 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 29, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to May 14, 1996).

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 District Office, #1 Allen Center, Suite 1160, 500 Dallas, Houston, Texas 77002.

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 22, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–4546 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–588–838]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Clad Steel Plate From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: February 28, 1996.

FOR FURTHER INFORMATION CONTACT: Ellen Grebasch or Erik Warga, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–3773 or (202) 482–0922, respectively.

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).

Preliminary Determination:

As explained in the memoranda from the Assistant Secretary for Import Administration dated November 22, 1995, and January 11, 1996, the Department of Commerce (the Department) has exercised its discretion to toll all deadlines for the duration of the partial shutdowns of the Federal Government from November 15 through November 21, 1995, and December 16, 1995, through January 6, 1996. Thus, all deadlines in this investigation have been extended by 28 days, *i.e.*, one day for each day (or partial day) the Department was closed. As such, the deadline for this preliminary determination was to be no later than April 4, 1996. However, because the sole respondent in the investigation

failed to answer our questionnaire, we have expedited the determination.

We preliminarily determine that clad steel plate from Japan is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation on October 19, 1995, (60 FR 54666, October 25, 1995), the following events have occurred:

On November 13, 1995, the U.S. International Trade Commission (ITC) notified the Department of its affirmative preliminary determination.

On December 7, 1995, the Department issued the antidumping questionnaire to The Japan Steel Works Ltd. (JSW), the only known Japanese producer and exporter to the United States of Clad Steel Plate. JSW informed the Department on January 19, 1996, that it would not be responding to the antidumping questionnaire.

Scope of the Investigation

The scope of this investigation is all clad [1] steel plate of a width of 600 millimeters (''mm'') or more and a composite thickness of 4.5mm or more. Clad steel plate is a rectangular finished steel mill product consisting of a layer of cladding material (usually stainless steel or nickel) which is metallurgically bonded to a base or backing of ferrous metal (usually carbon or low alloy steel) where the latter predominates by weight.

Stainless clad steel plate is manufactured to American Society for Testing and Materials (''ASTM'') specifications A263 (400 series stainless types) and A264 (300 series stainless types). Nickel and nickel-base alloy clad steel plate is manufactured to ASTM specification A265. These specifications are illustrative but not necessarily all-inclusive. Clad steel plate within the scope of this investigation is classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') 7210.90.10.00. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is September 1, 1994, through August 31, 1995.

Facts Available

Pursuant to section 776 of the Act, the Department will use the facts otherwise available if necessary information is not available on the record, or if an interested party or any other person withholds requested information, fails to provide such information by the deadlines for submission of the information or in the form and manner requested, significantly impedes a proceeding, or provides such information but the information cannot be verified.

In addition, section 776(b) of the Act provides that, if the Department finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information, the Department may use information that is adverse to the interests of that party as the facts otherwise available. The statute also provides that such an adverse inference may be based on secondary information, including information drawn from the petition.

Section 776(c) explains that where the Department relies on secondary information, the Department will, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action (SAA), accompanying the URAA, clarifies that the petition is secondary information. *See* SAA, published in H. Doc. 103–316, 103d Cong., 2d Sess. at 807, 870. The SAA also clarifies that corroborate means to determine that the information used has probative value. However, where corroboration is not practicable, the Department may use the uncorroborated information.

The Department finds that, because JSW has not answered our questionnaire, it has failed to cooperate to the best of its ability to comply with our request for information. Accordingly, the application of section 776(b) is warranted. In this case, the petition is the only information on the record which could form the basis for a dumping calculation. Therefore, the Department has based the margins for JSW on information in the petition.

In accordance with section 776(c) of the Act, the Department attempted to corroborate the petition information by comparing the petition information on export price to U.S. Customs data and Japanese export statistics. Both of these sources record prices based on the HTSUS subheading 7210.90.10.00, and tend to corroborate the prices contained in the petition. (See memorandum dated February 16, 1996.)

Because Lukens Steel Company (the petitioner) based the normal value calculation on constructed value in the petition, we were able to examine the supporting documentation regarding the valuation of variable costs for labor, electricity, natural gas, and other factors (principally backing steel and insert metal costs) in Japan and because that supporting information was from independent, public sources, we found that those costs have probative value.

Accordingly, we have preliminarily relied upon the information contained in the petition, and have assigned to JSW a margin of 118.53 percent.

All-Others Rate

Under section 735(c)(5) of the Act, the ''all-others rate'' will normally be a weighted average of the weighted-average dumping margins established for all exporters and producers, but will exclude any zero or *de minimis* margins, or any margins based entirely on the facts available. However, this provision also states that if there are no margins other than those that are zero, *de minimis*, or based on the facts available, the Department may use other reasonable methods to calculate the all-others rate, including a weighted-average of such margins. In this case, as discussed above, the margin assigned to JSW is 118.53 percent based on the facts available, and there is no alternative method upon which to base the all others rate. Therefore, the Department determines the all-others rate to be 118.53 percent as well.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all entries of Clad Plate Steel from Japan, that are entered, or withdrawn from warehouse for consumption, on or after the date of publication of this notice in the Federal Register. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the export price as shown

[1] Cladding is the association of layers of metals of different colors or natures by molecular interpenetration of the surfaces in contact. This limited diffusion is characteristic of clad products and differentiates them from products metalized in other manners (e.g., by normal electroplating). The various cladding processes include pouring molten cladding metal onto the basic metal followed by rolling; simple hot-rolling of the cladding metal to ensure efficient welding to the basic metal; any other method of deposition or superimposing of the cladding metal followed by any mechanical or thermal process to ensure welding (e.g., electro-cladding), in which the cladding metal (nickel, chromium, etc.) is applied to the basic metal by electroplating, molecular interpenetration of the surfaces in contact then being obtained by heat treatment at the appropriate temperature with subsequent cold-rolling. See Harmonized Commodity Description and Coding System Explanatory Notes, Chapter 72, General Note (IV) (C) (2) (e).

below. These suspension of liquidation instructions will remain in effect until further notice.

The dumping margins are as follows:

Exporter/manufacturer	Margin percentage
The Japan Steel Company	118.53
All others	118.53

The all others rate applies to all entries of subject merchandise except for entries from exporters that are identified above.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than March 1, 1996, and rebuttal briefs, no later than March 8, 1996. A list of authorities used and a summary of arguments made in the briefs should accompany these briefs. The summary must be limited to five pages total, including footnotes. In accordance with 19 CFR 353.38, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held at 10 a.m. Tuesday March 12, 1996, at the U.S. Department of Commerce, Room 3606, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B–099, within ten days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by May 1, 1996.

This determination is published pursuant to section 733(f) of the Act.

Dated: February 22, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–4548 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–122–823]

Certain Cut-to-Length Carbon Steel Plate From Canada: Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of changed circumstances antidumping duty administrative review, and revocation in part of antidumping duty order.

SUMMARY: On August 19, 1993, the Department of Commerce (the Department) published an antidumping duty order on certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada. On November 30, 1995, the Department simultaneously initiated a changed circumstances antidumping administrative review and issued the preliminary results of this review expressing an intent to revoke the order in part. We are now revoking this order in part, with regard to certain cut-to-length carbon steel plate free of Cobalt-60 and other radioactive nuclides (Cobalt-60 free carbon steel plate), based on the fact that domestic parties have expressed no interest in the importation or sale of Cobalt-60 free cut-to-length carbon steel plate produced in Canada.

EFFECTIVE DATE: February 28, 1996.

FOR FURTHER INFORMATION CONTACT: Ron Trentham or Zev Primor, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On November 3, 1995, Sidbec-Dosco Inc. (Sidbec-Dosco) and Canberra Industries, Inc., (Canberra) requested that the Department conduct a changed circumstances administrative review to determine whether to partially revoke the order with regard to Cobalt-60 free cut-to-length carbon steel plate. The order with regard to imports of other cut-to-length carbon steel plate was not affected by this request. In addition, on November 13, 1995, the petitioners informed the Department in writing that they did not object to the changed circumstances review and had no interest in the importation or sale of Cobalt-60 free cut-to-length carbon steel plate produced in Canada.

We preliminarily determined that petitioner's affirmative statement of no interest constitutes good cause for conducting a changed circumstances review. Consequently, on November 30, 1995, the Department published a notice of initiation and preliminary result of changed circumstances antidumping duty administrative review to determine whether to revoke this order in part (60 FR 61537). We gave interested parties an opportunity to comment on the preliminary results of this changed circumstances review. We received no comments.

Scope of Review

The merchandise covered by this changed circumstance review includes cut-to-length carbon steel plate meeting the following criteria: (1) 100% dry steel plates, virgin steel, no scrap content (free of Cobalt-60 and other radioactive nuclides); (2) .290 inches maximum thickness, plus 0.0, minus .030 inches; (3) 48.00 inch wide, plus .05, minus 0.0 inches; (4) 10 foot lengths, plus 0.5, minus 0.0 inches; (5) flatness, plus/minus 0.5 inch over 10 feet; (6) AISI 1006; (7) tension leveled; (8) pickled and oiled; and (9) carbon content, .03 to .08 (max). This merchandise is currently classified under subheading HTS 7208.43.0000. The HTS numbers are provided for convenience and Customs purposes. The written description of the scope of these reviews remains dispositive.

This changed circumstance administrative review covers all manufacturers/exporters of Cobalt 60 free cut-to-length carbon steel plate from Canada.

Final Results of Review; Partial Revocation of Antdumping Duty Order

The affirmative statement of no interest by petitioners in this case constitutes changed circumstances sufficient to warrant partial revocation of this order. Therefore, the Department is partially revoking this order on certain cut-to-length carbon steel plate from Canada with regard to Cobalt 60 free cut-to-length carbon steel plate, from Canada in accordance with sections 751 (b) and (d) and 782(h) of the Tariff Act of 1930, as amended (the

Act) and 19 CFR 353.25(d)(1). This partial revocation applies to all entries of the subject merchandise entered or withdrawn from warehouse, for consumption on or after August 1, 1995, the beginning date of the third administrative review period (August 1, 1995–July 31,1996) if initiated.

The Department will instruct the U.S. Customs Service (Customs) to proceed with liquidation, without regard to antidumping duties, of all unliquidated entries of Cobalt 60 free cut-to-length carbon steel plate from Canada entered, or withdrawn from warehouse, for consumption on or after August 1, 1995. The Department will further instruct Customs to refund with interest any estimated duties collected with respect to unliquidated entries of Cobalt 60 free cut-to-length carbon steel plate from Canada entered, or withdrawn from warehouse, for consumption on or after August 1, 1995, in accordance with Section 778 of the Act.

This notice also serves as a reminder to parties subject to administrative protection orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This changed circumstances administrative review, partial revocation of the antidumping duty order and notice are in accordance with sections 751 (b) and (d) and 782(h) of the Act and sections 353.22(f) and 353.25(d) of the Department's regulations.

Dated: February 21, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–4547 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–DS–P

INTERNATIONAL TRADE ADMINISTRATION

[A–475–818]

Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Pasta From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 28, 1996.

FOR FURTHER INFORMATION CONTACT: John Brinkmann or Michelle Frederick, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5288 or (202) 482–0186, respectively.

Applicable Statute and Regulations

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 Rounds Agreements Act (URAA).

Scope of Investigation

The scope of this investigation consists of certain non-egg dry pasta in packages of five pounds (or 2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons or polyethylene or polypropylene bags, of varying dimensions.

Excluded from the scope of this investigation are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

The merchandise under investigation is currently classifiable under item 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Case History

On December 14, 1995, the Department of Commerce (the Department) made its affirmative preliminary determination of sales at less than fair value (*Preliminary Determination*) in the above-referenced investigation (61 FR 1344, January 19, 1996). We disclosed our calculations for the preliminary determination on January 18 and 22, 1996, to the respondents and petitioners, respectively, pursuant to their requests. We disclosed our calculations to Pastificio Guido Ferrara (Ferrara), an interested party in the investigation on January 25, 1996. After publication of the preliminary determination, the petitioners, Ferrara, and two of the respondents De Matteis Agroalimentare S.p.A. (De Matteis), and La Molisana Industrie Alimentari S.p.A. (La Molisana) alleged that the Department made ministerial errors in calculating the preliminary margins. We have determined that ministerial errors were made with regards to the following respondents.

Arrighi

We agree that a ministerial error was made with regard to the calculation of the weighted-average percent margin. We also agree that a ministerial error was made with regard to the interest expense used for constructed value. (For specific details of this and the other allegations and our analysis of them, see Memorandum from the Team to Barbara R. Stafford dated February 9, 1996.)

Delverde

We agree with the petitioners that we made ministerial errors with respect to the cost of manufacture and the difference in merchandise adjustment for certain U.S. products. With regard to the calculation of U.S. packing expenses, we also agree with the petitioners' allegation that a ministerial error was made.

De Matteis

We agree with De Matteis' allegation that we inadvertently excluded a number of U.S. sales and double-counted its yield for purchased semolina.

Pagani

We agree with the petitioners' allegations that we inadvertently discarded certain sales although not for the reason alleged by the petitioners. We also agree that we miscoded one variable, excluded one variable from the price strings in our calculations, treated some of Pagani's expenses as if they were denominated in Italian lira, and used an incorrect programming statement which inadvertently caused some U.S. sales not to match to a normal value.

Amendment of Preliminary Determination

The Department has stated that it will amend a preliminary determination only to correct for significant ministerial errors (*i.e.*, corrections that result in a difference of five absolute percentage points and that are at least 25 percent greater or less than the preliminary margin, and corrections resulting in a margin of zero or de minimis). *See, Notice of Amendment to Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Bicycles From the*

People's Republic of China, 60 FR 64016 (December 13, 1995).

Given the facts of this investigation, as noted above, we are amending Arrighi's and Pagani's preliminary dumping margins to correct for the ministerial errors, since the correction of these ministerial errors results in a difference between a dumping margin of zero (or *de minimis*) and a margin of greater than *de minimis*. The corrected dumping margins for Arrighi and Pagani are 6.14 and 6.42 percent, respectively. As a result, the ''All Others'' rate is now 11.94 percent.

We are not amending the preliminary margins of De Matteis and Delverde because the corrections of the ministerial errors do not result in a difference of five absolute percentage points from the preliminary margin rates, nor do they result in a difference between a *de minimis* margin and a margin of greater than *de minimis*.

In its allegation, La Molisana stated that the alleged errors were not significant, as defined above, therefore, no further analysis was warranted. However, we are correcting the company's deposit rate. In the preliminary determination, we stated that the deposit rate was 14.03 percent. While the dumping margin that we calculated was correct, we incorrectly calculated the deposit rate. The correct rate is 14.75 percent.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of pasta from Italy that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this amended preliminary determination notice in the Federal Register. As discussed in the *Preliminary Determination*, we are subtracting for deposit purposes, the rate attributable to the export subsidies found in the concurrent countervailing duty investigation (0.62 percent for Arrighi) from the antidumping margin percentages for Arrighi. The ''All Others'' deposit rate is based on subtracting the rate attributable to the export subsidies found in the countervailing duty investigation for those companies that are respondents in the antidumping investigation and are found to have dumping margins. In keeping with Article 17.4 of the WTO Agreement on Subsidies and Countervailing Measures, the Department will terminate the suspension of liquidation in the companion countervailing duty investigation of *Certain Pasta From Italy*, effective February 14, 1996, which is 120 days after the date of publication of the preliminary determination. Accordingly, on February 14, 1996, the antidumping deposit rate will revert to the full amount calculated in this amended preliminary determination. These suspension of liquidation instructions will remain in effect until further notice.

Manufacturer/producer/exporter	Original margin	Revised margin	Deposit rate
Arrighi	.06	6.14	5.52
Pagani	.14	6.42	6.42
All Others	15.85	11.94	11.78

ITC Notification

In accordance with section 733(f) of the Act, we have notified the International Trade Commission of our amended preliminary determination.

This amended preliminary determination is published in accordance with section 733(f) of the Act.

Dated: February 21, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–4549 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Extension of Time Limits of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit of antidumping duty administrative review.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for preliminary and final results in the administrative review of the antidumping duty order on tapered roller bearings (TRBs) and parts thereof, finished and unfinished, from the People's Republic of China (PRC), covering the period June 1, 1994, through May 31, 1995, since it is not practicable to complete the reviews within the time limits mandated by the Tariff Act of 1930, as amended, 19 U.S.C. 1675(a) (the Act).

EFFECTIVE DATE: February 28, 1996.

FOR FURTHER INFORMATION CONTACT: Kris Campbell or Michael Rill, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce has received requests to conduct an administrative review of the antidumping duty order on TRBs from the PRC. On August 16, 1995, the Department initiated this administrative review covering the period June 1, 1994, through May 31, 1995. The Department adjusted the time limits by 28 days due to the government shutdowns, which lasted from November 14, 1995, to November 20, 1995, and from December 15, 1995, to January 6, 1996. *See* Memorandum to the file from Susan G. Esserman, Assistant Secretary for Import Administration, January 11, 1996.

It is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act. Therefore, in accordance with that section, the Department is extending the time limits for the preliminary results to July 27, 1996, and for the final results to January 23, 1997.

Interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 353.34(b). These extensions are in accordance with section 751(a)(3)(A) of the Act.

Dated: February 22, 1996,

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 96–4545 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–301–003, C–301–601]

Extension of Time Limit for Countervailing Duty Administrative Reviews of the Suspension Agreements on Roses and Other Fresh Cut Flowers and Miniature Carnations From Colombia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Extension of time limits for countervailing duty administrative reviews of suspension agreements.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for preliminary and final results of countervailing duty administrative reviews of the suspension agreements on Roses and Other Fresh Cut Flowers and Miniature Carnations from Colombia pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreement Act (hereinafter, ''the Act'').

EFFECTIVE DATE: February 28, 1996.

FOR FURTHER INFORMATION CONTACT: Jean Kemp or Rick Johnson, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington D.C. 20230, Telephone (202) 482–3793.

POSTPONEMENT: Under the Act, the Department may extend the deadline for completion of administrative reviews if it determines that it is not practicable to complete the review within the statutory time limit of 365 days.

Product	Country	Review period	Initiation date	Prelim due date	Final due date
Roses & Other Cut Flowers (C–301–003)	Colombia	1/1/94 12/31/94	4/14/95	2/28/95	8/26/95
Miniature Carnations (C–301–601)	Colombia	1/1/94 12/31/94	4/14/95	2/28/95	8/26/95

In accordance with section 751(a)(3)(A) of the Act, the Department is extending, as noted above, the preliminary results of these reviews from a 245-day period to no later than a 365-day period, and the final results of these reviews from a 120-day period to no later than a 180-day period.

Dated: February 22, 1996.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 96–4553 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–DS–P

Determination Not To Revoke Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Determination not to revoke countervailing duty order.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its determination not to revoke the countervailing duty order listed below.

EFFECTIVE DATE: February 28, 1996.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Cameron Cardozo, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On October 2, 1995, the Department published in the Federal Register (60 FR 51456) its intent to revoke the countervailing duty order listed below. Under 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party (as defined in section 355.25(i)(3), (i)(4), (i)(5), and (i)(6) of the regulations) objects to revocation and no interested party requests an administrative review by the last day of the 5th anniversary month.

Within the specified time frame, we received an objection from a domestic interested party to our intent to revoke the countervailing duty order. Therefore, because the requirements of 19 CFR 355.25(d)(4)(iii) have not been met, we will not revoke this order.

This determination is in accordance with 19 CFR 3545.25(d)(4).

COUNTERVAILING DUTY ORDER

Argentina:	
Leather (C–357–803)	10/02/90 55 FR 40212

Dated: February 12, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–4550 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–DS–P

Determination Not To Revoke Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Determination Not To Revoke Countervailing Duty Order.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its determination not to revoke the countervailing duty order listed below.

EFFECTIVE DATE: February 28, 1996.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Cameron Cardozo, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On August 31, 1995, the Department published in the Federal Register (60 FR 45398) its intent to revoke the countervailing duty order listed below. Under 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party (as defined in § 355.25 (i)(3), (i)(4), (i)(5), and (i)(6) of the regulations) objects to revocation and no interested party requests an administrative review by the last day of the 5th anniversary month.

Within the specified time frame, we received an objection from a domestic interested party to our intent to revoke the countervailing duty order. Therefore, because the requirements of 19 CFR 355.25(d)(4)(iii) have not been met, we will not revoke this order.

This determination is in accordance with 19 CFR 355.25(d)(4).

Countervailing duty order	
Canada: Steel Rail (C–122–805)	09/22/89, 54 FR 39032.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

Dated: February 22, 1996.

[FR Doc. 96–4554 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–DS–P

Intent to Revoke Countervailing Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Intent to Revoke Countervailing Duty Orders.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the countervailing duty orders listed below. Domestic interested parties who object to revocation of any of these orders must submit their comments in writing not later than the last day of March 1996.

EFFECTIVE DATE: February 28, 1996.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Cameron Cardozo, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke a countervailing duty order if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by the Department's regulations (at 19 C.F.R. 355.25(d)(4)), we are notifying the public of our intent to revoke the countervailing duty orders listed below, for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months.

In accordance with section 355.25(d)(4)(iii) of the Department's regulations, if no domestic interested party (as defined in sections 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the regulations) objects to the Department's intent to revoke these orders, and no interested party (as defined in section 355.2(i) of the regulations) requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, we shall conclude that the countervailing duty orders are no longer of interest to interested parties and proceed with the revocations. However, if an interested party does request an administrative review in accordance with the Department's notice of opportunity to request administrative review, or a domestic interested party does object to the Department's intent to revoke pursuant to this notice, the Department will not revoke the order.

Countervailing duty orders	
Brazil: Brass Sheet and Strip* (C–351–604)	01/08/87, 52 FR 698
Chile: Standard Carnations (C–337–601)	03/19/87, 52 FR 8635
France: Brass Sheet and Strip (C–427–603)	03/06/87, 52 FR 6996
Iran: Raw Pistachios (C–507–501)	03/11/86, 51 FR 8344
Israel: Oil Country Tubular Goods (C–508–601)	03/06/87, 52 FR 6999
Korea: Stainless Steel Cookware* (C–580–602)	01/20/87, 52 FR 2140
Spain: Stainless Steel Wire Rod* (C–469–004)	01/03/83, 48 FR 52
Taiwan: Stainless Steel Cookware* (C–583–604)	01/20/87, 52 FR 2141
Turkey: Welded Carbon Steel Pipes and Tubes (C–489–502)	03/07/86, 51 FR 7984
Turkey: Welded Carbon Steel Line Pipe (C–489–502)	03/07/86, 51 FR 7984

*The anniversary month for the cases with an asterisk was January. However, due to the partial shutdown of the Federal Government from December 16, 1995 through January 6, 1996, the Department was unable to publish a notice of intent to revoke these orders by January 1, 1996, pursuant to the Department's regulations. As a result, we have included these orders in this notice, which is the first notice of ''intent to revoke countervailing duty orders'' to be published since the Department resumed operations. We are giving all interested parties until March 31, 1996 to object to our intent to revoke these orders. In addition, the Department published a notice of ''Opportunity to Request Administrative Review'' of these orders on January 26, 1996. We did not receive a timely request for review of any of the orders. Therefore, if we do not receive a timely objection to our intent to revoke the orders, the orders will be revoked.

Opportunity to Object

Not later than the last day of March 1996, domestic interested parties may object to the Department's intent to revoke these countervailing duty orders. Any submission objecting to the revocation must contain the name and case number of the order and a statement that explains how the objecting party qualifies as a domestic interested party under sections 355.2(i)(3), (i)(4), (i)(5), or (i)(6) of the Department's regulations.

A separate objection must be filed for each order. In instances where two or more countervailing duty orders share the same case number (*e.g.*, C–489–502 covers carbon steel pipes and tubes and carbon steel line pipe from Turkey), an objection must be submitted for each separate order, as listed above.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230.

This notice is in accordance with 19 CFR 355.25(d)(4)(i).

Dated: February 22, 1996.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 96–4551 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

Government Owned Inventions

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of Government Owned Inventions Available for Licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government, as represented by the Department of Commerce, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR Part 404 to achieve expeditious commercialization of results of federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: Marcia Salkeld, National Institute of Standards and Technology, Office of Technology Partnerships, Building 820, Room 213, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket No. and Title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: The inventions available for licensing are:

NIST Docket No. 93–061

Title: Method and Apparatus for Monitoring Resin Crystallization and Shrinkage During Polymer Molding.

Description: This device is an optical fiber sensor which can be inserted into the mold cavity of an injection molding machine. The sensor can ''view'' a polymer resin during the mold filling and resin cooling phases of the process cycle. By detecting light reflections from the polymer and back surface of the mold, it is possible to monitor crystallization and shrinkage of the resin.

NIST Docket No. 94–004

Title: Electromagnetic Acoustic Transducer and Methods of Determining Physical Properties of Cylindrical Bodies Using an Electromagnetic Acoustic Transducer.

Description: An encircling electromagnetic-acoustic transducer provides a means of exciting and detecting specified types of ultrasonic resonant vibrations in cylindrical metallic objects. This device is useful for a variety of sensing applications where material properties or external parameters must be determined.

NIST Docket No. 94–024

Title: Construction of Large Structures By Robotic Crane Placement of Modular Bridge Sections.

Description: This system for efficient, safe, cost-effective construction of highway bridges, traffic overpasses and bypasses, and causeways over water or wetlands provides continuous site assembly of repetitive modular elements. The payload (one or more modular bridge sections), attached to the crane's cables, becomes a component of a stable lifting and positioning system. Installed modular elements become a staging platform for constructing subsequent modular elements.

NIST Docket No. 94–037CIP

Title: Arsenic Atom Source.

Description: This invention provides a source of arsenic atoms, representative of Group V and VI elements, usable in molecular beam epitaxy (MBE) as a growth source in the manufacture of semiconductors.

NIST Docket No. 95–009CIP

Title: Reference Substrates having Conducting Features Replicated in Single Crystal Films Formed on Insulating Material for Overlay- and Linewidth-Instrument Calibration and Method for Electrical Certification of Critical Dimensions.

Description: This NIST invention provides an improved test structure for measuring width, spacing, or similar geometrical characteristics of conductive lines formed on substrates in semiconductor fabrication. The method enables the calibration of instruments used for such measurements.

Dated: February 22, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–4540 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Proposal to Collect Socio-economic Information on West Coast Whiting Processor/Harvester Workers

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 29, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting 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: James Seger, Pacific Fisheries Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, Oregon, 97210 (Telephone: 503–326-6352); or Stephen P. Freese, F/NWO1 Trade and Industry Services Division, NMFS, BinC15700, 7600 Sand Point Way NE, Seattle, WA 98115, (206) 526–6113).

SUPPLEMENTARY INFORMATION:

I. Abstract

Data on the socio-economic characteristics of workers in the West Coast Pacific whiting harvesting and processing industry will be collected via a survey. The data will be used to supplement and validate other types of data which will be collected in focus groups convened as part of a social impact analysis of the likely effects of the next onshore-offshore allocation decision to be made by the Pacific Fishery Management Council and Secretary of Commerce. The data collection effort will involve two efforts: (1) Identification of the population to be sampled: Selected whiting processors and harvesters will be asked to provide information on the number of workers they employ by job category. (2) Collection of information from members of the population: The questions to be asked of workers in the whiting industry will cover the following topics: household income, number of dependents, dependence on whiting income and alternative sources of income, seasonality and length of employment in fisheries, age, marital status, level of education, location of permanent residence, length of time and participation in the community of permanent residence, and minority status.

II. Method of Collection

The survey will be administered either through a visit to processing/harvesting operations or through a mail survey. A representative sample will be selected from the firms in the industry. However, because the industry is small but diverse it is estimated that about half of all firms will be contacted.

III. Data

OMB Number: None
Form Number: None
Type of Review: Regular Submission
Affected Public: Whiting processor and harvesting firms and workers
Estimated Number of Respondents: 35 Processing and Harvesting Firms and 1100 Workers
Estimated Time Per Response: Processing Firms—primary and secondary (30 minutes); Harvesting

Firms (5 minutes); Workers (10 minutes)

Estimated Total Annual Burden Hours: Processing Firms (15) = 7.5 hours; Non-processor Harvesting Firms (20) = 1.5 hours; Workers 1100 workers*10 min = 183.3 hours; Total Burden Hours = 192

Estimated Total Annual Cost: $0.0 Respondents will not need to buy equipment or materials to respond to this survey

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 21, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–4555 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–22–P

Proposal to Collect Economic and Social Information From West Coast Limited Entry Fixed Gear Permit and Vessel Owners

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 29, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting 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 James L. Seger, Pacific Fishery Management Council, 2130 SW 5th, Suite 224, Portland, Oregon 97201 (telephone: 503–326–6352) or Stephen P. Freese, National Marine Fisheries Service, Trade and Industry Services Division, Northwest Region, 7600 Sand Point Way NE, Seattle, WA, 98115, (206) 526–6113.

I. Abstract

Data will be collected from vessel and permit owners on economic and social characteristics of firms harvesting in the West Coast limited entry fixed gear sablefish fishery. The fishery is currently managed as a derby fishery which has become intolerably short. The data to be collected is intended to assist the Council and Secretary of Commerce in evaluating the effects of alternatives to derby fishery management. These alternatives have substantial allocative implications. There is broad industry support for certain provisions in the alternatives, e.g. a requirement that the owner of the permit or vessel be on board the vessel during fishing operations. However, the information necessary to determine the degree to which such provisions would change or maintain the current practices is not available. The questions to be asked of vessel and permit owners in the fixed gear sablefish sector will cover the following topics: legal organization of ownership (e.g. individual, partnership, corporation, etc.), participation of the vessel owner in fishing operations, status of family members as participants in the fishing operation, number of employees, number of years of participation in the fishery, vessel's home port, number of dependents, dependence on fishing income, level of household income. Questions on other social characteristics (age, sex, marital status, education level) may also be asked.

II. Method of Collection

The survey will be administered through the mail. Following the initial mailing a reminder post card will be sent. Nonrespondents will be sent a second mailing of the questionnaire.

III. Data

OMB Number: None
Form Number: None
Type of Review: Regular Submission
Affected Public: Owners of West Coast Longline and Fishpot Groundfish Limited Entry Permits and Vessels
Estimated Number of Respondents: 240
Estimated Time Per Response: 5 minutes
Estimated Total Annual Burden Hours: 20 hours
Estimated Total Annual Cost: $0.0 Respondents will not need to purchase equipment or materials to respond to this survey

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 21, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–4556 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–22–P

Proposal to Collect Cost and Earnings Information on Participants in the Pacific Whiting Industry

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 29, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting 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 Stephen P. Freese, F/NWO1–Trade and Industry Services Division, Bin C15700, National Marine Fisheries Service, 7600 Sand Point Way NE, Seattle, WA 98115, (206) 526–6113.

SUPPLEMENTARY INFORMATION:

I. Abstract

Data on the costs and earnings of the four major groups of participants in the Pacific whiting industry will be collected. The following groups will be surveyed: (1) shorebased processors of whiting; (2) at-sea processors of whiting; (3) catcherboats that harvest Pacific whiting; and (4) processors of whiting wastes. Companies associated with these groups will be surveyed for production, cost, and revenue information. In general, questions will be asked concerning amount of time spent processing or harvesting whiting; amounts of whiting harvested, processed, or converted to waste; the harvesting or processing of species other than whiting; ex-vessel and wholesale revenues; product recovery rates; and fixed, variable, and capital costs. The data will be used for the Regulatory Impact Review (E.O. 12866) and the Regulatory Flexibility Act of the Pacific Whiting onshore-offshore allocation decisions to be made by the Pacific Fishery Management Council and the Secretary of Commerce. As required by law, data will be kept on a confidential basis.

II. Method of Collection

Because of the voluntary nature of the survey, the small number of companies in each user group, and the unique characteristics of each processor, it will be necessary to survey all processors and harvesters to develop appropriate estimates and to allow the necessary aggregation of data to protect confidentiality. Most likely, all of the data collection will be done by NMFS economists unless funding is located for contracting the catcher vessel survey. Questionnaires will be mailed to each member of each survey group and in many instances will be followed up by interviews where questions and responses can be clarified.

III. Data

OMB Number: None
Form Number: None
Type of Review: Regular Submission
Affected Public: Pacific whiting harvesters and processors and Pacific whiting waste processors
Estimated Number of Respondents: Total=79: 12 Shorebased processors, 17 at-sea processors, 40 catcher vessels, and 10 whiting waste processors
Estimated Time Per Response: 1 hour
Estimated Total Annual Burden Hours: 79
Estimated Total Annual Cost: $0.0 Respondents will not need to buy equipment or materials to respond to this survey

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 21, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–4557 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–22–P

[I.D. 021296C]

Marine Mammals

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

ACTION: Issuance of scientific research permit no. 982 (P254D).

SUMMARY: Notice is hereby given that the Pacific Whale Foundation (Paul H. Forestall, Ph.D., Principal Investigator), 101 N. Kihei Road, Kihei, Maui, HI 96753–8833, has been issued a permit to take (harass) humpback whales (*Megaptera novaeangliae*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (310/980–4016); and

Coordinator, Pacific Area Office, Southwest Region, NMFS, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/955–8831).

SUPPLEMENTARY INFORMATION: On November 15, 1995, notice was published in the Federal Register (60 FR 57402) that the above-named applicant had submitted a request for a scientific research permit to take (harass) humpback whales (*Megaptera novaeangliae*) over a 5-year period, during observational and photo-identification studies in waters in the Hawaiian Islands area. The requested permit has been issued, under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222).

Issuance of this permit, as required by the ESA, was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: February 15, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–4433 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–22–F

Patent and Trademark Office

[Docket No. 950531144–5304–02]

RIN 0651–XX02

Examination Guidelines for Computer-Related Inventions

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The Patent and Trademark Office (''Office'') is publishing the final version of the guidelines to be used in

examination of computer-related inventions.

EFFECTIVE DATE: March 29, 1996.

FOR FURTHER INFORMATION CONTACT: Karen A. Buchanan by telephone at (703) 305–8607, by facsimile at (703) 305–9373, by electronic mail at buchanan@uspto.gov, or by mail marked to her attention addressed to Office of the Solicitor, P.O. Box 15667, Arlington, VA 22215.

SUPPLEMENTARY INFORMATION:

A. Discussion of Public Comments

The Office received forty-six comments in response to the ''Request for Public Comment on the Proposed Examination Guidelines for Computer-Implemented Inventions'' published on June 2, 1995 (60 FR 28778) and the supporting legal analysis issued on October 3, 1995. The Office has carefully considered all of the comments, and a number of changes have been made in response.

These changes include: (1) Merging the guidelines and the legal analysis in support of the guidelines into a single document, (2) changing the subject title of the document from ''computer-implemented'' inventions to ''computer-related'' inventions, (3) clarifying the legal requirements for statutory subject matter, (4) segmenting the guidelines into separate statutory requirements for patentability, and (5) ensuring that the guidelines treated computer-related inventions in the same manner as inventions in other technologies to avoid creation of an artificial distinction between hardware-implemented and software-implemented inventions.

Several suggestions have not been adopted. These include: (1) Determining that claims for data structures per se and computer programs per se are statutory subject matter, (2) determining that claims for non-functional descriptive material embodied on computer-readable media are statutory subject matter, and (3) treating claims that infer functional descriptive material is embodied on computer-readable medium as claims limited to computer-readable medium embodying the functional descriptive material. The first two suggestions are addressed in detail in Section IV.B.1(a)–(c) and the last suggestion is addressed in detail in Section IV.B.2(d).

Several commentors encouraged the Office to improve its ability to conduct effective prior art searches. Such encouragement is consistent with the current Office plan to use automated search tools to effectively conduct such prior art searches.

B. Examination Guidelines for Computer-Related Inventions

I. Introduction

These ''Examination Guidelines for Computer-Related Inventions'' [1] (''Guidelines'') are to assist Office personnel in the examination of applications drawn to computer-related inventions.[2] The Guidelines are based on the Office's current understanding of the law and are believed to be fully consistent with binding precedent of the Supreme Court, the Federal Circuit and the Federal Circuit's predecessor courts.

These Guidelines do not constitute substantive rulemaking and hence do not have the force and effect of law. These Guidelines have been designed to assist Office personnel in analyzing claimed subject matter for compliance with substantive law. Rejections will be based upon the substantive law and it is these rejections which are appealable. Consequently, any failure by Office personnel to follow the Guidelines is neither appealable nor petitionable.

The Guidelines alter the procedures Office personnel will follow when examining applications drawn to computer-related inventions and are equally applicable to claimed inventions implemented in either hardware or software. The Guidelines also clarify the Office's position on certain patentability standards related to this field of technology. Office personnel are to rely on these Guidelines in the event of any inconsistent treatment of issues between these Guidelines and any earlier provided guidance from the Office.

The Freeman-Walter-Abele [3] test may additionally be relied upon in analyzing claims directed solely to a process for solving a mathematical algorithm.

Office personnel have had difficulty in properly treating claims directed to methods of doing business. Claims should not be categorized as methods of doing business. Instead, such claims should be treated like any other process claims, pursuant to these Guidelines when relevant.[4]

The appendix includes a flow chart of the process Office personnel will follow in conducting examinations for computer-related inventions.

II. Determine What Applicant Has Invented and Is Seeking To Patent

It is essential that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the initial review of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, Office personnel should state all reasons and bases for rejecting claims in the first Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

Prior to focusing on specific statutory requirements, Office personnel must begin examination by determining what, precisely, the applicant has invented and is seeking to patent,[5] and how the claims relate to and define that invention. Consequently, Office personnel will no longer begin examination by determining if a claim recites a ''mathematical algorithm.'' Rather, they will review the complete specification, including the detailed description of the invention, any specific embodiments that have been disclosed, the claims and any specific utilities that have been asserted for the invention.

A. Identify and Understand Any Practical Application Asserted for the Invention

The subject matter sought to be patented must be a ''useful'' process, machine, manufacture or composition of matter, i.e., it must have a practical application. The purpose of this requirement is to limit patent protection to inventions that possess a certain level of ''real world'' value, as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research.[6] Accordingly, a complete disclosure should contain some indication of the practical application for the claimed invention, i.e., why the applicant believes the claimed invention is useful.

The utility of an invention must be within the ''technological'' arts.[7] A computer-related invention is within the technological arts. A practical application of a computer-related invention is statutory subject matter. This requirement can be discerned from the variously phrased prohibitions against the patenting of abstract ideas, laws of nature or natural phenomena. An invention that has a practical application in the technological arts satisfies the utility requirement.[8]

* Footnotes to appear at end of docket.

The applicant is in the best position to explain why an invention is believed useful. Office personnel should therefore focus their efforts on pointing out statements made in the specification that identify all practical applications for the invention. Office personnel should rely on such statements throughout the examination when assessing the invention for compliance with all statutory criteria. An applicant may assert more than one practical application, but only one is necessary to satisfy the utility requirement. Office personnel should review the entire disclosure to determine the features necessary to accomplish at least one asserted practical application.

B. Review the Detailed Disclosure and Specific Embodiments of the Invention To Determine What the Applicant Has Invented

The written description will provide the clearest explanation of the applicant's invention, by exemplifying the invention, explaining how it relates to the prior art and explaining the relative significance of various features of the invention. Accordingly, Office personnel should begin their evaluation of a computer-related invention as follows:

—Determine what the programmed computer does when it performs the processes dictated by the software (i.e., the functionality of the programmed computer); [9]

—Determine how the computer is to be configured to provide that functionality (i.e., what elements constitute the programmed computer and how those elements are configured and interrelated to provide the specified functionality); and

—If applicable, determine the relationship of the programmed computer to other subject matter outside the computer that constitutes the invention (e.g., machines, devices, materials, or process steps other than those that are part of or performed by the programmed computer).[10]

Patent applicants can assist the Office by preparing applications that clearly set forth these aspects of a computer-related invention.

C. Review the Claims

The claims define the property rights provided by a patent, and thus require careful scrutiny. The goal of claim analysis is to identify the boundaries of the protection sought by the applicant and to understand how the claims relate to and define what the applicant has indicated is the invention. Office personnel must thoroughly analyze the language of a claim before determining if the claim complies with each statutory requirement for patentability.

Office personnel should begin claim analysis by identifying and evaluating each claim limitation. For processes, the claim limitations will define steps or acts to be performed. For products,[11] the claim limitations will define discrete physical structures. The discrete physical structures may be comprised of hardware or a combination of hardware and software.

Office personnel are to correlate each claim limitation to all portions of the disclosure that describe the claim limitation. This is to be done in all cases, i.e., whether or not the claimed invention is defined using means or step plus function language. The correlation step will ensure that Office personnel correctly interpret each claim limitation.

The subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.[12]

Office personnel must rely on the applicant's disclosure to properly determine the meaning of terms used in the claims.[13] An applicant is entitled to be his or her own lexicographer, and in many instances will provide an explicit definition for certain terms used in the claims. Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. Office personnel should determine if the original disclosure provides a definition consistent with any assertions made by applicant.[14] If an applicant does not define a term in the specification, that term will be given its ''common meaning.'' [15]

If the applicant asserts that a term has a meaning that conflicts with the term's art-accepted meaning, Office personnel should encourage the applicant to amend the claim to better reflect what applicant intends to claim as the invention. If the application becomes a patent, it becomes prior art against subsequent applications. Therefore, it is important for later search purposes to have the patentee employ commonly accepted terminology, particularly for searching text-searchable databases.

Office personnel must always remember to use the perspective of one of ordinary skill in the art. Claims and disclosures are not to be evaluated in a vacuum. If elements of an invention are well known in the art, the applicant does not have to provide a disclosure that describes those elements. In such a case the elements will be construed as encompassing any and every art-recognized hardware or combination of hardware and software technique for implementing the defined requisite functionalities.

Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure.[16] Where means plus function language is used to define the characteristics of a machine or manufacture invention, claim limitations must be interpreted to read on only the structures or materials disclosed in the specification and ''equivalents thereof.'' [17] Disclosure may be express, implicit or inherent. Thus, at the outset, Office personnel must attempt to correlate claimed means to elements set forth in the written description. The written description inlcudes the specification and the drawings. Office personnel are to give the claimed means plus function limitations their broadest reasonable interpretation consistent with all corresponding structures or materials described in the specification and their equivalents. Further guidance in interpreting the scope of equivalents is provided in the ''Examination Guidelines For Claims Reciting A Means or Step Plus Function Limitation In Accordance With 35 U.S.C. 112, 6th, 6th Paragraph'' (''Means Plus Function Guidelines'').[18]

While it is appropriate to use the specification to determine what applicant intends a term to mean, a positive limitation from the specification cannot be read into a claim that does not impose that limitation. A broad interpretation of a claim by Office personnel will reduce the possibility that the claim, when issued, will be interpreted more broadly than is justified or intended. An applicant can always amend a claim during prosecution to better reflect the intended scope of the claim.

Finally, when evaluating the scope of a claim, every limitation in the claim must be considered.[19] Office personnel may not dissect a claimed invention into discrete elements and then evaluate the elements in isolation. Instead, the claim as a whole must be considered.

III. Conduct a Thorough Search of the Prior Art

Prior to classifying the claimed invention under § 101, Office personnel are expected to conduct a thorough search of the prior art. Generaly, a

thorough search invovles reviewing both U.S. and foreign patents and nonpatent literature. In may cases, the result of such a search will contribute to Office personnel's understanding of the invention. Both claimed and unclaimed aspects of the invention described in the specification should be searched if there is a reasonable expectation that the unclaimed aspects may be later claimed. A search must take into account any structure or material described in the specification and its equivalents which correspond to the claimed means plus function limitation, in accordance with 35 U.S.C. § 112, sixth paragraph and the Means Plus Function Guidelines.[20]

IV. Determine Whether the Claimed Invention Complies With 35 U.S.C. 101

A. Consider the Breadth of 35 U.S.C. § 101 Under Controling Law

As the Supreme Court has held, Congress chose the expansive language of § 101 so as to include ''anything under the sun that is made by man.'' [21] Accordingly, § 101 of title 35, United States Code, provides:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.[22]

As cast, § 101 defines four categories of inventions that Congress deemed to be the appropriate subject matter of a patent; namely, processes, machines, manufactures and compositions of matter. The latter three categories define ''things'' while the first category defines ''actions'' (i.e., inventions that consist of a series of steps or acts to be performed).[23]

Federal courts have held that § 101 does have certain limits. First, the phrase ''anything under the sun that is made by man'' is limited by the text of § 101, meaning that one may only patent something that is a machine, manufacture, composition of matter or a process.[24] Second, § 101 requires that the subject matter sought to be patented be a ''useful'' invention. Accordingly, a complete definition of the scope of § 101, reflecting Congressional intent, is that any new and useful process, machine, manufacture or composition of matter under the sun that is made by man is the proper subject matter of a patent. Subject matter not within one of the four statutory invention categories or which is not ''useful'' in a patent sense is, accordingly, not eligible to be patented.

The subject matter courts have found to be outside the four statutory categories of invention is limited to abstract ideas, laws of nature and natural phenomena. While this is easily stated, determining whether an applicant is seeking to patent an abstract idea, a law of nature or a natural phenomenon has proven to be challenging. These three exclusions recognize that subject matter that is not a practical application or use of an idea, a law of nature or a natural phenomenon is not patentable.[25]

Courts have expressed a concern over ''preemption'' of ideas, laws of nature or natural phenomena.[26] The concern over preemption serves to bolster and justify the prohibition against the patenting of such subject matter. In fact, such concerns are only relevant to claiming a scientific truth or principle. Thus, a claim to an ''abstract idea'' is non-statutory because it does not represent a practical application of the idea, not because it would preempt the idea.

B. Classify the Claimed Invention as to Its Proper Statutory Category

To properly determine whether a claimed invention complies with the statutory invention requirements of § 101, Office personnel should classify each claim into one or more statutory or non-statutory categories. If the claim falls into a non-statutory category, that should not preclude complete examination of the application for satisfaction of all other conditions of patentability. This classification is only an initial finding at this point in the examination process that will be again assessed after the examination for compliance with §§ 112, 102 and 103 is completed and before issuance of any Office action on the merits.

If the invention as set forth in the written description is statutory, but the claims define subject matter that is not, the deficiency can be corrected by an appropriate amendment of the claims. In such a case, Office personnel should reject the claims drawn to non-statutory subject matter under § 101, but identify the features of the invention that would render the claimed subject matter statutory if recited in the claim.

1. Non-Statutory Subject Matter

Claims to computer-related inventions that are clearly non-statutory fall into the same general categories as non-statutory claims in other parts, namely natural phenomena such as magnetism, and abstract ideas or laws of nature which constitute ''descriptive material.'' Descriptive material can be characterized as either ''functional descriptive material'' or ''non-functional descriptive material.'' In this context, ''functional descriptive material'' consists of data structures [27] and computer programs which impart functionality when encoded on a computer-readable medium. ''Non-functional descriptive material'' includes but is not limited to music, literary works and a compilation or mere arrangement of data.

Both types of ''descriptive material'' are non-statutory when claimed as descriptive material per se. When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases.[28] When non-functional descriptive material is recorded on some computer-readable medium, it is not structurally and functionally interrelated to the medium but is merely carried by the medium. Merely claiming non-functional descriptive material stored in a computer-readable medium does not make it statutory. Such a result would exalt form over substance.[29] Thus, non-statutory music does not become statutory by merely recording it on a compact disk. Protection for this type of work is provided under the copyright law.

Claims to processes that do nothing more than solve mathematical problems or manipulate abstract ideas or concepts are more complex to analyze and are addressed below. See sections IV.B.2(d) and IV.B.2(e).

(*a*) *Functional Descriptive Material: ''Data Structures'' Representing Descriptive Material Per Se or Computer Programs Representing Computer Listings Per Se.* Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are neither physical ''things'' nor statutory processes.[30] Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the medium which permit the data structure's functionality to be realized, and is thus statutory.

Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical ''things,'' nor are they statutory processes, as they are not ''acts'' being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed aspects of

the invention which permit the computer program's functionality to be realized. In contrast, a claimed computer-readable medium encoded with a computer program defines structural and functional interrelationships between the computer program and the medium which permit the computer program's functionality to be realized, and is thus statutory. Accordingly, it is important to distinguish claims that define descriptive material per se from claims that define statutory inventions.

Computer programs are often recited as part of a claim. Office personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim. The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program. Only when the claimed invention taken as a whole is directed to a mere program listing, i.e., to only its description or expression, is it descriptive material per se and hence non-statutory.

Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process and Office personnel should treat a claim for a computer program, without the computer-readable medium needed to realize the computer program's functionality, as non-statutory functional descriptive material. When a computer program is claimed in a process where the computer is executing the computer program's instructions, Office personnel should treat the claim as a process claim. See Sections IV.B.2(b)–(e). When a computer program is recited in conjunction with a physical structure, such as a computer memory, Office personnel should treat the claim as a product claim. See Section IV.B.2(a).

(*b*) *Non-Functional Descriptive Material.* Descriptive material that cannot exhibit any functional interrelationship with the way in which computing processes are performed does not constitute a statutory process, machine, manufacture or composition of matter and should be rejected under § 101. Thus, Office personnel should consider the claimed invention as a whole to determine whether the necessary functional interrelationship is provided.

Where certain types of descriptive material, such as music, literature, art, photographs and mere arrangements or compilations of facts or data,[31] are merely stored so as to be read or outputted by a computer without creating any functional interrelationship, either as part of the stored data or as part of the computing processes performed by the computer, then such descriptive material alone does not impart functionality either to the data as so structured, or to the computer. Such ''descriptive material'' is not a process, machine, manufacture or composition of matter.

The policy that precludes the patenting of non-functional descriptive material would be easily frustrated if the same descriptive material could be patented when claimed as an article of manufacture.[32] For example, music is commonly sold to consumers in the format of a compact disc. In such cases, the known compact disc acts as nothing more than a carrier for non-functional descriptive material. The purely non-functional descriptive material cannot alone provide the practical application for the manufacture.

Office personnel should be prudent in applying the foregoing guidance. Non-functional descriptive material may be claimed in combination with other functional descriptive material on a computer-readable medium to provide the necessary functional and structural interrelationship to satisfy the requirements of § 101. The presence of the claimed non-functional descriptive material is not necessarily determinative of non-statutory subject matter. For example, a computer that recognizes a particular grouping of musical notes read from memory and upon recognizing that particular sequence, causes another defined series of notes to be played, defines a functional interrelationship among that data and the computing processes performed when utilizing that data, and as such is statutory because it implements a statutory process.

(c) Natural Phenomena Such as Electricity and Magnetism.—Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are non-statutory natural phenomena.[33] However, a claim directed to a practical application of a natural phenomenon such as energy or magnetism is statutory.[34]

2. Statutory Subject Matter

(a) Statutory Product Claims[35].—If a claim defines a useful machine or manufacture by identifying the physical structure of the machine or manufacture in terms of its hardware or hardware and software combination, it defines a statutory product.[36]

A machine or manufacture claim may be one or two types: (1) A claim that encompasses any and every machine for performing the underlying process or any and every manufacture that can cause a computer to perform the underlying process, or (2) a claim that defines a specific machine or manufacture. When a claim is of the first type, Office personnel are to evaluate the underlying process the computer will perform in order to determine the patentability of the product.

(i) Claims That Encompass Any Machine or Manufacture Embodiment of a Process. Office personnel must treat each claim as a whole. The mere fact that a hardware element is recited in a claim does not necessarily limit the claim to a specific machine or manufacture.[37] If a product claim encompasses any and every computer implementation of a process, when read in light of the specification, it should be examined on the basis of the underlying process. Such a claim can be recognized as it will:

—Define the physical characteristics of a computer or computer component exclusively as functions or steps to be performed on or by a computer, and
—Encompass any and every product in the stated class (e.g., computer, computer-readable memory) configured in any manner to perform that process.

Office personnel are reminded that finding a product claim to encompass any and every product embodiment of a process invention simply means that the Office will presume that the product claim encompasses any and every hardware or hardware platform and associated software implementation that performs the specified set of claimed functions. Because this is interpretative and nothing more, it does not provide any information as to the patentability of the applicant's underlying process or the product claim.

When Office personnel have reviewed the claim as a whole and found that it is not limited to a specific machine or manufacture, they shall identify how each claim limitation has been treated and set forth their reasons in support of their conclusion that the claim encompasses any and every machine or manufacture embodiment of a process. This will shift the burden to applicant to demonstrate why the claimed invention should be limited to a specific machine or manufacture.

If a claim is found to encompass any and every product embodiment of the

underlying process, and if the underlying process is statutory, the product claim should be classified as a statutory product. By the same token, if the underlying process invention is found to be non-statutory, Office personnel should classify the ''product'' claim as a ''non-statutory product.'' If the product claim is classified as being a non-statutory product on the basis of the underlying process, Office personnel should emphasize that they have considered all claim limitations and are basing their finding on the analysis of the underlying process.

(ii) Product Claims—Claims Directed to Specific Machines and Manufactures. If a product claim does not encompass any and every computer-implementation of a process, then it must be treated as a specific machine or manufacture. Claims that define a computer-related invention as a specific machine or specific article of manufacture must define the physical structure of the machine or manufacture in terms of its hardware or hardware and ''specific software.''[38] The applicant may define the physical structure of a programmed computer or its hardware or software components in any manner that can be clearly understood by a person skilled in the relevant art. Generally a claim drawn to a particular programmed computer should identify the elements of the computer and indicate how those elements are configured in either hardware or a combination of hardware and specific software.

To adequately define a specific computer memory, the claim must identify a general or specific memory and the specific software which provides the functionality stored in the memory.

A claim limited to a specific machine or manufacture, which has a practical application in the technological arts, is statutory. In most cases, a claim to a specific machine or manufacture will have a practical application in the technological arts.

(iii) Hypothetical Machine Claims Which Illustrate Claims of the Types Described in Sections IV.B.2(a) (i) and (ii). Two applicants present a claim to the following process:

A process for determining and displaying the structure of a chemical compound comprising:

(a) Solving the wavefunction parameters for the compound to determine the structure of a compound; and

(b) Displaying the structure of the compound determined in step (a).

Each applicant also presents a claim to the following apparatus:

A computer system for determining the three dimensional structure of a chemical compound comprising:

(a) Means for determining the three dimensional structure of a compound; and

(b) Means for creating and displaying an image representing a three-dimensional perspective of the compound.

In addition, each applicant provides the noted disclosures to support the claims:

Applicant A	Applicant B
Disclosure:	
The disclosure describes specific software, i.e., specific program code segments, that are to be employed to configure a general purpose microprocessor to create specific logic circuits. These circuits are indicated to be the ''means'' corresponding to the claimed means limitations.	The disclosure states that it would be a matter of routine skill to select an appropriate conventional computer system and implement the claimed process on that computer system. The disclosure does not have specific disclosure that corresponds to the two ''means'' limitations recited in the claim (i.e., no specific software or logic circuit). The disclosure does have an explanation of how to solve the wavefunction equations of a chemical compound, and indicates that the solutions of those wavefunction equations can be employed to determine the physical structure of the corresponding compound.
Result:	
Claim defines specific computer, patentability stands independently from process claim.	Claim encompasses any computer embodiment of process claim; patentability stands or falls with process claim.
Explanation:	
Disclosure identifies the specific machine capable of performing the indicated functions.	Disclosure does not provide any information to distinguish the ''implementation'' of the process on a computer from the factors that will govern the patentability determination of the process per se. As such, the patentability of this apparatus claim will stand or fall with that of the process claim.

(b) Statutory Process Claims. A claim that requires one or more acts to be performed defines a process. However, not all processes are statutory under § 101. To be statutory, a claimed computer-related process must either: (1) Result in a physical transformation outside the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skilled artisan (discussed in (i) below,[39]) or (2) be limited by the language in the claim to be practical application within the technological arts (discussed in (ii) below).[40] The claimed practical application must be a further limitation upon the claimed subject matter if the process is confined to the internal operations of the computer. If a physical transformation occurs outside the computer, it is not necessary to claim the practical application. A disclosure that permits a skilled artisan to practice the claimed invention, i.e., to put it to a practical use, is sufficient. On the other hand, it is necessary to claim the practical application if there is no physical transformation or if the process merely manipulates concepts or converts one set of numbers into another.

A claimed process is clearly statutory if it results in a physical transformation outside the computer, i.e., falls into one or both of the following specific categories (''safe harbors'').

(i) Safe Harbors

— *Independent Physical Acts (Post-Computer Process Activity)*

A process is statutory if it requires physical acts to be performed outside the computer independent of and following the steps to be performed by a programmed computer, where those acts involve the manipulative of tangible physical objects and result in the object having a different physical attribute or structure.[41] Thus, if a process claim includes one or more post-computer process steps that result in a physical transformation outside the computer (beyond merely conveying the direct result of the computer operation, see Section IV.B.2(d)(iii) below), the claim is clearly statutory.

Examples of this type of statutory process include the following:

—A method of curing rubber in a mold which relies upon updating process

parameters, using a computer processor to determine a time period for curing the rubber, using the computer processor to determine when the time period has been reached in the curing process and then opening the mold at that stage.

—A method of controlling a mechanical robot which relies upon storing data in a computer that represents various types of mechanical movements of the robot, using a computer processor to calculate positioning of the robot in relation to given tasks to be performed by the robot, and controlling the robot's movement and position based on the calculated position.

—*Manipulation of Data Representing Physical Objects or Activities (Pre-Computer Process Activity)*

Another statutory process is one that requires the measurements of physical objects or activities to be transformed outside of the computer into computer data,[42] where the data comprises signals corresponding to physical objects or activities external to the computer system, and where the process causes a physical transformation of the signals which are intangible representations of the physical objects or activities.[43]

Examples of this type of claimed statutory process include the following:

—A method of using a computer processor to analyze electrical signals and data representative of human cardiac activity by converting the signals to time segments, applying the time segments in reverse order to a high pass filter means, using the computer processor to determine the amplitude of the high pass filter's output, and using the computer processor to compare the value to a predetermined value. In this example the data is an intangible representation of physical activity, i.e., human cardiac activity. The transformation occurs when heart activity is measured and an electrical signal is produced. This process has real world value in predicting vulnerability to ventricular tachycardia immediately after a heart attack.

—A method of using a computer processor to receive data representing Computerized Axial Tomography (''CAT'') scan images of a patient, performing a calculation to determine the difference between a local value at a data point and an average value of the data in a region surrounding the point, and displaying the difference as a gray scale for each point in the image, and displaying the resulting image. In this example the data is an intangible representation of a physical object, i.e., portions of the anatomy of a patient. The transformation occurs when the condition of the human body is measured with X-rays and the X-rays are converted into electrical digital signals that represent the condition of the human body. The real world value of the invention lies in creating a new CAT scan image of body tissue without the presence of bones.

—A method of using a computer processor to conduct seismic exploration, by imparting spherical seismic energy waves into the earth from a seismic source, generating a plurality of reflected signals in response to the seismic energy waves at a set of receiver positions in an array, and summing the reflection signals to produce a signal simulating the reflection response of the earth to the seismic energy. In this example, the electrical signals processed by the computer represent reflected seismic energy. The transformation occurs by converting the spherical seismic energy waves into electrical signals which provide a geophysical representation of formations below the earth's surface. Geophysical exploration of formations below the surface of the earth has real world value.

If a claim does not clearly fall into one or both of the safe harbors, the claim may still be statutory if it is limited by the language in the claim to a practical application in the technological arts.

(ii) Computer-Related Processes Limited to a Practical Application in the Technological Arts. There is always some form of physical transformation within a computer because a computer acts on signals and transforms them during its operation and changes the state of its components during the execution of a process. Even though such a physical transformation occurs within a computer, such activity is not determinative of whether the process is statutory because such transformation alone does not distinguish a statutory computer process from a non-statutory computer process. What is determinative is not how the computer performs the process, but what the computer does to achieve a practical application.[44]

A process that merely manipulates an abstract idea or performs a purely mathematical algorithm is non-statutory despite the fact that it might inherently have some usefulness.[45] For such subject matter to be statutory, the claimed process must be limited to a practical application of the abstract idea or mathematical algorithm in the technological arts.[46] For example, a computer process that simply calculates a mathematical algorithm that models noise is non-statutory. However, a claimed process for digitally filtering noise employing the mathematical algorithm is statutory.

Examples of this type of claimed statutory process include the following:

—A computerized method of optimally controlling transfer, storage and retrieval of data between cache and hard disk storage devices such that the most frequently used data is readily available.

—A method of controlling parallel processors to accomplish multi-tasking of several computing tasks to maximize computing efficiency.[47]

—A method of making a word processor by storing an executable word processing application program in a general purpose digital computer's memory, and executing the stored program to impart word processing functionality to the general purpose digital computer by changing the state of the computer's arithmetic logic unit when program instructions of the word processing program are executed.

—A digital filtering process for removing noise from a digital signal comprising the steps of calculating a mathematical algorithm to produce a correction signal and subtracting the correction signal from the digital signal to remove the noise.

(c) Non-Statutory Process Claims. If the ''acts'' of a claimed process manipulate only numbers, abstract concepts or ideas, or signals representing any of the foregoing, the acts are not being applied to appropriate subject matter. Thus, a process consisting solely of mathematical operations, i.e., converting one set of numbers into another set of numbers, does not manipulate appropriate subject matter and thus cannot constitute a statutory process.

In practical terms, claims define non-statutory processes if they:

—Consist solely of mathematical operations without some claimed practical application (i.e., executing a ''mathematical algorithm''); or

—Simply manipulate abstract ideas, e.g., a bid[68] or a bubble hierarchy,[49] without some claimed practical application.

A claimed process that consists solely of mathematical operations is non-statutory whether or not it is performed on a computer. Courts have recognized a distinction between types of mathematical algorithms, namely, some define a ''law of nature'' in

mathematical terms and others merely describe an ''abstract idea.''[50]

Certain mathematical algorithms have been held to be non-statutory because they represent a mathematical definition of a law of nature or a natural phenomenon. For example, a mathematical algorithm representing the formula $E=mc^2$ is a ''law of nature''—it defines a ''fundamental scientific truth'' (i.e., the relationship between energy and mass). To comprehend how the law of nature relates to any object, one invariably has to perform certain steps (e.g., multiplying a number representing the mass of an object by the square of a number representing the speed of light). In such a case, a claimed process which consists solely of the steps that one must follow to solve the mathematical representation of $E=mc^2$ is indistinguishable from the law of nature and would ''preempt'' the law of nature. A patent cannot be granted on such a process.

Other mathematical algorithms have been held to be non-statutory because they merely describe an abstract idea. An ''abstract idea'' may simply be any sequence of mathematical operations that are combined to solve a mathematical problem. The concern addressed by holding such subject matter non-statutory is that the mathematical operations merely describe an idea and do not define a process that represents a practical application of the idea.

Accordingly, when a claim reciting a mathematical algorithm is found to define non-statutory subject matter the basis of the § 101 rejection must be that, when taken as a whole, the claim recites a law of nature, a natural phenomenon, or an abstract idea.

(d) Certain Claim Language Related to Mathematical Operation Steps of a Process. (i) Intended Use or Field of Use Statements. Claim language that simply specifies an intended use or field of use for the invention generally will not limit the scope of a claim, particularly when only presented in the claim preamble. Thus, Office personnel should be careful to properly interpret such language.[51] When such language is treated as non-limiting, Office personnel should expressly identify in the Office action the claim language that constitutes the intended use or field of use statements and provide the basis for their findings. This will shift the burden to applicant to demonstrate why the language is to be treated as a claim limitation.

(ii) Necessary Antecedent Step to Performance of a Mathematical Operation or Independent Limitation on a Claimed Process. In some situations, certain acts of ''collecting'' or ''selecting'' data for use in a process consisting of one or more mathematical operations will not further limit a claim beyond the specified mathematical operation step(s). Such acts merely determine values for the variables used in the mathematical formulae used in making the calculations.[52] In other words, the acts are dictated by nothing other than the performance of a mathematical operation.[53]

If a claim requires acts to be performed to create data that will then be used in a process representing a practical application of one or more mathematical operations, those acts must be treated as further limiting the claim beyond the mathematical operation(s) per se. Such acts are data gathering steps not dictated by the algorithm but by other limitations which require certain antecedent steps and as such constitute an independent limitation on the claim.

Examples of acts that independently limit a claimed process involving mathematical operations include:

—A method of conducting seismic exploration which requires generating and manipulating signals from seismic energy waves before ''summing'' the values represented by the signals;[54] and

—A method of displaying X-ray attenuation data as a signed gray scale signal in a ''field'' using a particular algorithm, where the antecedent steps require generating the data using a particular machine (e.g., a computer tomography scanner).[55]

Examples of steps that do not independently limit one or more mathematical operation steps include:

—''Perturbing'' the values of a set of process inputs, where the subject matter ''perturbed'' was a number and the act of ''perturbing'' consists of substituting the numerical values of variables;[56] and

—Selecting a set of arbitrary measurement point values.[57]

Such steps do not impose independent limitations on the scope of the claim beyond those required by the mathematical operation limitation.

(iii) Post-Mathematical Operation Step Using Solution or Merely Conveying Result of Operation. In some instances, certain kinds of post-solution ''acts'' will not further limit a process claim beyond the performance of the preceding mathematical operation step even if the acts are recited in the body of a claim. If, however, the claimed acts represent some ''significant use'' of the solution, those acts will invariably impose an independent limitation on the claim. A ''significant use'' is any activity which is more than merely outputting the direct result of the mathematical operation. Office personnel are reminded to rely on the applicant's characterization of the significance of the acts being assessed to resolve questions related to their relationship to the mathematical operations recited in the claim and the invention as a whole.[58] Thus, if a claim requires that the direct result of a mathematical operation be evaluated and transformed into something else, Office personnel cannot treat the subsequent steps as being indistinguishable from the performance of the mathematical operation and thus not further limiting on the claim. For example, acts that require the conversion of a series of numbers representing values of a wavefunction equation for a chemical compound into values representing an image that conveys information about the three-dimensional structure of the compound and the displaying of the three-dimensional structure cannot be treated as being part of the mathematical operations.

Office personnel should be especially careful when reviewing claim language that requires the performance of ''post-solution'' steps to ensure that claim limitations are not ignored.

Examples of steps found not to independently limit a process involving one or more mathematical operation steps include:

—Step of ''updating alarm limits'' found to constitute changing the number value of a variable to represent the result of the calculation;[59]

—Final step of magnetically recording the result of a calculation;[60]

—Final step of ''equating'' the process outputs to the values of the last set of process inputs found to constitute storing the result of calculations;[61]

—Final step of displaying result of a calculation ''as a shade of gray rather than as simply a number'' found to not constitute distinct step where the data were numerical values that did not represent anything;[62]

—Step of ''transmitting electrical signals representing'' the result of calculations.[63]

(e) Manipulation of Abstract Ideas Without a Claimed Practical Application. A process that consists solely of the manipulation of an abstract idea without any limitation to a practical application is non-statutory.[64] Office personnel have the burden to establish a prima facie case that the claimed invention taken as a whole is directed to the manipulation of abstract ideas without a practical application.

In order to determine whether the claim is limited to a practical application of an abstract idea, Office personnel must analyze the claim as a whole, in light of the specification, to understand what subject matter is being manipulated and how it is being manipulated. During this procedure, Office personnel must evaluate any statements of intended use or field of use, any data gathering step and any post-manipulation activity. See section IV.B.2(d) above for how to treat various types of claim language. Only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under § 101. Further, when such a rejection is made, Office personnel must expressly state how the language of the claims has been interpreted to support the rejection.

V. Evaluate Application for Compliance With 35 U.S.C. 112

Office personnel should begin their evaluation of an application's compliance with § 112 by considering the requirements of § 112, second paragraph. The second paragraph contains two separate and distance requiremtns: (1) That the claim(s) set forth the subject matter applicants regard as the invention, and (2) that the claim(s) particularly point out and distinctly claim the invention. An application will be deficient under § 112, second paragraph when (1) evidence including admissions, other than in the application as filed, shows applicant has stated that he or she regards the invention to be different from what is claimed, or when (2) the scope of the claims is unclear.

After evaluation of the application for compliance with § 112, second paragraph, Office personnel should then evaluate the application for compliance with the requirements of § 112, first paragraph. The first paragraph contains three separate and distinct requirements: (1) Adequate written description, (2) enablement, and (3) best mode. An application will be deficient under § 112, first paragraph when the written description is not adequate to identify what the applicant has invented, or when the disclosure does not enable one skilled in the art to make and use the invention as claimed without undue experimentation. Deficiencies related to disclosure of the best mode for carrying out the claimed invention are not usually encountered during examination of an application because evidence to support such a deficiency is seldom in the record.

If deficiencies are discovered with respect to § 112, Office personnel must be careful to apply the appropriate paragraph of § 112.

A. Determine Whether the Claimed Invention Complies With 35 U.S.C. 112, Second Paragraph Requirements

1. Claims Setting Forth the Subject Matter Applicant Regards as Invention

Applicant's specification must conclude with claim(s) that set forth the subject matter which the applicant regards as the invention. The invention set forth in the claims is presumed to be that which applicant regards as the invention, unless applicant considers the invention to be something different from what has been claimed as shown by evidence, including admissions, outside the application as filed. An applicant may change what he or she regards as the invention during the prosecution of the application.

2. Claims Particularly Pointing Out and Distinctly Claiming the Invention

Office personnel shall determine whether the claims set out and circumscribe the invention with a reasonable degree of precision and particularity. In this regard, the definiteness of the language must be analyzed, not in a vacuum, but always in light of the teachings of the disclosure as it would be interpreted by one of ordinary skill in the art. Applicant's claims, interpreted in light of the disclosure, must reasonably apprise a person of ordinary skill in the art of the intervention. However, the applicant need not explicitly recite in the claims every feature of the invention. For example, if an applicant indicates that the invention is a particular computer, the claims do not have to recite every element or feature of the computer. In fact, it is preferable for claims to be drafted in a form that emphasizes what the applicant has invented (i.e., what is new rather than old).

A means plus function limitation is distinctly claimed if the description makes it clear that the means corresponds to well-defined structure of a computer or computer component implemented in either hardware or software and its associated hardware platform. Such means may be defined as:

—A programmed computer with particular functionality implemented in hardware or hardware and software;

—A logic circuit or other component of a programmed computer that performs a series of specifically identified operations dictated by a computer program; or

—A computer memory encoded with executable instructions representing a computer program that can cause a computer to function in a particular fashion.

The scope of a ''means'' limitation is defined as the corresponding structure or material (e.g., a specific logic circuit) set forth in the written description and equivalents.[65] Thus, a claim using means plus function limitations without corresponding disclosure of specific structures or materials that are not well-know fails to particularly point out and distinctly claim the invention. For example, if the applicant discloses only the functions to be performed and provides no express, implied or inherent disclosure of hardware or a combination of hardware and software that performs the functions, the application has not disclosed any ''structure'' which corresponds to the claimed means. Office personnel should reject such claims under § 112, second paragraph. The rejection shifts the burden to the applicant to describe at least one specific structure or material that corresponds to the claimed means in question, and to identify the precise location or locations in the specification where a description of least one embodiment of that claimed means can be found. In contrast, if the corresponding structure is disclosed to be a memory or logic circuit that has been configured in some manner to perform that function (e.g., using a defined computer program), the application has disclosed ''structure'' which corresponds to the claimed means.

When a claim or part of a claim is defined in computer program code, whether in source or object code format, a person of skill in art must be able to ascertain the metes and bounds of the claimed invention. In certain circumstances, as where a self-documenting programming code is employed, use of programming language in a claim would be permissible because such program source code presents ''sufficiently high-level language and descriptive identifiers'' to make it universally understood to others in the art without the programmer having to insert any comments.[66] Applicants should be encouraged to functionally define the steps the computer will perform rather than simply reciting source or object code instructions.

B. Determine Whether the Claimed Invention Complies with 35 U.S.C. 112, First Paragraph Requirements

1. Adequate Written Description

The satisfaction of the enablement requirement does not satisfy the written description requirement.[67] For the written description requirement, an applicant's specification must reasonably convey to those skilled in the art that the applicant was in possession of the claimed invention as of the date of invention. The claimed invention subject matter need not be described literally, i.e., using the same terms, in order for the disclosure to satisfy the description requirement.

2. Enabling Disclosure

An applicant's specification must enable a person skilled in the art to make and use the claimed invention without undue experimentation. The fact that experimentation is complex, however, will not make it undue if a person of skill in the art typically engages in such complex experimentation. For a computer-related invention, the disclosure must enable a skilled artisan to configure the computer to possess the requisite functionality, and, where applicable, interrelate the computer with other elements to yield the claimed invention, without the exercise of undue experimentation. The specification should disclose how to configure a computer to possess the requisite functionality or how to integrate the programmed computer with other elements of the invention, unless a skilled artisan would know how to do so without such disclosure.[68]

For many computer-related inventions, it is not unusual for the claimed invention to involve more than one field of technology. For such inventions, the disclosure must satisfy the enablement standard for each aspect of the invention.[69] As such, the disclosure must teach a person skilled in each art how to make and use the relevant aspect of the invention without undue experimentation. For example, to enable a claim to a programmed computer that determines and displays the three-dimensional structure of a chemical compound, the disclosure must

—enable a person skilled in the art of molecular modeling to understand and practice the underlying molecular modeling processes; and

—enable a person skilled in the art of computer programming to create a program that directs a computer to create and display the image representing the three-dimensional structure of the compound.

In other words, the disclosure corresponding to each aspect of the invention must be enabling to a person skilled in each respective art.

In many instances, an applicant will describe a programmed computer by outlining the significant elements of the programmed computer using a functional block diagram. Office personnel should review the specification to ensure that along with the functional block diagram the disclosure provides information that adequately describes each ''element'' in hardware or hardware and its associated software and how such elements are interrelated.[70]

VI. Determine Whether the Claimed Invention Complies With 35 U.S.C. 102 and 103

As is the case for inventions in any field of technology, assessment of a claimed computer-related invention for compliance with sections 102 and 103 begins with a comparison of the claimed subject matter to what is known in the prior art. If no differences are found between the claimed invention and the prior art, the claimed invention lacks novelty and is to be rejected by Office personnel under section 102. Once distinctions are identified between the claimed invention and the prior art, those distinctions must be assessed and resolved in light of the knowledge possessed by a person of ordinary skill in the art. Against this backdrop, one must determine whether the invention would have been obvious at the time the invention was made. If not, the claimed invention satisfies section 103. Factors and considerations dictated by law governing section 103 apply without modification to computer-related inventions.

If the difference between the prior art and the claimed invention is limited to descriptive material stored on or employed by a machine, Office personnel must determine whether the descriptive material is functional descriptive material or non-functional descriptive material, as described supra in Section IV. Functional descriptive material is a limitation in the claim and must be considered and addressed in assessing patentability under section 103. Thus, a rejection of the claim as a whole under section 103 is inappropriate unless the functional descriptive material would have been suggested by the prior art. Non-functional descriptive material cannot render non-obvious an invention that would have otherwise been obvious.[17]

Common situations involving non-functional descriptive material are:

—A computer-readable storage medium that differs from the prior art solely with respect to non-functional descriptive material, such as music or a literary work, encoded on the medium,

—A computer that differs from the prior art solely with respect to non-functional descriptive material that cannot alter how the machine functions (i.e., the descriptive material does not reconfigure the computer), or

—A process that differs from the prior art only with respect to non-functional descriptive material that cannot alter how the process steps are to be performed to achieve the utility of the invention.

Thus, if the prior art suggests storing a song on a disk, merely choosing a particular song to store on the disk would be presumed to be well within the level of ordinary skill in the art at the time the invention was made. The difference between the prior art and the claimed invention is simply a rearrangement of non-functional descriptive material.

VII. Clearly Communicate Findings, Conclusions and Their Bases

Once Office personnel have concluded the above analyses of the claimed invention under all the statutory provisions, including sections 101, 112, 102 and 103, they should review all the proposed rejections and their bases to confirm their correctness. Only then should any rejection be imposed in an Office action. The Office action should clearly communicate the findings, conclusions and reasons which support them.

Notes

[1] These Guidelines are final and replace the ''Proposed Examination Guidelines for Computer-Implemented Inventions,'' 60 FR 28,778 (June 2, 1995) and the supporting legal analysis issued on October 3, 1995.

[2] ''Computer-related inventions'' include inventions implemented in a computer and inventions employing computer-readable media.

[3] *In re Abele*, 684 F.2d 902, 905–07, 214 USPQ 682, 685–87 (CCPA 1982); *In re Walter*, 618 F.2d 758, 767, 205 USPQ 397, 406–07 (CCPA 1980); *In re Freeman*, 573 F.2d 1237, 1245, 197 USPQ 464, 471 (CCPA 1978).

[4] See, e.g., *In re Toma*, 575 F.2d 872, 877–78, 197 USPQ 852, 857 (CCPA 1978); *In re Musgrave*, 431 F.2d 882, 893, 167 USPQ 280, 289–90 (CCPA 1970). See also *In re Schrader*, 22 F.3d 290, 297–98, 30 USPQ2d 1455, 1461–62 (Fed. Cir. 1994) (Newman, J., dissenting); *Paine, Webber, Jackson & Curtis, Inc. v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 564 F. Supp. 1358, 1368–69, 218 USPQ 212, 220 (D. Del. 1983).

[5] As the courts have repeatedly reminded the Office: ''The goal is to answer the question 'What did applicants invent?' '' *Abele,* 684 F.2d at 907, 214 USPQ at 687. Accord, e.g., *Arrhythmia Research Tech. v. Corazonix Corp.,* 958 F.2d 1053, 1059, 22 USPQ2d 1033, 1038 (Fed. Cir. 1992).

[6] *Brenner v. Manson,* 383 U.S. 519, 528–36, 148 USPQ 689, 693–96 (1966); *In re Ziegler,* 992 F.2d 1197, 1200–03, 26 USPQ2d 1600, 1603–06 (Fed. Cir. 1993).

[7] See, e.g., *Musgrave,* 431 F.2d at 893, 167 USPQ at 289–90, cited with approval in *Schrader,* 22 F.3d at 297, 30 USPQ2d at 1461 (Newman, J., dissenting). The definition of ''technology'' is the ''application of science and engineering to the development of machines and procedures in order to enhance or improve human conditions, or at least to improve human efficiency in some respect.'' Computer Dictionary 384 (Microsoft Press, 2d ed. 1994).

[8] E.g., *In re Alappat,* 33 F.3d 1526, 1543, 31 USPQ2d 1545, 1556–57 (Fed. Cir. 1994) (in banc) (quoting *Diamond v. Diehr,* 450 U.S. 175, 192, 209 USPQ 1, 10 (1981)). See also id. at 1569, 31 USPQ2d at 1578–79 (Newman, J., concurring) (''unpatentability of the principle does not defeat patentability of its practical applications'') (citing *O'Reilly v. Morse,* 56 U.S. (15 How.) 62, 114–19 (1854)); *Arrhythmia,* 958 F.2d at 1056, 22 USPQ2d at 1036; *Musgrave,* 431 F.2d at 893, 167 USPQ at 289–90 (''All that is necessary, in our view, to make a sequence of operational steps a statutory 'process' within 35 U.S.C. 101 is that it be in the technological arts so as to be in consonance with the Constitutional purpose to promote the progress of 'useful arts.' Const. Art. 1, sec. 8.'').

[9] *Arrhythmia,* 958 F.2d at 1057, 22 USPQ2d at 1036: It is of course true that a modern digital computer manipulates data, usually in binary form, by performing mathematical operations, such as addition, subtraction, multiplication, division, or bit shifting, on the data. But this is only how the computer does what it does. Of importance is the significance of the data and their manipulation in the real world, i.e., what the computer is doing.

[10] Many computer-related inventions do not consist solely of a computer. Thus, Office personnel should identify those claimed elements of the computer-related invention that are not part of the programmed computer, and determine how those elements relate to the programmed computer. Office personnel should look for specific information that explains the role of the programmed computer in the overall process or machine and how the programmed computer is to be integrated with the other elements of the apparatus or used in the process.

[11] Products may be either machines, manufacturers or compositions of matter. Product claims are claims that are directed to either machines, manufacturers or compositions of matter.

[12] Examples of language that may raise a question as to the limiting effect of the language in a claim:

(a) statements of intended use or field of use,

(b) ''adapted to'' or ''adapted for'' clauses,

(c) ''wherein'' clauses, or

(d) ''whereby'' clauses.

This list of examples is not intended to be exhaustive.

[13] *Markman v. Westview Instruments,* 52 F.3d 967, 980, 34 USPQ2d 1321, 1330 (Fed. Cir.) (in banc), cert. granted, 116 S. Ct. 40 (1995).

[14] See, e.g., *In re Paulsen,* 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994) (inventor may define specific terms used to describe invention, but must do so ''with reasonable clarity, deliberateness, and precision'' and, if done, must '' 'set out his uncommon definition in some manner within the patent disclosure' so as to give one of ordinary skill in the art notice of the change'' in meaning) (quoting *Intellicall, Inc. v. Phonometrics, Inc.,* 952 F.2d 1384, 1387–88, 21 USPQ2d 1383, 1386 (Fed. Cir. 1992)).

[15] *Id.* at 1480, 31 USPQ2d at 1674.

[16] See, e.g., *In re Zletz,* 893 F.2d 319, 321–22, 13 USPQ2D 1320, 1322 (Fed. Cir. 1989) (''During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow. * * * The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed. * * * An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claims scope be removed, as much as possible, during the administrative process.'').

[17] Two in banc decisions of the Federal Circuit have made clear that the Office is to interpret means plus function language according to 35 U.S.C. § 112, sixth paragraph. In the first, *In re Donaldson,* 16 F.3d 1189, 1193, 29 USPQ2d 1845, 1848 (Fed. Cir. 1994), the court held:

The plain and unambiguous meaning of paragraph six is that one construing means-plus-function language in a claim must look to the specification and interpret that language in light of the corresponding structure, material, or acts described therein, and equivalents thereof, to the extent that the specification provides such disclosure. Paragraph six does not state or even suggest that the PTO is exempt from this mandate, and there is no legislative history indicating that Congress intended that the PTO should be. Thus, this court must accept the plain and precise language of paragraph six.

Consistent with *Donaldson,* in the second decision, *Alappat,* 33 F.3d at 1540, 31 USPQ2d at 1554, the Federal Circuit held:

Given Alappat's disclosure, it was error for the Board majority to interpret each of the means clauses in claim 15 so broadly as to ''read on any and every means for performing the function'' recited, as it said it was doing, and then to conclude that claim 15 is nothing more than a process claim wherein each means clause represents a step in that process. Contrary to suggestions by the Commissioner, this court's precedents do not support the Board's view that the particular apparatus claims at issue in this case may be viewed as nothing more than process claims.

[18] 1162 O.G. (May 17, 1994).

[19] See, e.g. *Diamond v. Diehr,* 450 U.S. at 188–89, 209 USPQ at 9 (''In determining the eligibility of respondents' claimed process for patent protection under § 101, their claims must be considered as a whole. It is inappropriate to dissect the claims into old and new elements and then to ignore the presence of the old elements in the analysis. This is particularly true in a process claim because a new combination of steps in a process may be patentable even though all the constituents of the combination were well known and in common use before the combination was made.'').

[20] See supra note 18 and accompanying text.

[21] *Diamond v. Chakrabarty,* 447 U.S. 303, 308–09, 206 USPQ 193, 197 (1980):

In choosing such expansive terms as ''manufacture'' and ''composition of matter,'' modified by the comprehensive ''any,'' Congress plainly contemplated that the patent laws would be given wide scope. The relevant legislative history also supports a broad construction. The Patent Act of 1793, authored by Thomas Jefferson, defined statutory subject matter as ''any new and useful art, machine, manufacture, or composition of matter, or any new or useful improvement [thereof].'' Act of Feb. 21, 1793, § 1, 1 Stat. 319. The Act embodied Jefferson's philosophy that ''ingenuity should receive a liberal encouragement.'' 5 Writings of Thomas Jefferson 75–76 (Washington ed. 1871). See *Graham v. John Deere Co.,* 383 U.S. 1, 7–10 (1966). Subsequent patent statutes in 1836, 1870, and 1874 employed this same broad language. In 1952, when the patent laws were recodified, Congress replaced the word ''art'' with ''process,'' but otherwise left Jefferson's language intact. The Committee Reports accompanying the 1952 Act inform us that Congress intended statutory subject matter to ''include anything under the sun that is made by man.'' S. Rep. No. 1979, 82d Cong., 2d Sess. 5 (1952); H.R. Rep. No. 1923, 82d Cong., 2d Sess. 6 (1952).

This perspective has been embraced by the Federal Circuit:

The plain and unambiguous of § 101 is that any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may be patented if it meets the requirements for patentability set forth in Title 35, such as those found in §§ 102, 103, and 112. The use of the expansive term ''any'' in § 101 represents Congress' intent not to place any restrictions on the subject matter for which a patent may be obtained beyond those specifically recited in § 101 and the other parts of Title 35. * * * Thus, it is improper to read into § 101 limitations as to the subject matter that may be patented where the legislative history does not indicate that Congress clearly intended limitations. [*Alappat,* 33 F.3d at 1542, 31 USPQ2D at 1556.]

[22] 35 U.S.C. 101 (1994).

[23] 35 U.S.C. § 100(b) (''The term 'process' means process, art, or method, and includes a new use of a known process, machine, manufacture, composition of matter, or material.'').

[24] E.g., *Alappat,* 33 F.3d at 1542, 31 USPQ2d at 1556; *In re Warmerdam,* 33 F.3d 1354, 1358, 31 USPQ2d 1754, 1757 (Fed. Cir. 1994).

[25] See. e.g., *Rubber-Tip Pencil Co. v. Howard,* 87 U.S. 498, 507 (1874) (''idea of itself is not patentable, but a new device by which it may be made practically useful is''); *Mackay Radio & Telegraph Co.* v. *Radio Corp. of America,* 306 U.S. 86, 94 (1939) (''While a scientific truth, or the mathematical expression of it, is not patentable invention, a novel and useful structure created with the aid of knowledge of scientific truth may be.''); Warmerdam, 33 F.3d at 1360, 31 USPQ2d at 1759 (''steps of 'locating' a medical axis, and 'creating' a bubble hierarchy * * * describe nothing more than a manipulation of basic mathematical constructs, the paradigmatic 'abstract idea' '').

[26] The concern over preemption was expressed as early as 1852. See *Le Roy* v. *Tatham,* 55 U.S. 156, 175 (1852) (''A principle, in the abstract, is a fundamental truth; an original cause; a motive; these cannot be patented, as no one can claim in either of them an exclusive right.'')' *Funk Brothers Seed Co.* v. *Kalo Inoculant Co.,* 333 U.S. 127, 132, 76 USPQ 280, 282 (1948) (combination of six species of bacteria held to be non-statutory subject matter).

[27] The definition of ''data structure'' is ''a physical or logical relationship among data elements, designed to support specific data manipulation functions.'' The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).

[28] Compare *In re Lowry,* 32 F.3d 1579, 1583–84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure that increases computer efficiency held statutory) and *Warmerdam,* 33 F.3d at 1360–61, 31 USPQ2d at 1759 (claim to computer having specific memory held statutory product-by-process claim) with *Warmerdam,* 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held non-statutory).

[29] *In re Sarkar,* 588 F.2d 1330, 1333, 200 USPQ 132, 137 (CCPA 1978):

[E]ach invention must be evaluated as claimed; yet semantogenic considerations preclude a determination based solely on words appearing in the claims. In the final analysis under § 101, the claimed invention, as a whole, must be evaluated for what it is.

Quoted with approval in *Abele,* 684 F.2d at 907, 214 USPQ at 687. See also *In re Johnson,* 589 F.2d 1070, 1077, 200 USPQ 199, 206 (CCPA 1978) (''form of the claim is often an exercise in drafting'').

[30] See, e.g., *Warmerdam,* 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held non-statutory).

[31] Computer Dictionary 210 (Microsoft Press, 2d ed. 1994):

Data consists of facts, which become information when they are seen in context and convey meaning to people. Computers process data without any understanding of what that data represents.

[32] See supra note 29.

O'Reilly v. Morse, 56 U.S. (15 How.) at 112–14.

[34] *Id.* at 114–19.

[35] Products may be either machines, manufactures or compositions of matter.

A machine is:

a concrete thing, consisting of parts or of certain devices and combinations of devices. *Burr v. Duryee,* 68 U.S. (1 Wall.) 531, 570 (1863).

A manufacture is:

the production of articles for use from raw or prepared materials by giving to these materials new forms, qualities, properties or combinations, whether by hand-labor or by machinery.

Diamond v. Chakrabarty, 447 U.S. at 308, 206 USPQ at 196–97 (quoting *American Fruit Growers, Inc. v. Brogdex Co.,* 283 U.S. 1, 11 (1931).

A composition of matter is:

a composition[] of two or more substances [or] * * * a[] composite article[], whether * * * [it] be the result of chemical union, or of mechanical mixture, whether * * * [it] be [a] gas[], fluid[], powder[], or solid[].

Diamond v. Chakrabarty, 447 U.S. at 308, 206 USPQ at 197 (quoting *Shell Development Co. v. Watson,* 149 F. Supp. 279, 280, 113 USPQ 265, 266 (D.D.C. 1957), aff'd per curiam, 252 F.2d 861, 116 USPQ 428 (D.C. Cir. 1958).

[36] See, e.g., *Lowry,* 32 F.3d at 1583, 32 USPQ2d at 1034–35; USPQ2d at 1760.

[37] Cf. *In re Iwahashi,* 888 F.2d 1370, 1374–75, 12 USPQ2d 1908, 1911–12 (Fed. Cir. 1989), cited with approval in *Alappat,* 33 F.3d at 1544, n.24, 31 USPQ2d at 1558 n.24.

[38] ''Specific software'' is defined as a set of instructions implemented in a specific program code segment. See Computer Dictionary 78 (Microsoft Press, 2d ed. 1994) for definition of ''code segment.''

[39] See *Diamond v. Diehr,* 450 U.S. at 183–84, 209 USPQ at 6 (quoting *Cochrane v. Deener,* 94 U.S. 780, 787–88 (1877) (''A [statutory] process is a mode of treatment of certain materials to produce a given result. It is an act, or a series of acts, performed upon the subject-matter to be transformed and reduced to a different state or thing. * * * The process requires that certain things should be done with certain substances, and in a certain order; but the tools to be used in doing this may be of secondary consequence.'').

[40] See *Alappat,* 33 F.3d at 1543, 31 USPQ2d at 1556–57 (quoting *Diamond v. Diehr,* 450 U.S. at 192, 209 USPQ at 10). See also *id.* at 1569, 31 USPQ2d at 1578–79 (Newman, J., concurring) (''unpatentability of the principle does not defeat patentability of its practical applicants'') (citing *O'Reilly v. Morse,* 56 U.S. (15 How.) at 114–19).

[41] *Diamond v. Diehr,* 450 U.S. at 187, 209 USPQ at 8.

[42] See *In re Gelnovatch,* 595 F.2d 32, 41 n.7, 201 USPQ 136, 145 n.7 (CCPA 1979) (data-gathering step did not measure physical phenomenon).

[43] *Schrader,* 22 F.3d at 294, 30 USPQ2d at 1459 citing with approval *Arrhythmia,* 958 F.2d at 1058–59, 22 USPQ2d at 1037–38; *Abele,* 684 F.2d at 909, 214 USPQ at 688; *In re Taner,* 681 F.2d 787, 790, 214 USPQ, 678, 681 (CCPA 1982).

[44] See supra note 9.

[45] In *Sarkar,* 588 F.2d at 1335, 200 USPQ at 139, the court explained why this approach must be followed:

No mathematical equation can be used, as a practical matter, without establishing and substituting values for the variables expressed therein. Substitution of values dictated by the formula has thus been viewed as a form of mathematical step. If the steps of gathering and substituting values were alone sufficient, every mathematical equation, formula, or algorithm having any practical use would be per se subject to patenting as a ''process'' under § 101. Consideration of whether the substitution of specific values is enough to convert the disembodied ideas present in the formula into an embodiment of those ideas, or into an application of the formula, is foreclosed by the current state of the law.

[46] See supra note 40.

[47] See, e.g., *In re Bernhart,* 417 F.2d 1395, 1400, 163 USPQ 611, 616 (CCPA 1969).

[48] *Schrader,* 22 F.3d at 293–94, 30 USPQ2d at 1458–59.

[49] *Warmerdam,* 33 F.3d at 1360, 31 USPQ2d at 1759.

[50] See, e.g., *In re Meyer,* 688 F.2d 789, 794–95, 215 USPQ 193, 197 (CCPA 1982) (''Scientific principles, such as the relationship between mass and energy, and laws of nature, such as the acceleration of gravity, namely, $a=32$ ft./sec.^{2}, can be represented in mathematical format. However, some mathematical algorithms and formulae do not represent scientific principles or laws of nature; they represent ideas or mental processes and are simply logical vehicles or communicating possible solutions to complex problems. The presence of a mathematical algorithm or formula in a claim is merely an indication that a scientific principle, law of nature, idea or mental process may be the subject matter claimed and, thus, justify a rejection of that claim under 35 USC § 101; but the presence of a mathematical algorithm or formula is only a signpost for further analysis.''). Cf. *Alappat,* 33 F.3d at 1543 n.19, 31 USPQ2d at 1556 n.19 in which the Federal Circuit recognized the confusion:

The Supreme Court has not been clear * * * as to whether such subject matter is excluded from the scope of § 101 because it represents laws of nature, natural phenomena, or abstract ideas. See *Diehr,* 450 U.S. at 186 (viewed mathematical algorithm as a law of nature); *Benson,* 409 U.S. at 71–72 (treated mathematical algorithm as an ''idea''). The Supreme Court also has not been clear as to exactly what kind of mathematical subject matter may not be patented. The Supreme Court has used, among others, the terms ''mathematical algorithm,'' ''mathematical formula,'' and ''mathematical equation'' to describe types of mathematical subject matter not entitled to patent protection standing alone. The Supreme Court has not set forth, however, any consistent or clear explanation of what it intended such terms or how these terms are related, if at all.

[51] *Walter,* 618 F.2d at 769, 205 USPQ at 409 (Because none of the claimed steps were explicitly or implicitly limited to their application in seismic prospecting activities, the court held that ''[a]lthough the claim preambles relate the claimed invention to the art of seismic prospecting, the claims themselves are not drawn to methods of or apparatus for seismic prospecting; they are drawn to improved mathematical methods for interpreting the results of seismic

prospecting.''). Cf. *Alappat,* 33 F.3d at 1544, 31 USPQ2d at 1558.

[52] *Walter,* 618 F.2d at 769–70, 205 USPQ at 409.

[53] See supra note 45.

[54] *Taner,* 681 F.2d at 788, 214 USPQ at 679.

[55] *Abele,* 684 F.2d at 908, 214 USPQ at 687 (''The specification indicates that such attenuation data is available only when an X-ray beam is produced by a CAT scanner, passed through an object, and detected upon its exist. Only after these steps have been completed is the algorithm performed, and the resultant modified data displayed in the required format.'').

[56] *Gelnovatch,* 595 F.2d at 41 n.7, 201 USPQ at 145 n.7 (''Appellants' claimed step of perturbing the values of a set of process inputs (step 3), in addition to being a mathematical operation, appears to be a data-gathering step of the type we have held insufficient to change a nonstatutory method of calculation into a statutory process. * * * In this instance, the perturbed process inputs are not even measured values of physical phenomena, but are instead derived by numerically changing the values in the previous set of process inputs.'').

[57] *Sarkar,* 588 F.2d at 1331, 200 USPQ at 135.

[58] See *Sarkar,* 588 F.2d at 1332 n.6, 200 USPQ at 136 n.6 (''post-solution'' construction that was being modeled by the mathematical process not considered in deciding § 101 question because applicant indicated that such construction was not a material element of the invention).

[59] *Parker v. Flook,* 437 U.S. 584, 585, 198 USPQ 193, 195 (1978).

[60] *Walter,* 618 F.2d at 770, 205 USPQ at 409 (''If § 101 could be satisfied by the mere recordation of the results of a nonstatutory process on some record medium, even the most unskilled patent draftsman could provide for such a step.'').

[61] *Gelnovatch,* 595 F.2d at 41 n.7, 201 USPQ at 145 n.7.

[62] *Abele,* 684 F.2d at 909, 214 USPQ at 688 (''This claim presents no more than the calculation of a number and display of the result, albeit in a particular format. The specification provides no greater meaning to 'data in a field' than a matrix of numbers regarding of by what method generated. Thus, the algorithm is neither explicitly nor implicitly applied to any certain process. Moreover, that the result is displayed as a shade of gray rather than as simply a number provides no greater or better information, considering the broad range of applications encompassed by the claim.'').

[63] *In re De Castelete,* 562 F.2d at 1236, 1244, 195 USPQ 439, 446 (CCPA 1977) (''That the computer is instructed to transmit electrical signals, representing the results of its calculations, does not constitute the type of 'post solution activity' found in *Flook,* [437 U.S. 584, 198 USPQ 193 (1978)], and does not transform the claim into one for a process merely using an algorithm. The final transmitting step constitutes nothing more than reading out the result of the calculations.'').

[64] E.g., *Warmerdam,* 33 F.3d at 1360, 31 USPQ2d at 1759. See also *Schrader,* 22 F.3d at 295, 30 USPQ2d at 1459.

[65] See supra note 18 and accompanying text.

[66] Computer Dictionary 353 (Microsoft Press, 2d ed. 1994) (definition of ''self-documenting code'').

[67] See *In re Barker,* 559 F.2d 588, 591, 194 USPQ 470, 472 (CCPA 1977), cert. denied, *Barker* v. *Parker,* 434 U.S. 1064 (1978) (a specification may be sufficient to enable one skilled in the art to make and use the invention, but still fail to comply with the written description requirement). See also *In re DiLeone,* 436 F.2d 1404, 1405, 168 USPQ 592, 593 (CCPA 1971).

[68] See, e.g., *Northern Telecom* v. *Datapoint Corp.,* 908 F.2d 931, 941–43, 15 USPQ 2d 1321, 1328–30 (Fed. Cir.), cert. denied, *Datapoint Corp.* v. *Northern Telecom,* 498 U.S. 920 (1990) (judgment of invalidity reversed for clear error where expert testimony on both sides showed that a programmer of reasonable skill could write a satisfactory program with ordinary effort based on the disclosure); *DeGeorge* v. *Bernier,* 768 F.2d 1318, 1324, 226 USPQ 758, 762–63 (Fed. Cir. 1985) (superseded by statute with respect to issues not relevant here) (invention was adequately disclosed for purposes of enablement even though all of the circuitry of a word processor was not disclosed, since the undisclosed circuitry was deemed inconsequential because it did not pertain to the claimed circuit); *In re Phillips,* 608 F.2d 879, 882–83, 203 USPQ 971, (CCPA 1979) (computerized method of generating printed architectural specifications dependent on use of glossary of predefined standard phrases and error-checking feature enabled by overall disclosure generally defining errors); *In re Donohue,* 550 F.2d 1269, 1271, 193 USPQ 136, 137 (CCPA 1977) (''Employment of block diagrams and descriptions of their functions is not fatal under 35 U.S.C. § 112, first paragraph, providing the represented structure is conventional and can be determined without undue experimentation.'') *In re Knowlton,* 481 F.2d 1357, 1366–68, 178 USPQ 486, 493–94 (CCPA 1973) (examiner's contention that a software invention needed a detailed description of all the circuitry in the complete hardware system reversed).

[69] See *In re Naquin,* 398 F.2d 863, 866, 158 USPQ 317, 319 (CCPA 1968) (''When an invention, in its different aspects, involves distinct arts, that specification is adequate which enables the adepts of each art, those who have the best chance of being enabled, to carry out the aspect proper to their specialty.'') Ex parte *Zechnall,* 194 USPQ 461, 461 (Bd. App. 1973) (''appellants' disclosure must be held sufficient if it would enable a person skilled in the electronic computer art, in cooperation with a person skilled in the fuel injection art, to make and use appellants' invention'').

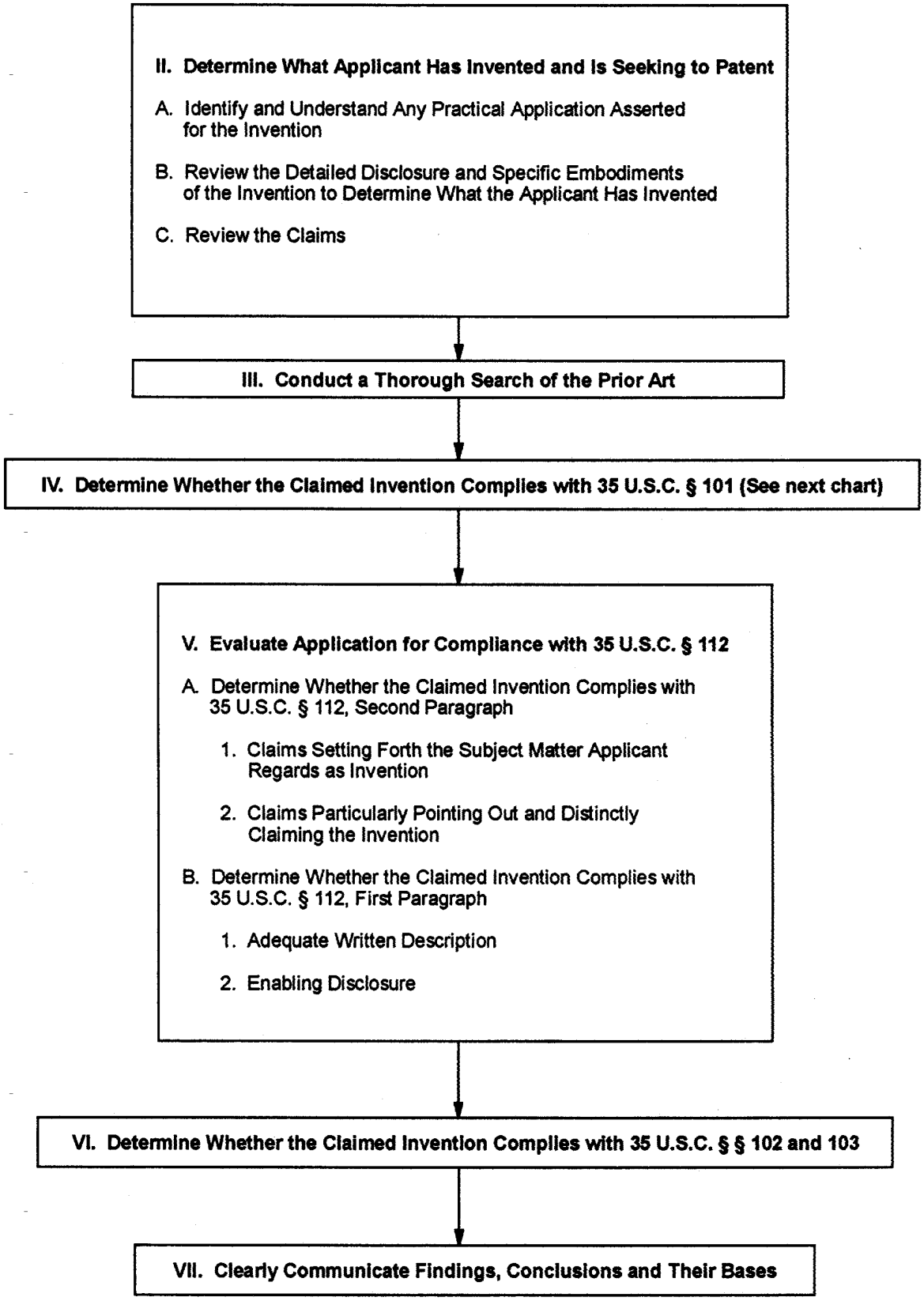
[70] See *In re Scarbrough,* 500 F.2d 560, 565, 182 USPQ 298, 301–02 (CCPA 1974) (''It is not enough that a person skilled in the art, by carrying on investigations along the line indicated in the instant application, and by a great amount of work eventually might find out how to make and use the instant invention. The statute requires the application itself to inform, not to direct others to find out for themselves (citation omitted).''); *Knowlton,* 481 F.2d at 1367, 178 USPQ at 493 (disclosure must constitute more than a ''sketchy explanation of flow diagrams or a bare group of program listings together with a reference to a proprietary computer on which they might be run''). See also *In re Gunn,* 537 F.2d 1123, 1127–28, 190 USPQ 402 (CCPA 1976); *In re Brandstadter,* 484 F.2d 1395, 1406–07, 17 USPQ 286, 294 (CCPA 1973); and *In re Ghiron,* 442 F.2d 985, 991, 169 USPQ 723, 727–28 (CCPA 1971).

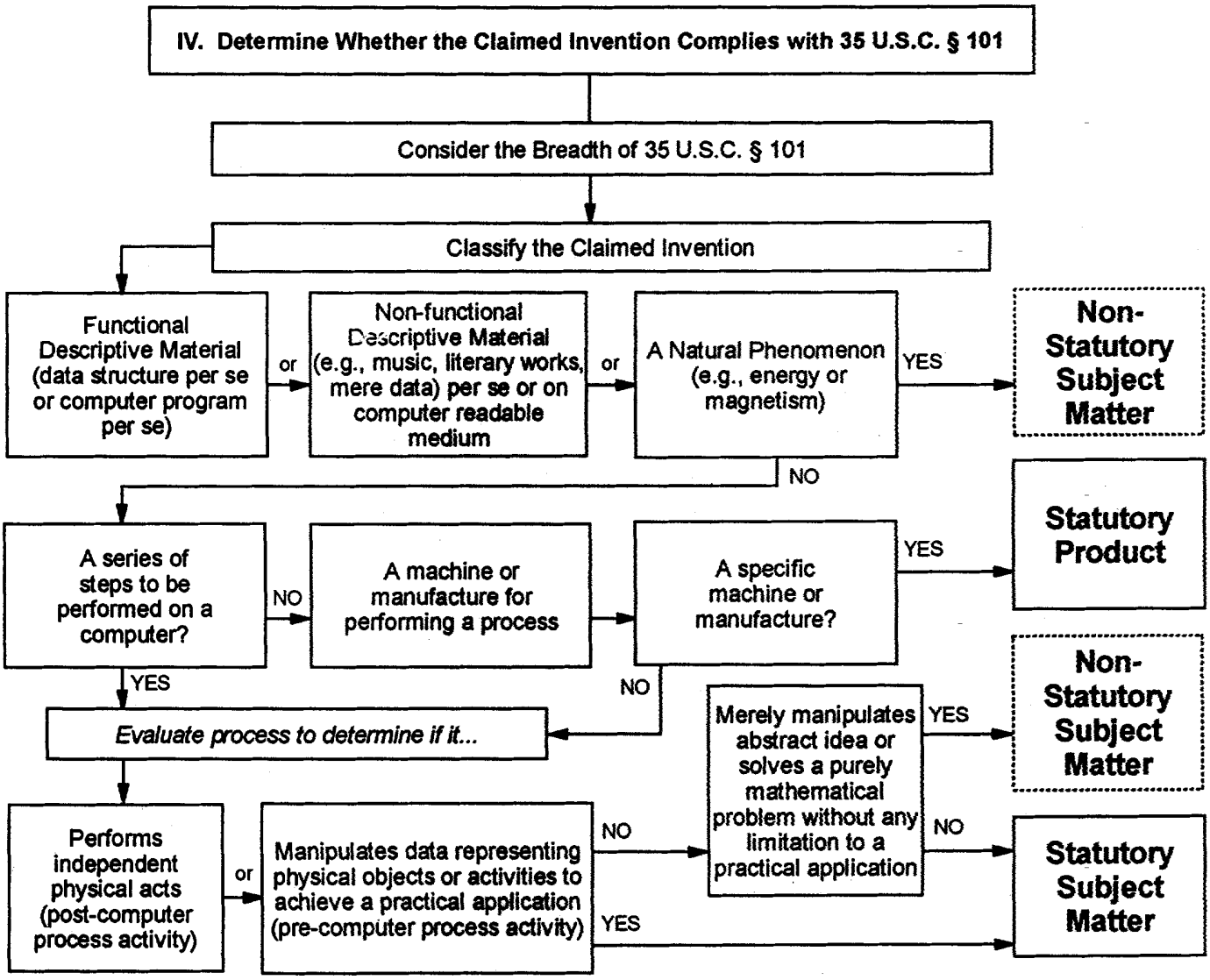
[71] Cf. *In re Gulack,* 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability).

Appendix to Examination Guidelines for Computer-Related Inventions

BILLING CODE 3510–16–M

Computer-Related Inventions





Dated: February 16, 1996.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 96–4140 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–16–C

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denial of Participation in the Special Access Program

February 22, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs denying the right to participate in the Special Access Progam.

EFFECTIVE DATE: February 26, 1996.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Committee for the Implementation of Textile Agreements (CITA) has determined that Gator of Florida is in violation of the requirements set forth for participation in the Special Access Program.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs, effective on February 26, 1996, to deny Gator of Florida the right to participate in the Special Access Program for a period of six months, from February 26, 1996 through August 25, 1996.

Requirements for participation in the Special Access Program are available in Federal Register notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; and 54 FR 50425, published on December 6, 1989.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 22, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: The purpose of this directive is to notify you that the Committee for the Implementation of Textile Agreements has determined that Gator of Florida is in violation of the requirements for participation in the Special Access Program.

Effective on February 26, 1996, you are directed to prohibit Gator of Florida from further participation in the Special Access Program for a period of six months, from February 26, 1996 through August 25, 1996. For the period February 26, 1996 through August 25, 1996, goods accompanied by Form ITA–370P which are presented to U.S. Customs for entry under the Special Access Program will not be accepted. In addition, for the period February 26, 1996 through August 25, 1996, you are directed not to sign ITA–370P forms for export of U.S.-formed and cut fabric for Gator of Florida.

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–4558 Filed 2–27–96; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Notice of Availability (NOA) for the Proposed Wyoming Valley Levee Raising Project in the Vicinity of Wilkes-Barre, Luzerne County, Pennsylvania

AGENCY: U.S. Army Crops of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) and Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers, Baltimore District, is conducting the final public review of the Final Supplemental Environmental Impact Statement (FSEIS) as part of the public coordination effort regarding the proposed Wyoming Valley Levee Raising Project, Luzerne County, Pennsylvania. The purpose of the levee raising project is to modify the five existing flood protection projects to provide protection against reoccurrence of a flood equal to that caused by Tropical Storm Agnes in June 1972. The proposed project consists of raising the levees and floodwalls 3 to 5 feet, appurtenant features, and structural and non-structural mitigation measures for increased flood impacts. The project was authorized under Section 401(a) of the 1986 Water Resources Development Act. Luzerne County is the non-Federal sponsor for this project.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and Final Supplemental Environmental Impact Statement (FSEIS) can be addressed to Mr. Richard Starr, Project Manager, Baltimore District, U.S. Army Corps of Engineers, ATTN: CENAB–PL–RP, P.O. Box 1715, Baltimore, Maryland 21203–1715, telephone (410) 962–4633. E–mail address: richard.r.starr@ccmail.nab.usace.army.mil

SUPPLEMENTARY INFORMATION:

1. The Baltimore District, U.S. Army Corps of Engineers, has prepared a Final Phase II General Design Memorandum (GDM) which has evaluated an increased level of protection for the existing flood protection systems along the Susquehanna River is the Wyoming Valley of Luzerne County in the vicinity of Wilkes-Barre, Pennsylvania. Additionally, the study evaluated increased flooding due to the proposed project and alternative solutions for this problem in areas upstream and downstream in Lackawanna, Luzerne, Columbia, Montour, Northumberland, and Snyder Counties. A Final Supplemental Environmental Impact Statement (FSEIS) has been prepared. This FSEIS documents all study activities, including changes in the project actions, existing conditions and project effects since the FEIS was prepared for the Phase I GDM in 1981.

2. The decision to implement the project actions was based on an evaluation of the probable impact of the proposed activities on the public interest. That decision reflects the national concern for both protection and utilization of important resources. The benefit which may reasonably be expected to accrue from the proposal was balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal, including the cumulative effects, thereof, were considered; among these factors are conservation; economics; aesthetics; general environmental concerns; wetlands; cultural values; fish and wildlife values; threatened and endangered species; flood hazards; flood plain values; hazardous, toxic and radioactive waste; terrestrial resources; land use; recreation; water supply and conservation; water quality; energy needs; safety; food and fiber production; and the general needs and welfare of the people.

3. Final evaluation of the levee raising project indicates that the overall quality of the study area will be maintained with exception to some social impacts caused by the increased flooding; environmental impacts to a 0.38 acre river fringe emergent wetland; and cultural impacts to one archeological site and two architectural structures. Mitigation plans have been developed for all of these impacts. Only minor impacts to aquatic resources are expected to occur as a result of limited fill activities in waters of the United States.

4. An evaluation of the proposed actions on waters of the United States was performed pursuant to the guidelines promulgated by the

Administrator, U.S. Environmental Protection Agency, under the authority of Section 401 and Section 404 of the Clean Water Act. The Section 404(b)1 evaluations and other preliminary analyses indicate that the proposed project will result in no significant adverse impacts to the aquatic ecosystem, recreation, aesthetics, flood protection or economic values of the waterways. The U.S. Army Corps of Engineers, Baltimore District, has received a Section 401 water quality certification, dated 20 March 1995, from the Commonwealth of Pennsylvania for the levee raising project.

5. A Public Notice (PN) and Notice of Availability (NOA) were published in the Federal Register on November 1, 1994, which began a 45 day draft public review period. The NOA and draft document were sent to more than 500 congressional interests, state interests, federal, state and local agencies, public media, educational institutions, special interest groups, businesses, and individual interests. The Corps of Engineers received approximately 80 comments. Each comment was addressed in the Phase II GDM and FSEIS, in addition to individual response letters explaining how each comment was to be addressed in the final document. Based on the comments, it was determined that a public hearing was not needed. After the final public review period, a Record of Decision (ROD) will be signed and published in the Federal Register.

6. The FSEIS has been submitted for final review. Any person who has an interest in the project may request for a copy of the final Phase II GDM and FSEIS. Any requests must be submitted within 30 days of the date of this notice to: District Engineer, ATTN: CENAB–PL–RP, U.S. Army Corps of Engineers, Baltimore District, P.O. Box 1715, Baltimore, Maryland 21203–1715.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–4461 Filed 2–27–96; 8:45 am]

BILLING CODE 3710–41–M

Department of the Navy

Record of Decision for the Establishment of the United States Navy Mine Warfare Center of Excellence in the Corpus Christi Bay Area, Texas

SUMMARY: Pursuant to section 102(2) of the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality regulations implementing NEPA procedures (40 CFR Parts 1500–1508), the Department of the Navy announces its decision to establish the Mine Warfare Center of Excellence (MWCE) in the Corpus Christi Bay area by collocating its Mine Warfare (MIW) and Mine Counter Measures (MCM) assets in proximity to each other at Naval Station (NAVSTA) Ingleside and Naval Air Station (NAS) Corpus Christi, Texas. The proposed action includes new construction at these installations and off-base, use of or modification to existing facilities at the installations, and the establishment of offshore training and operating areas.

Congress directed the Navy to establish the MWCE at NAVSTA Ingleside in the FY94 Defense Appropriations Act. A Notice of Intent (NOI) was published in the Federal Register on November 19, 1993, indicating the Department of the Navy would prepare an Environmental Impact Statement (EIS) for the establishment of the United States Navy Mine Warfare Center of Excellence in the Corpus Christi Bay Area, Texas. Two public scoping meetings were held to determine the scope of significant issues to be examined in the EIS. The first meeting was held on December 7, 1993 in Flour Bluff, Texas, and the second meeting was held on December 8, 1993 in Corpus Christi, Texas. A Draft EIS (DEIS) was filed with the U.S. Environmental Protection Agency (EPA) and distributed to agencies and officials of federal, state, and local governments, citizen's groups and associations, media, public libraries, and interested parties for review and comments. The Notice of Filing and Notice of Public Availability appeared in the Federal Register on May 5, 1995. The period of public review and comment on the DEIS was from May 5, 1995 through June 19, 1995. Two public hearings were held during this period: the first on June 6, 1995 in Flour Bluff, Texas, and the second on June 7, 1995 in Ingleside, Texas. Comments on the DEIS were received in three forms: (1) Letters, (2) written comments received at the public hearings, and (3) oral statements made at the hearings. Comments included concerns about habitat impacts, terrestrial vegetation impacts, seagrass impacts, mitigation, water quality, landuse, wildlife impacts, and surfing impacts. Those comments and Navy responses were incorporated into the Final Environmental Impact Statement (FEIS), which was filed with the EPA on December 15, 1995 and distributed for public review.

Two letters of comments were received during public review of the FEIS. The Office of the Governor had no substantive comment and the EPA reiterated its ''lack of objection'' rating given on the DEIS.

The EIS evaluated the reasonable facility alternatives to implementing the proposed action in the Corpus Christi Bay area and the environmental impacts of the construction, modification, and operation of the proposed facilities and establishment of offshore training and operating areas. In addition to the various facility alternatives discussed in the EIS, a ''No Action'' alternative was evaluated. In the ''No Action'' alternative, an MWCE would not be established leaving assets and facilities spread out at several locations. This alternative was eliminated because it would continue to degrade the Navy's ability to properly perform its expeditionary warfare mission in support of possible contingencies world-wide. This alternative also would not comply with Congressional direction.

New facility construction includes a Magnetic Silencing Facility (MSF), required to measure the magnetic signature of MIW ships, to be located at a site north of Jewell Fulton Canal near NAVSTA Ingleside. The MSF consists of two components: An electromagnetic roll (EMR) ''crib'' and a ''check'' range. The EMR ''crib'' requires 27 feet of water depth, navigable access to the pier, and a turning basin. The facility will consist of two parallel timber piers approximately 50 feet apart and 320 feet long that are 14 feet wide, an instrument building, and a generator building. The ''check'' range will consist of a Closed Loop Degaussing (CLDG) component built over the ''crib'' with minimum modification to the proposed pier configuration to accommodate all classes of MIW ships. Dredging of the MSF site will remove approximately 450,000 cubic yards (CY) of dredged material. The 50-year maintenance requirement could require dredging of approximately 720,000 CY. Dredge material will be disposed of at Navy's existing upland disposal site near the La Quinta Channel area. Dredging of the MSF will cause the loss of approximately 3.5 acres of seagrass. The Navy has prepared a mitigation plan to compensate for the loss of the seagrass area which has been approved in concept by the U.S. Army Corps of Engineers (USAEC).

The Aviation Mine Counter Measures (AMCM) Sled Facility, required to train helicopter pilots in the launching and recovery of magnetic influenced AMCM sleds, will be located on North Padre Island adjacent to the Padre Island National Seashore. The facility will include a landing pad, launch ramp, a staging area capable of holding and

maintaining the sleds, tiedown capability, maintenance/personnel support structure, security systems, and on-site wash rack. Mobile fueling capability will be provided for sled operations; however, no permanent fueling facilities will be constructed. Construction of the AMCM facility at North Padre Island will result in a removal of approximately 1.77 acres of ephemeral fresh to brackish wetland swales. The Navy will replace the wetlands at a ratio established through the permitting process.

A small craft pier will be constructed near the east end of the existing wharf at NAVSTA Ingleside where dredging is not required. The pier will be 600-foot by 30-foot, reinforced concrete construction and will include utilities. The function of the pier is to accommodate utility boats used in support of the mine warfare exercises and other assignments. A 32-foot wide concrete launching ramp extending from the existing wharf deck located adjacent to the east of the small craft pier will also be constructed.

Administrative Facilities required for the MWCE will be located in existing facilities at NAS Corpus Christi and NAVSTA Ingleside. Support for two MH–53E Sea Dragon helicopter squadrons will be accommodated by modifying existing hangars and support facilities at NAS Corpus Christi. New bachelor enlisted housing (approximately 119,130 square feet) will be constructed in a vacant site within the Community Facilities Area of NAS Corpus Christi to house approximately 722 enlisted personnel.

Mobile Mine Assembly Group (MOMAG) Unit Fifteen will use existing Hangar 3 (Building 760) at NAS Kingsville for administrative and operations space. Explosive Ordnance Disposal (EOD) Mobile Unit Six will reside in existing facilities located in the Housing Area to the southeast of the hospital at NAS Corpus Christi. An additional 200-foot by 50-foot ''drive-through'' building will be required to complete the storage needs for EOD equipment. An on-shore explosive pit will also be constructed in the southwest section of NAS Corpus Christi near the existing skeet/trap range for EOD training purposes.

Training and operating areas will be established in the Gulf of Mexico off North Padre Island, collocated with the AMCM Sled Facility, and within Mineral Management Service (MMS) Lease Blocks 732, 733, 734, 793, 799, and 816. This will include a permanent drill minefield and an Ordnance Detonation Area, required for the detonation of practice mines using a maximum of 10 pounds C–4 explosive (equivalent to 8 pounds of TNT). This area (a one nautical mile by one nautical mile area) is in the southeast corner of MMS Lease Block 816. Surface restrictions in these areas will be established to allow for both daily MIW training and quarterly integrated training.

In selecting the preferred facility and operating site locations, various alternatives were considered with respect to environmental impacts, as well as other factors including cost. The evaluation criteria included a location's ability to meet a best balance of project need, physical, biological, and socioeconomic impacts. A brief summary of the alternatives considered and their rational for the selection follows:

Six alternative sites in the coastal bend area of Texas were considered for the location of each of the two components (''crib'' and ''check'' range) of the MSF. Because one of the operational requirements of the MSF is for the ''check'' range to be visible from the EMR ''crib'' instrumentation, a two step evaluation was used to select the site(s) for the two components. The initial step consisted of the evaluation of the six EMR component sites followed by the evaluation of the ''check'' range component sites which were operationally acceptable (visible) to the EMR. One EMR site was initially eliminated because it was outside of the acceptable operation distance for MCM-type ships and a second was eliminated because it did not provide access to the Gulf. The chosen EMR alternative (Jewell Fulton Canal) was selected because it represented the least potential adverse impacts to the environment. Once the Jewell Fulton Canal site was selected for the location of the EMR component, the CLDG component was determined to the most acceptable ''check'' range alternative because it required no additional dredging and limited adverse impacts to bay waters.

The only site considered for the small craft pier was NAVSTA Ingleside because it already provides existing Navy homeport and support facilities unavailable at any other locations in the Corpus Christi Bay area.

Five alternatives initially were considered for the AMCM facility; of these, three were determined to be operationally unacceptable and one had the potential for major environmental impacts. The launch-from-a-ramp facility located on the beach was judged to be the most feasible alternative. The beach launch alternative considered three sites, of these the North Padre Island site was determined to be the most operationally acceptable and would cause the least potential impact to the environment and public.

For the MOMAG facility, three sites other than the chosen NAS Kingsville site were considered: NAVSTA Ingleside, NAS Corpus Christi, and government facilities in San Antonio, Texas. NAS Kingsville had available administrative and operations space which could meet space requirements without new construction and also had existing support facilities.

Only NAS Corpus Christi had available space to meet EOD administrative and on-shore explosive pit requirements in acceptable landuse areas.

Three alternative sites were considered for the Very Shallow Water/ Littoral Training Area: San Jose Island, Mustang Island, and North Padre Island. San Jose Island and Mustang Island were eliminated because these two sites contain enough impediments (navigation fairways, oil and gas pipelines, offshore platforms, and/or areas of heavy beach usage by the public) to make the areas operationally unacceptable. Thus, the North Padre Island site was selected as the location for the Very Shallow Water/ Littoral Training Area.

All five of the areas considered for the Medium Water Depth Training and Operating Areas met the evaluations criteria (within reasonable operational distances and in areas of minimal or non-existent finfish habitat). The three chosen sites (MMS Lease Blocks 793, 799, and 816) were selected because they are adjacent to each other, making operations more convenient, and are currently unleased. The only areas considered for the Deep Water Training and Operating Areas were MMS Lease Blocks 732, 733, and 734. They were the only unleased deep water blocks within acceptable distances which met the criteria of having minimal or non-existent finfish habitat.

All practicable means to avoid or minimize environmental impacts of these facilities and operating areas have been adopted. Activities have been located in existing buildings as much as practicable, with some buildings requiring rehabilitation/remodeling. New facilities have been sited after extensive alternatives analysis, and the chosen sites result in the least environmental impact of the reasonable alternatives.

Impacts to water quality, air quality, benthic organisms, marine and natural resources will briefly occur during dredging and dredged material disposal activities and the various facility

construction activities. However, these short-term impacts are not considered significant within the context of the over-all project area and with implementation of specific construction measures described herein and in the EIS. Generally, construction of the various proposed facilities will incorporate erosion control measures consistent with the requirements of the National Pollution Discharge Elimination System (NPDES) General Permit for Construction Activity. Where necessary, a Notice of Intent (NOI) will be submitted to the EPA for any proposed facility which exceeds five acres of construction area. This process will include the preparation and implementation of a Storm Water Pollution Prevention Plan. All open portions of sites will be landscaped and revegetated following construction. During construction, noise-producing activities will be generally conducted during normal operating hours to limit disturbance and annoyance. During dredging and disposal of dredged material, the best available equipment and techniques will be used to minimize the quantity and area of distribution of suspended sediments. Dredging plans will be formulated to meet the requirements of the Federal Water Pollution Control Act (Clean Water Act) and necessary permits.

In accordance with Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act, all required permits from the USACE to perform work in navigable waters of the United States and for the placement of fill material in waters of the United States will be obtained prior to construction and operation of the proposed facilities. In addition to the submission of permit applications to allow work in jurisdictional waters, a permit application will be submitted to the USACE to establish surface restricted areas to allow for offshore training and operating in accordance with 33 CFR 334, Danger Zone and Restricted Area Regulations.

In accordance with the Coastal Barrier Resources Act of 1982, the U.S. Fish and Wildlife Service has determined that the construction of the proposed AMCM sled facility on North Padre Island qualifies for an exception under Section 6(a)(4) of that Act; that is, military activities essential to national security. In addition to the Coastal Barrier Resources Act, the proposed beach site is covered under the Texas Open Beaches Act. The policy of the State of Texas is that the public shall have free and unrestricted access to state-owned beaches. Section 61.022 of the Act provides an exemption for lawful structures authorized by the Constitution or laws of the state or the United States. The Navy will coordinate with the local county government, the Texas General Land Office, and the Office of the Attorney General consistent with the Texas Open Beaches Act when acquiring beach front property and before construction of the ramp facility.

In compliance with the National Historic Preservation Act, potential impacts to cultural resources have been evaluated at the proposed sites. No sites listed on the National Register of Historic Places, outside of NAS Corpus Christi and NAS Kingsville, exist in the proposed area of operations. Any alterations of historic properties at either NAS Corpus Christi or NAS Kingsville, above or beyond normal maintenance, for proposed facilities will be consistent with existing cultural resources management plans and Section 106 of the National Historic Preservation Act. Underwater anomalies were identified at the proposed Jewell Fulton Canal EMR ''crib'' site and a single anomaly, which would be avoided during construction, near the proposed AMCM sled ramp. In the event that construction would disturb the anomalies, additional investigations to establish signature identity and determine potential National Register eligibility would be performed. The State Historic Preservation Office concurs with this procedure.

To ensure compliance with the Endangered Species Act and Marine Mammal Protection Act during training and operations, a Memorandum of Agreement between the National Marine Fisheries Service and the Department of the Navy is being finalized to implement a mitigation plan that would incorporate visual and electronic surveillance before, during, and after each planned detonation activity.

Impacts associated with the relocation of 9,697 personnel (both military and dependents) have been addressed and coordinated with state and local governments and agencies. A Navy housing study has projected that there will be a shortfall of affordable one- and two-bedroom family housing units. This projected deficit in one- and two-bedroom units will be particularly acute among junior enlisted personnel. The Secretary of the Navy has solicited proposals from qualified private developers interested in forming a limited partnership to develop, maintain, and manage a family housing project in which a maximum of 400 units of affordable housing will be made available to Navy families on a preferential basis.

Approximately 2,926 school age children are expected to move into the area. The Corpus Christi School District is expected to have the largest influx of approximately 1,201 school age children; however, this increase represents less than three percent of its present enrollment and only half of its available additional capacity. The Flour Bluff School District, which is projected to experience an increase of approximately 677 school aged children, is expected to experience the greatest impact because of its small size, proximity, and current crowded conditions. However, planning for 24 new buildings to provide additional capacity is now underway. This is expected to resolve overcrowding concerns for the next five years.

Pursuant to Executive Order 12898, Environmental Justice, potential environmental and economic impacts on minority and low income populations and communities were assessed. No disproportionate concentrations of minority or low income populations were identified in the area of impacts of the various facilities and operations. Additionally, the Navy has ensured that opportunities for community involvement (including minority and low income individuals and populations) in the NEPA process have been provided.

There are adequate utility capacities in the region to support the establishment of the MWCE. Potable water use in the region would increase about four percent through the turn of the century as a result of the establishment of the MWCE. Additional discharges to area wastewater treatment plants from proposed MWCE facilities is not expected to exceed facility capacities. Community support, such as police and fire protection, must be increased to accommodate the new residents; however, this is not expected to impose a significant burden on the communities.

Questions regarding the Environmental Impact Statement prepared for this action may be directed to: Commanding Officer, Southern Division, Naval Facilities Engineering Command, P.O. Box 190010, North Charleston, South Carolina 29419–9100 (Attention: Mr. Will Sloger, Code 064WS), telephone (803) 820–5797.

Dated: February 21, 1996.

Duncan Holaday,

Deputy Assistant Secretary of the Navy (Installations and Facilities)

Dated: February 21, 1996.

M.D. Schetzsle,

LT JAGC, USNR, Alternate Federal Register Certifying Officer.

[FR Doc. 96–4479 Filed 2–27–96; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Fernald

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Fernald.

DATES: Saturday, March 9, 1996: 8:30 a.m.–12:00 p.m.

ADDRESS: The Joint Information Center, 6025 Dixie Highway, Route 4, Fairfield, Ohio.

FOR FURTHER INFORMATION CONTACT: John S. Applegate, Chair of the Fernald Citizens Task Force, P.O. Box 544, Ross, Ohio 45061, or call the Fernald Citizens Task Force office (513) 648–6478.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of future use, cleanup levels, waste disposition and cleanup priorities at the Fernald site.

Tentative Agenda

Saturday, March 9, 1996.

8:30 a.m.—Call to Order, Chair's Remarks
8:40 a.m.—Status of Community Reuse Organization
8:50 a.m.—Proposed Revisions to Task Force Charter
9:05 a.m.—Committee Chairs' Reports
9:20 a.m.—Natural Resource Damage Issues
10:00 a.m.—Status of Legacy Waste Removal
10:30 a.m.—Break
10:45 a.m.—Overview of 10-year Cleanup Schedule
11:15 a.m.—Groundwater Cleanup Issues
11:45 a.m.—Opportunity for Public Input
12:00 p.m.—Adjourn

A final agenda will be available at the meeting, Saturday, March 9, 1996.

Public Participation

The meeting is open to the public. Written statements may be filed with the Task Force chair either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Task Force chair at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official, Gary Stegner, Public Affairs Officer, Ohio Field Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting, due to programmatic issues that had to be resolved prior to publication.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to John S. Applegate, Chair, the Fernald Citizens Task Force, P.O. Box 544, Ross, Ohio 45061 or by calling the Task Force message line at (513) 648–6478.

Issued at Washington, DC on February 22, 1996.

Rachel Murphy Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–4517 Filed 2–27–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Department of Energy/Los Alamos National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos National Laboratory.

DATES: Tuesday, March 12, 1996: 6:30 pm–9:30 pm; 7:00 pm to 8:00 pm (public comment session).

ADDRESSES: Bureau of Indian Affairs/Northern Pueblos Agency Conference Room, San Juan Pueblo, PO 4259, Fairview Station, Espanola, New Mexico 87532.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Roybal, Los Alamos National Laboratory Citizens' Advisory Board Support, Northern New Mexico Community College, 1002 Onate Street, Espanola, NM 87352, (800)753–8970, or (505)753–8970.

SUPPLEMENTARY INFORMATION

Purpose of the Board

The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Tuesday, March 12, 1996

6:30 pm—Call to Order and Welcome
7:00 pm—Input from the Public
8:00 pm—DOE/LANL Environmental Restoration Briefing
8:30 pm—Sub-Committee Reports
9:30 pm—Adjourn

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ms. Lisa Roybal, at the telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Herman Le-Doux, Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87185–5400.

Issued at Washington, DC on February 22, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–4518 Filed 2–27–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Idaho National Engineering Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Engineering Laboratory (INEL).

DATES: Tuesday, March 19, 1996 from 8 a.m. until 6 p.m. Mountain Standard Time (MST) and Wednesday, March 20, 1996 from 8 a.m. until 5 p.m. MST. There will be a public comment availability session Tuesday, March 19, 1996 from 5 to 6 p.m. MST.

ADDRESSES: Main Meeting: Shilo Inn Convention Center, 780 Lindsay Boulevard, Idaho Falls, Idaho 83401.

FOR FURTHER INFORMATION CONTACT: Idaho National Engineering Laboratory Information 1–800–708–2680 or Marsha Hardy, Jason Associates Corporation Staff Support 1–208–522–1662.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Meeting Purpose

EM SSAB, INEL will be discussing issues associated with the Remedial Investigation and Feasibility Study process specifically as it applies to INEL's Waste Area Group-3 (Idaho Chemical Processing Plant) and potentially making recommendations regarding that process. The Board will continue its study of the INEL FY 1998 Budget Development process and will initiate its study of INEL's Integration Strategy.

Tentative Agenda

Tuesday, March 19, 1996

7:30 a.m. Sign-in and Registration
8:00 a.m. Miscellaneous Business:
Old Business—Reports
- Jerry Bowman—Deputy Designated Federal Official
- Joy Myers—Chair Report

Standing Committee Reports
- Member Selection Committee—Dean Mahoney (chair)

Member Reports
9:45 a.m. Waste Area Group (WAG) 3—Idaho Chemical Processing Plant Remedial Investigation and Feasibility Study
12:00 a.m. Lunch
1:00 p.m. Waste Area Group 3—(continued)
3:00 p.m. Break
3:15 p.m. Waste Area Group 3—(continued)
5:00 p.m. Public Comment Availability (Will continue with WAG 3 Discussion if no public comment)
6:00 p.m. Adjourn

Wednesday, March 20, 1996

7:30 a.m. Sign-In and Registration
8:00 a.m. Miscellaneous Business
8:30 a.m. Welcome: Alan Berkholtz, DOE–ID
8:45 a.m. Environmental Management Budget Prioritization and Development
10:00 a.m. Break
10:15 a.m. Environmental Management Budget Prioritization and Development (continued)
12:00 p.m. Lunch
1:00 p.m. Environmental Management Integration Strategy
3:00 p.m. Break
3:15 p.m. Waste Area Group 3—Idaho Chemical Processing Plant Remedial Investigation and Feasibility Study (wrap-up)
Backup Informational Opportunity: Waste Area Group 1—Test Area North Comprehensive Remedial Investigation/Feasibility Study and Pump and Treat Tests
4:30 p.m. Meeting Evaluation
5:00 p.m. Adjourn

This agenda is subject to change as the Board meeting nears. For a most current copy of the agenda, contact Woody Russell, DOE-Idaho, (208) 526–0561, or Marsha Hardy, Jason Associates, (208) 522–1662. The final agenda will be available at the meeting.

Public Comment Availability

The two-day meeting is open to the public, with a Public Comment Availability session scheduled for Tuesday, March 19, 1996 from 5:00 p.m. to 6:00 p.m. MST. The Board will be available during this time period to hear verbal public comments or to review any written public comments. If there are no members of the public wishing to comment or no written comments to review, the board will continue with it's current discussion. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Idaho National Engineering Laboratory Information line or Marsha Hardy, Jason Associates, at the addresses or telephone numbers listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays.

Issued at Washington, DC on February 21, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–4516 Filed 2–27–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[FERC–519]

Proposed Information Collection and Request for Comments

February 22, 1996.

AGENCY: Federal Energy Regulatory Commission, DOE.

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 by no later than April 29, 1996.

ADDRESSES: Copies of the proposed collection of information can be obtained and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael P. Miller, Information Services Division, ED–12.4, 888 First Street N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael P. Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873 and by e-mail at mmiller@ferc.fed.us.

SUPPLEMENTARY INFORMATION: *Abstract:* The information collected under the requirements of FERC–519 (OMB No. 1902–0082) ''Disposition of Facilities, Mergers, and Acquisitions of Securities'' is used by the Commission to implement the statutory provisions of Sections 203 and 318 of part II of the Federal Power Act. Section 203 provides that the Commission's approval is required for transactions in which a public utility disposes of jurisdictional facilities, merges such facilities with jurisdictional facilities owned by another person, or acquires the securities of another public utility. Under the statute, the Commission must find that a proposed transaction will be consistent with the public interest before it may approve such transaction. Section 318 exempts certain persons from the requirements of Section 203 that would otherwise concurrently apply under the Public Utility Holding Act of 1935. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR Part 33.

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)x(2)x(3)
30	1	80 hours	2,400 hours.

Estimated cost burden to respondents: 2,400 hours/2,087 hours per year x $102,000 per year=$117,298.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

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 cost 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.

Lois D. Shell,

Secretary.

[FR Doc. 96–4488 Filed 2–27–96; 8:45 am]

BILLING CODE 6717–01–M

[FERC–520]

Proposed Information Collection and Request for Comments

February 22, 1996.

AGENCY: Federal Energy Regulatory Commission, DOE.

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 by no later than April 29, 1996.

ADDRESSES: Copies of the proposed collection of information can be obtained and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael P. Miller, Information Services Division, ED–12.4, 888 First Street N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Michael P. Miller may also be reached by telephone at (202) 208–1415, by fax at (202) 273–0873 or by e-mail at mmiller@ferc.fed.us.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–520 ''Application for Authority to Hold Interlocking Directorate Positions'' (OMB number 1902–0083) is used by the Commission to implement the statutory provisions of Section 305(b) of the Federal Power Act. Section 305(b) makes the holding of certain defined interlocking corporate positions unlawful unless the Commission has authorized the interlocks to be held, and requires the applicant to show in a form and manner as prescribed by the Commission, that neither public nor private interests will be adversely affected by the holding of the position. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR Part 45.

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)
25	1	51.8 hours	1,296 hours.

Estimated cost burden to respondents: 1,296 hours/2,087 hours per year×$102,000 per year=$63,340.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

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.

Lois D. Cashell,

Secretary.

[FR Doc. 96–4487 Filed 2–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–144–000]

CNG Transmission Corporation; Notice of Working Group Report

February 22, 1996.

Take notice that on February 16, 1996, CNG Transmission Corporation (CNG), pursuant to Article I, Section 2, Paragraph H.1 of the June 28, 1995, Stipulation and Agreement filed by CNG submits for filing the E–SCRIPT User Fee Working Group Report.

CNG states that the purpose of the Working Group was to determine whether a consensus could be reached regarding CNG's method for recovering costs associated with the operation of its E–SCRIPT computer system. CNG states that the Working Group failed to reach a consensus.

In accordance with the referenced provision of the June 28, 1995, Stipulation and Agreement, the parties submit the issue of whether CNG should be required to establish an E–SCRIPT user fee to recover some or all E–SCRIPT usage costs to the Commission for decision without further hearing before an Administrative Law Judge or the need for an initial decision.

CNG states that the report details the matters discussed by the Working Group, and identifies concerns expressed by the participants.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before February 29, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Persons who are parties to Docket No. RP94–96–000, *et al.*, are deemed parties here and need not petition to intervene here in this docket. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Interested parties are invited to file Initial Comments and Reply Comments on the Working Group Report. Initial Comments must be filed by March 8, 1996; and Reply Comments are due on March 29, 1996.

Lois D. Cashell,

Secretary.

[FR Doc. 96–4455 Filed 2–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–227–005]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

February 22, 1996.

Take notice that on February 16, 1996 Transwestern Pipeline Company (Transwestern) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet:

Effective October 17, 1995: 4th Revised Sheet No. 83

Transwestern states that on November 30, 1995, in Docket No. RP94–227–000, Transwestern filed 3rd Revised Sheet No. 83 and 2nd Revised Sheet No. 84 in response to the Commission's October 17, 1995, Order on Rehearing and Technical Conference. On February 1, 1996 the Commission issued a Letter Order accepting those two tariff sheets effective October 17, 1995, subject to certain revisions being made to the tariff sheets within 15 days from the date of the order.

In these revisions the Commission ordered Transwestern to file:

(1) Paper and electronic copies of the two above-noted tariff sheets to comply with 154.4(b)(1) and 154.102(e)(5) of the regulations;

(2) A narrative explanation of how Section 24 of its tariff conforms to 154.403(c)(7), or, in the alternative, revised tariff sheets to conform to these regulations;

(3) Updated interest rate citations on Sheet No. 83 to cite 154.501(d) of the new regulations.

In order to comply with the above-noted items Transwestern states it is:

(1) Filing paper and electronic copies of the previously approved 2nd Revised Sheet No. 84 that comply with the Commission's Letter Order;

(2) Filing 4th Revised Sheet No. 83 with a modified Section 24.1(c) that indicates that carrying costs are calculated in accordance with 154.403(c)(7) of the Commission's

regulations and are consistent with the methodology and reporting requirements set forth in 154.501 of the Commission's regulations;

(3) Updating the interest rate citations on 4th Revised Sheet No. 83 to cite 154.501(d) of the Commission's regulations.

Transwestern states that copies of the filing were served on its gas utility customers, interested state commissions, and all parties to this proceeding.

Any person desiring to protect said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. 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 proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–4453 Filed 2–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–136–000 and RP93–109–000]

Williams Natural Gas Company; Notice of Informal Settlement Conference

February 22, 1996.

Take notice that an informal settlement conference will be convened in the above-captioned proceedings at 1:00 p.m. on March 4, 1996, and continuing at 1:00 p.m. on March 5, 1996, at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Arnold H. Meltz at (202) 208–2161 or Donald A. Heydt at (202) 208–0740.

Lois D. Cashell,

Secretary.

[FR Doc. 96–4454 Filed 2–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER91–195–023, et al.]

Western Systems Power Pool, et al.; Electric Rate and Corporate Regulation Filings

February 21, 1996.

Take notice that the following filings have been made with the Commission:

1. Western Systems Power Pool

[Docket No. ER91–195–023]

Take notice that on January 30, 1996, the Western Systems Power Tool (WSPP) filed certain information as required by Ordering Paragraph (D) of the Commission's June 27, 1991, Order (55 FERC ¶ 61, 495) and Ordering Paragraph (C) of the Commission's June 1, 1992, Order on Rehearing Denying Request Not To Submit Information, and Granting In Part And Denying Request Not To Submit Information, and Granting In Part And Denying In Part Privileged Treatment. Pursuant to 18 CFR 385.211, WSPP has requested privileged treatment for some of the information filed consistent with the June 1, 1992 order. Copies of WSPP's informational filing are on file with the Commission, and the non-privileged portions are available for public inspection.

2. Torco Energy Marketing, Inc. Cenerprise, Inc. Engelhard Power Southeastern Energy Resources, Inc. Jpower, Inc. Eastex Power Marketing, Inc.

[Docket No. ER92–429–007]

[Docket No. ER94–1402–005]

[Docket No. ER94–1690–007]

[Docket No. ER95–385–004]

[Docket No. ER95–1021–002]

[Docket No. ER96–118–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On February 12, 1996, Torco Energy Marketing, Inc. filed certain information as required by the Commission's May 18, 1992 order in ER92–429–000.

On February 9, 1996, Cenerprise, Inc. filed certain information as required by the Commission's December 7, 1994 order in ER94–1402–000.

On February 1, 1996, Engelhard Power filed certain information as required by the Commission's December 29, 1994 order in ER92–1690–000.

On February 2, 1996, Southeastern Energy Resources, Inc. filed certain information as required by the Commission's February 24, 1995 order in ER95–385–000.

On February 9, 1996, Jpower, Inc. filed certain information as required by the Commission's August 25, 1995 order in ER95–1421–000.

On February 2, 1996, Eastex Power Marketing, Inc. filed certain information as required by the Commission's November 28, 1995 order in ER96–118–000.

3. New England Power Company

[Docket No. ER96–237–002]

Take notice that on January 29, 1996, New England Power Company (NEP) filed a Statement of Amendment to the service agreement under its FERC Electric Tariff, Original Volume No. 8, in compliance with the Commission's December 29, 1995 order in this docket.

Comment date: March 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. PECO Energy Company

[Docket No. ER96–640–000]

Take notice that on January 31, 1996, PECO Energy Company (PECO), in connection with a request by Commission staff, completed the filing of its Electric Tariff Volume No. 4 (the Tariff), filed on December 20, 1995.

Copies of the filing have been sent to the Pennsylvania Public Utility Commission and those persons listed on the official service list compiled by the Secretary in this proceeding.

PECO requests that the Tariff be made effective as of the effective date requested PECO's original filing.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Appalachian Power Company

[Docket No. ER96–650–000]

Take notice that on February 13, 1996, Appalachian Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. The Dayton Power & Light Company

[Docket No. ER96–709–000]

Take notice that on January 31, 1996, The Dayton Power and Light Company (Dayton), tendered for filing an amendment to Docket No. ER96–709–000. Dayton requests the agreement be effective as originally requested on December 29, 1995 and waiver of the Commission's notice requirements.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Public Service Company of Colorado

[Docket No. ER96–713–000]

Take notice that on January 31, 1996, Public Service Company of Colorado (Public Service), tendered for filing a second amendment to support its wholesale and transmission rate case wherein it has proposed changes in its FERC Electric Rate Schedule Nos. 44, 45, 46, 47, 48, 52, 53, 54, 59, and 82, which were made in a filing submitted on December 29, 1995, and amended on January 11, 1996.

Public Service is primarily making this amendment to change the demand rates for the customers at issue to reflect rate design based on sixty minute billing parameters. Thirty minute billing parameters were inadvertently used to calculate the demand rates in the original filing.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of Colorado Cheyenne Light, Fuel and Power Company

[Docket No. ER96–939–000]

Take notice that on February 6, 1996, Public Service Company of Colorado (Public Service) and Cheyenne Light, Fuel and Power Company (Cheyenne) filed revised versions of their Point-to-Point Transmission Service Tariffs and their Network Integration Transmission Service Tariffs, which had previously been filed in this docket on February 26, 1996. Public Service and Cheyenne state that the purpose of this filing is, in light of recent Commission decisions, to more closely conform the terms and conditions of their Tariffs to the terms and conditions in the Commission's *pro forma* tariffs as set out in its Notice of Proposed Rulemaking and Supplemental Notice of Proposed Rulemaking in Docket No. RM95–8–000.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Public Service Company New Mexico

[Docket No. ER96–1003–000]

Take notice that on February 2, 1996, Public Service Company of New Mexico (PMM) filed as an amendment to the San Juan Project Operating Agreement (Operating Agreement) (Operating Agreement) an Interim Invoicing Agreement with respect to invoicing for coal deliveries from San Juan Coal Company among PNM. Tucson Electric Power Company (TEP) and the other owners of interests in the San Juan Generating Station. This interim agreement effectively modifies Modification 8 to the Operating Agreement through an interim period from January 1, 1996 through December 31, 1996.

PNM requests waiver of the Commission's notice requirements in order to allow the Interim Invoicing Agreement to be effective as of January 1, 1996.

Copies of this filing have been served upon the New Mexico Public Utility Commission, TEP and each of the owners of an interest in the San Juan Generating Station.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Central Vermont Public Service Corporation

[Docket No. ER96–1055–000]

Take notice that on February 12, 1996, Central Vermont Public Service Corporation (Central Vermont), tendered for filing a Service Agreement and Koch Power Services Inc. under its FERC Electric Tariff No. 5. The tariff provides for the sale by Central Vermont of power and energy at or below Central Vermont's fully allocated costs.

Central Vermont requests waiver of the Commission's Regulations to permit the service agreement to become effective on February 16, 1996.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Maine Public Service Company)

[Docket No. ER96–1056–000]

Take notice that on February 12, 1996, Maine Public Service Company submitted an agreement under its Umbrella Power Sales Tariff.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Wisconsin Electric Power Company

[Docket No. ER96–1057–000]

Take notice that on February 13, 1996, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing revisions to its FERC Electric Tariff, Volume 1, Service Agreement No. 17.

Wisconsin Electric requests an effective date of January 15, 1996, in order to implement the Agreement's modifications, which do not result in revenue increase.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Interstate Power Company

[Docket No. ER96–1058–000]

Take notice that on February 13, 1996, Interstate Power Company (IPW), tendered for filing a Transmission Service Agreement between IPW and MidCon Power Services Corporation (MidCon). Under the Transmission Service Agreement, IPW will provide non-firm point-to-point transmission service to MidCon.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Orange and Rockland Utilities, Inc.

[Docket No. ER96–1059–000]

Take notice that on February 12, 1996, Orange and Rockland Utilities, Inc., acting on behalf of itself and its wholly owned subsidiaries, Rockland Electric Company and Pike County Light & Power Company, (collectively referred to as the Company) filed a Network Integration Service Transmission Tariff and a Point-to-Point (Firm and Non-Firm) Transmission Service Tariff. The Company states that the Tariffs are consistent with the *pro forma* tariffs set forth in the Notice of Proposed Rulemaking, in Docket No. RM95–8–000. The Company submitted workpapers in support of the Tariffs.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company West Penn Power Company (Allegheny Power)

[Docket No. ER96–1060–000]

Take notice that on February 12, 1996, Allegheny Power Service Corporation on behalf of Monongahela Power Company. The Potomac Edison Company and West Penn Power Company (Allegheny Power) filed Supplement No. 8 to add CNG Power Service Corporation to the Standard Generation Service Rate Schedule under which Allegheny Power offers standard generation and emergency service to this Customer on an hourly, daily, weekly, monthly or yearly basis. Allegheny Power requests a waiver of notice requirements to make service available as of January 22, 1996.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Sierra Pacific Power Company

[Docket No. ER96–1063–000]

Take notice that on February 14, 1996, Sierra Pacific Power Company (Sierra), tendered for filing, pursuant to 205 of the Federal Power Act and 18 CFR Part 35, Revision No. 1 to Electric Service Agreement between Sierra and Truckee Donner Public Utility District (the District).

Revision No. 1 extends the District's monthly, bill-paying deadline, revises the billing mechanics in certain respects, and adds the specification of certain meeting points. Sierra proposes an effective date of April 22, 1996.

Sierra asserts that the filing has been served on the District and on the regulatory commissions of Nevada and California.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Portland General Electric Company

[Docket No. ER96–1066–000]

Take notice that on February 15, 1996, Portland General Electric Company (PGE), tendered for filing a Scheduling Services Agreement (Scheduling Agreement) with AIG Trading Corporation (AIG) simultaneously requesting the Commission rule the services provided in the Agreement as non-jurisdictional.

Copies of this filing were served upon AIG Trading Corporation and the Oregon Public Utility Commission.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Union Electric Company

[Docket No. ER96–1068–000]

Take notice that on February 15, 1996, Union Electric Company (UE), tendered for filing an Interchange Agreement dated January 18, 1996, between UE and the City of Sikeston, Missouri. UE asserts that the purpose of the Agreement is to set out specific rates, terms, and conditions for the types of power and energy to be exchanged.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. South Carolina Electric & Gas Company

[Docket No. ER96–1069–000]

Take notice that on February 15, 1996, South Carolina Electric & Gas Company tendered for filing proposed Contract for Purchases and Sales of Power and Energy between South Carolina Electric & Gas Company and Sonat Power Marketing, Inc.

Under the proposed contract, the parties will purchase and sell electric energy and power between themselves. South Carolina Electric and Gas Company also requested waiver of notice in order that the contract be effective on January 26, 1996.

Copies of this filing were served upon Sonat Power Marketing, Inc.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Public Service Electric and Gas Company

[Docket No. ER96–1070–000]

Take notice that on February 15, 1996, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey, tendered for filing an agreement for the sale of capacity and energy to Cinergy Services, Inc. (Cinergy). Pursuant to the agreement, PSE&G will sell peaking capacity and associated energy for a four-month (4-month) period commencing on May 1, 1996, the energy being scheduled daily by Cinergy.

Copies of the filing have been served upon Cinergy, the New Jersey Board of Public Utilities and the Indiana Utility Regulatory Commission.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Kentucky Utilities Company

[Docket No. ER96–1071–000]

Take notice that on February 15, 1996, Kentucky Utilities Company (KU), tendered for filing information on transactions that occurred during January 16, 1996 through January 31, 1996, pursuant to the Power Services Tariff accepted by the Commission in Docket No. ER95–854–000.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Northeast Utilities Service Company

[Docket No. ER96–1072–000]

Take notice that on February 15, 1996, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement and a Certificate of Concurrence with the Taunton Municipal Lighting Plant (Taunton) under the NU System Companies' System Power Sales/Exchange Tariff No. 6.

NUSCO states that a copy of this filing has been mailed to Taunton.

NUSCO requests that the Service Agreement become effective on March 1, 1996.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Robert O. Viets

[Docket No. ID–2400–001]

Take notice that on February 6, 1996, Robert O. Viets (Applicant) tendered for filing a supplemental application under Section 305(b) of the Federal Power Act to hold the following positions:

Director, Chairman of the Board and Chief Executive Officer, Central Illinois Light Company

Director, Chairman of the Board and Chief Executive Officer, QST Enterprises Inc.

Comment date: March 6, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–4489 Filed 2–27–96; 8:45 am]

BILLING CODE 6717–01–P

[Project Nos. 2390–003, 2395–003, 2421–003, 2473–002, 2475–006 and 2640–010]

Flambeau River, WI; Notice of Intent to Hold Public and Agency Meetings to Discuss Staff's Draft Environmental Statement (DEIS) for Existing Projects on the Flambeau River

February 22, 1996.

On November 30, 1995, The Commission's Staff mailed the Flambeau River Basin Hydroelectric Projects, Wisconsin, DEIS to the Environmental Protection Agency, resource and land management agencies, interested organizations and individuals. The availability of the DEIS was public noticed in the Federal Register on December 8, 1995. The document evaluates the continued operation of the Big Falls Water Power Project No. 2390; the Pixley Project No. 2395; the Lower Hydro Project No. 2421;

the Crowley Project No. 2473; the Thornapple Project No. 2475; and the Upper Hydro Project No. 2640. The projects are located on the Flambeau River in Rusk, Price and Ashland Counties, Wisconsin.

The action of relicensing these projects involves tradeoffs between energy production and enhancement of environmental quality. The staff formulated alternatives, and evaluated impacts to respond to concerns raised during the scoping process. In developing recommendations in the DEIS, the staff gave equal consideration to developmental and nondevelopmental values in accordance with the Federal Power Act.

The issues addressed in the DEIS are potential impacts to and effects on: (1) Geologic and soils resources; (2) water quality and quantity; (3) fisheries resources; (4) terrestrial resources; (5) recreational resources; (6) aesthetic values; (7) cultural resources; (8) air quality; (9) cumulative effects of the proposed projects.

Alternatives to the applicants' proposals considered in detail are (1) modification to proposed project operation or facilities to further protect, enhance or mitigate adverse impacts to environmental resources and values and (2) no action.

A public meeting will be conducted by staff in Park Falls, Wisconsin on Tuesday, March 12, 1996, from 7:00 p.m. to 10:00 p.m. in the auditorium of the Public Library, 410 Division Street, Park Falls, Wisconsin, to hear the public's comments on the DEIS.

The meeting will be recorded by a stenographer and will become part of the formal record of the Commission's proceeding on the Flambeau River projects under consideration. Individuals presenting statements at the meeting will be asked to sign in before the meeting starts and to clearly identify themselves for the record.

In accordance with Section 10(j) of the Federal Power Act (FPA), the Commission's staff will also meet with staff from the Wisconsin Department of Natural Resources and the U.S. Fish and Wildlife Service on Tuesday, March 12 and Wednesday, March 13 at the offices of the Wisconsin Department of Natural Resources, 875 South Forth Avenue, Park Falls, Wisconsin, to discuss inconsistencies of some recommendations with the comprehensive planning and public interest standards of Sections 4(e) and 10(a) of the FPA or the substantial evidence requirement of Section 313(b) of the FPA.

All those that are formally recognized by the Commission as intervenors in the Flambeau Projects' proceedings are asked to refrain from engaging the staff in discussions of the merits of the projects outside of any announced meetings.

For further information, please contact Ms. Julie Bernt at (202) 219–2814.

Lois D. Cashell,

Secretary.

[FR Doc. 96–4452 Filed 2–27–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–500–001 , et al.]

Southern Natural Gas Company, et al.; Natural Gas Certificate Filings

February 21, 1996.

Take notice that the following filings have been made with the Commission:

1. Southern Natural Gas Company

[Docket No. CP95–500–001]

Take notice that on February 14, 1996, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed an amendment to its original application in Docket No. CP95–500–000, requesting that the Commission amend its Order Issuing Certificate issued October 16, 1995, (October 16 Order), 73 FERC ¶ 61,085. Southern states that the amendment complies with the October 16 Order and modifies the proposal authorized therein, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern states that in the October 16 Order, the Commission authorized Southern's proposed expansion of its Toca Compressor Station and related facilities, subject to Southern's filing 10-year firm transportation service agreements for the capacity of the proposed project within 120 days. Southern states that it has now entered into a 10-year firm Transportation Service Agreement dated February 7, 1996 with Shell Offshore Inc. (Shell) for 100 percent of the 140 Mmcf/d proposed firm Transportation Service (Shell Service Agreement). In connection with the filing of the Shell Service Agreement, Southern proposes to make minor changes to the Receipt and Delivery Point modifications approved in the October 16 Order as necessary to provide service to Shell thereunder.

It is stated that the compression facilities at Toca, the modifications to provide for delivery at the Tennessee-Toca interconnection and the expansion of the delivery point at the Transco-Frost interconnection approved in the October 16 Order are still required for service under the Shell Service Agreement. Southern contends that the remaining Receipt and Delivery Point modifications approved in the October 16 Order will not be necessary. Furthermore, Southern states that the 140 Mmcfd capacity of the expansion is not altered by the minor changes proposed herein.

Southern proposes to delete the following Receipt and Delivery Point modifications approved in the October 16 Order, but which are not required to provide service to Shell: (1) Columbia - Shadyside meter station modifications; (2) LRC - Erath meter station modifications; (3) Acadian - Sugar Bowl No. 6 meter station modifications; (4) Main Pass Block 306 receiving station piping; and (5) Main Pass Block 293 receiving station piping. In addition, in order to provide service to Shell under the Shell Service Agreement, Southern requests authorization to substitute the following Receipt and Delivery Point modifications for the ones proposed to be deleted above: (1) construct, install and operate interconnection piping to provide for delivery at its existing Transco-Frost interconnection; and (2) to construct and install receipt meters to be located on Shell's platform at Main Pass Block 289 and near Southern's existing facilities at Venice, Louisiana. It is stated that the cost of the proposed Receipt and Delivery Point modifications is estimated to be $1.4 million. The revised estimated cost for the construction and installation of the Toca compression facilities, the Tennessee-Toca modifications, the expansion of the Transco-Frost interconnection and the proposed Receipt and Delivery Point modifications is $14.3 million.

Southern contends that, consistent with the application, there would be no rate impact on current shippers resulting from the construction of the proposed facilities over the 10 years because the revenues generated would offset the incremental costs attributable thereto on a present value basis. Based on the current estimate of the cost of service of the facilities, Southern states that the Reservation charge for this production area transportation for the 10 year period is $1.48 per Mcf per month. It is stated that the October 16 Order approved rolled-in rate treatment for the expansion facilities, but Southern's general Part 284 transportation rates would begin to reflect the cost of the facilities only after the 10-year term of the firm transportation contract expires.

Southern states that its request for minor modifications of the Receipt and

Delivery Points to be utilized does not alter the underlying basis of the finding in the October 16 Order, and was, in fact, contemplated in Southern's application. Further, it is stated that the estimated cost of the proposed modifications is less than the estimated costs of Southern's original proposal. Accordingly, southern submits that the proposed Toca expansion project utilizing the revised Receipt and Delivery Points described herein is in the public interest and that the amendment should be granted. In order to accommodate Shell's development plans, Southern contends that it needs to be in a position to commence the firm transportation service contemplated herein by January 1, 1997, or as soon thereafter as possible. Therefore, Southern requests that its amendment be handled expeditiously by issuing an order amending the October 16 Order by May 1, 1996, in order to enable Southern to have an opportunity to meet an in-service date of January 1, 1997, or as soon thereafter as possible.

Comment date: March 13, 1996, in accordance with Standard Paragraph F at the end of this notice.

2. Texas Eastern Transmission Corporation

[Docket No. CP96–187–000]

Take notice that on February 13, 1996, Texas Eastern Transmission Corporation (Texas Eastern), P.O.Box 1642, Houston, Texas 77251–1642 filed with the Commission in Docket No. CP96–187–000 an application pursuant to Section 7(b) of the Natural Gas Act (NGA) and Part 157 of Commission's Regulations for permission and approval to abandon by sale to Elliot Oil & Gas Company (Elliot) the Sally Laterals comprising (3) 3-inch laterals located in DeWitt and Goliad Counties, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Eastern and Elliot entered into a Facilities Sale Agreement dated November 28, 1995, which provides for the sale of the Sally Laterals to Elliot. Texas Eastern states that there are no volumes of natural gas currently being transported by Texas Eastern on these lines and that the lines have been idle and out of service since 1974.

Comment date: March 13, 1996, in accordance with Standard Paragraph F at the end of this notice.

3. GPM Gas Corporation

[Docket No. CP96–188–000]

Take notice that on February 13, 1996, GPM Gas Corporation (GPM), 1300 Post Oak Boulevard, Suite 800, Houston, Texas 77056, filed, in Docket No. CP96–188–000, a petition for declaratory order requesting that the Commission find that certain facilities to be acquired from ANR Pipe Line Company (ANR) are gathering facilities exempt from the Commission's Regulations pursuant to Section 1(b) of the Natural Gas Act (NGA) all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

On February 12, 1996, ANR filed in Docket No. CP96–185–000, a related application seeking approval for the abandonment of the facilities to be acquired by GPM.

GPM and ANR have entered into a Purchase and Sale Agreement (Agreement) dated January 12, 1996, wherein GPM has agreed to acquire a total of 1,550 miles of gas gathering pipelines and 14 compressor stations with a total of about 44,000 horsepower that now handle approximately 200 Mmcf per day of gas from 1,142 meter stations. Also included with these facilities to be acquired is a 15.1 mile pipeline segment which is currently functionalized as transmission by ANR. The affected gas gathering systems are comprised of five discrete areas in northwest Oklahoma: (i) Laverne; (ii) Lovedale; (iii) Woodward; (iv) Korfman; and (v) Weatherford. GPM, in turn, will assume all operations of these facilities and provide gathering services through them.

GPM proposes to purchase the above facilities by transferring like-kind properties to ANR, the value of which will equal the purchase price set forth in the above referenced Agreement. GPM has requested of ANR by letter that ANR request of the Commission, confidential treatment of this pricing information which is contained in the Agreement and in Exhibit Y to ANR's abandonment application.

Comment date: March 12, 1996, in accordance with Standard Paragraph F at the end of this notice.

4. NorAm Gas Transmission Company

[Docket No. CP96–196–000]

Take notice that on February 16, 1996, NorAm Gas Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP96–196–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to operate certain facilities in Arkansas under NGT's blanket certificate issued in Docket No. CP82–384–000, *et al.*, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

NGT proposes to operate an existing delivery tap on NGT's Line OM–1 in Franklin County, Arkansas to deliver gas to Arkla, a distribution division of NorAm Energy Corp. (Arkla). NGT states that it plans to utilize the existing tap to deliver gas to a customer other than the right-of-way grantor for whom the tap was originally installed in 1995. NGT estimates the additional volumes to be delivered to this delivery tap are approximately 85 MMBtu annually and 1 MMBtu on a peak day. NGT states there are no construction activities or cost associated with the proposed operation of this existing tap. NGT also states that it has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customers.

Comment date: April 8, 1996, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 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 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is

required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–4490 Filed 2–27–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5431–6]

Agency Information Collection Activities Under OMB Review; Renewal Request for EPAICR Number 1188

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) this notice announces that the Office of Prevention, Pesticides and Toxic Substances (OPPTS) is seeking the renewal of an existing Information Collection Request (ICR) from the Office of Management and Budget (OMB). As such, OPPTS has forwarded the ICR entitled TSCA Section 5(a)(2) Significant New Use Rules for Existing Chemicals (OMB Control No. 2070–0038, EPA, ICR No. 1188), which is abstracted below, to OMB. The ICR describes the nature of the information collection and its expected cost and burden; and, where appropriate, it includes the actual data collection instrument. On September 29, 1995, OPPTS published a notice in the Federal Register (60 FR 50568), requesting comment on this ICR. OPPTS did not receive any comments.

DATES: Comments must be submitted on or before March 29, 1996..

FOR FURTHER INFORMATION OR A COPY CALL:

Sandy Farmer at EPA, 202–260–2740, and refer to EPA ICR No. 1188.

SUPPLEMENTARY INFORMATION:

Title: TSCA Section 5(a)(2) Significant New Use Rules for Existing Chemicals (OMB Control No. 2070–0038, EPA ICR No. 1188). This is a request for extension of a currently approved information collection which expires on April 30, 1996.

Abstract: Section 5 of the Toxic Substances Control Act (TSCA) and regulations at 40 CFR part 721 provide EPA with a regulatory mechanism to monitor and, if necessary, control significant new uses of chemical substances. Section 5 authorizes EPA to determine by rule (a significant new use rule or SNUR), after considering all relevant factors, that a use of a chemical substance represents a significant new use. If EPA determines that a use of a chemical substance is a significant new use, section 5 requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use.

EPA uses the information obtained through this collection to evaluate the health and environmental effects of the significant new use. EPA may take regulatory actions under TSCA section 5, 6 or 7 control the activities for which it has received a SNUR notice. These actions include orders to limit or prohibit the manufacture, importation, processing, distribution in commerce, use or disposal of chemical substances. If EPA does not take action, section 5 also requires EPA to publish a Federal Register notice explaining the reasons for not asking action.

Responses to the collection of information are mandatory (see 40 CFR part 721). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 118 hours per response. This estimate 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. No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control number for EPA's regulations are displayed in 40 CFR Part 9.

Respondents/Affected Entities: Those that manufacture, process, import, or distribute in commerce chemical substances or mixtures.

Estimated No. Of Respondents: 2.

Estimated Total Annual Burden on Respondents: 237 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the following addresses. Please refer to EPA ICR No. 1188 and OMB Control No. 2070–0038 in an correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (2136), 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 21, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–4522 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5431–5]

Agency Information Collection Activities Under OMB Review; Standards of Performance for new Stationary Sources Metallic Mineral Processing Plants

No. OMB 2060–0016
No. EPA 0982.05

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3507(a)(1)(D), this notice announces that the Information Collection Request (ICR) for Standards of Performance for New Stationary Sources—Metallic Mineral Processing Plants (Subpart LL) described 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 and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before March 29, 1996.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 0982.05 and OMB No. 2060–0016.

SUPPLEMENTARY INFORMATION:

Title: Standards of Performance for Metallic Mineral Processing Plants (Subpart LL) OMB Control No. 2060–0016; EPA ICR No. 982.05). This is a request for revision of a currently approved collection.

Abstract: The Administrator has judged that PM emissions from metallic mineral processing plants cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Owners/operators of metallic mineral processing plants must notify EPA of construction, modification, startups, shut downs, date and results of initial performance test. Owners/operators with facilities using any wet scrubbing device shall install, calibrate, and maintain continuous monitoring devices to measure pressure drop and flow rate. Weekly records of the pressure drop and flow rate are to be maintained, and semi-annual reports are to be submitted when the pressure drop and flow rate differ 30% from the most recent performance test.

In order to ensure compliance with the standards promulgated to protect public health, adequate reporting and recordkeeping is necessary. In the absence of such information enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

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 Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on September 29, 1995 and no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 2068 hours per year. 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 Entitles: 20.5.

Estimated Number of Respondents: 20.5.

Frequency of Response: 2.

Estimated Number of Responses: 41.

Estimated Total Annual Hour Burden: 2185 hours.

Estimated Total Annualized Cost Burden: $66,549.

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. 0982.05 and OMB Control No. 2060–0016 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2136), 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 21, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–4523 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5451–4]

Agency Information Collection Activities Under OMB Review; New Collection; Design for the Environment Screen Printer Survey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Office of Prevention, Pesticides and Toxic Substances (OPPTS) is seeking approval for a new Information Collection Request (ICR) from the Office of Management and Budget (OMB). As such, OPPTS has forwarded the following ICR to OMB: Design for the Environment (DfE); Screen Printing Survey (OMB Control No. 2070-(to be assigned); EPA ICR No. 1769.02). The ICR describes the nature of the information collection and its expected cost and burden; and, where appropriate, it includes the actual data collection instrument. On September 29, 1995, OPPTS published a notice in the Federal Register (60 FR 50568), requesting comment on this proposed collection and the draft ICR. OPPTS did not receive any comments.

DATES: Comments must be submitted on or before March 28, 1996.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, 202–260–2740, and refer to EPA ICR No. 1769.02.

SUPPLEMENTARY INFORMATION:

Title: Design for the Environment (DfE) Screen Printing Survey (OMB Control No. 2070-(to be assigned); EPA ICR No. 1769). This is a new collection.

Abstract: EPA's DfE program is a voluntary, non-regulatory approach to encourage industry to adopt technologies and use materials that result in lower levels of pollution, lessened reliance on toxic materials, higher energy efficiency and lower environmental health risks. Through DfE, EPA creates partnerships with industry, professional organizations, state and local governments, other federal agencies and the public to develop and disseminate technical information.

This collection will focus on facilities that print graphic arts materials, such as fine art prints, billboard advertisements, posters, and electronic equipment. EPA, the Screen Printing and Graphic Imaging Association international (SGIA, the principal association of the screen printing industry), and the University of Tennessee Center for Clean Products and Clean Technologies have developed technical information for screen printing facilities on the use of screen reclamation processes and other workplace practices that may lower health risks to workers and prevent pollution. The purpose of the collection is to evaluate the impact of such DfE technical information on screen printing industry practices, use of materials, and waste generation. The collection will involve two telephone surveys of owners or operators of screen printing establishments: an initial survey of a sample of 350 screen printing establishments, and a follow-up

survey to be administered about two years later. This notice addresses burden estimates only for the initial survey. Responses to the collection of information are voluntary. EPA and the EPA contractor administering the survey will observe strict confidentiality precautions, based on the Privacy Act of 1974, which are outlined in detail in the ICR.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.25 hours per response. This estimate includes the time needed to review instructions; develop, acquire, install and utilize technology and systems for the purpose 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 respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information. No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR Part 9.

Respondents/Affected Entities: Companies engaged in screen printing or other graphics-imaging activities.

Estimated No. Of Respondents: 350.

Estimated Total Annual Burden on Respondents: 438 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the following addresses. Please refer to EPA ICR No. 1769 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (2136), 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 22, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–4525 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5431–7]

Clean Air Act Advisory Committee; Notice of Meeting

SUMMARY: The Environmental Protection Agency (EPA) established the Clean Air Act Advisory Committee (CAAAC) on November 19, 1990 to provide independent advice and counsel to EPA on policy issues associated with the implementation of the Clean Air Act of 1990. The Advisory Committee shall be consulted on economic, environmental, technical, scientific, and enforcement policy issues.

OPEN MEETING NOTICE: Pursuant to 5 U.S.C. App. 2 Section 10(a)(2), notice is hereby given that the Clean Air Act Advisory Committee will hold its next open meting on Friday, March 22, 1996 from 8:30 a.m.–4:30 p.m. at the Radisson Plaza Hotel at Mark Center, 5000 Seminary Road, Alexandria, Virginia. Seating will be available on a first come, first served basis. The Ozone, PM and Regional Haze Subcommittee will conduct a meeting on Thursday, March 21, 1996 from 8:00 a.m.–5:00 p.m. The Permits/NSR/Toxics Integration Subcommittee, the Economic Incentives and Regulatory Innovations Subcommittee and the Linking Transportation and Air Quality Concerns Subcommittee will conduct meetings on Thursday evening, March 21, 1996 from 7:00 p.m.–9:30 p.m. Sub-committee meeting time may change at the discretion of the co-chairs.

INSPECTION OF COMMITTEE DOCUMENTS: The committee agenda and any documents prepared for the meeting will be publicly available at the meeting. Thereafter, these documents, together with the CAAAC meeting minutes will be available by contacting Committee DFO Karen Smith at (202) 260–6379.

FOR FURTHER INFORMATION CONTACT: For information concerning this meeting of the CAAAC please contact Karen Smith, Office of Air and Radiation, US EPA (202) 260–6379, FAX (202) 260–5155, or by mail at US EPA, Office of Air and Radiation (Mail Code 6101), Washington, D.C. 20460. For more information concerning the Ozone, PM and Regional Haze portion of this meeting contact Denise Gerth of the Office of Air Quality Planning and Standards at (919) 541–5550. If you would like to receive an agenda for this meeting, please leave your fax number on Ms. Smith's voice mail and it will be forwarded to you.

Dated: February 23, 1996.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 96–4527 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–M

[OPP–30000/59A; FRL–4979–8]

Propoxur; Decision Not to Initiate a Special Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This Notice announces EPA's decision not to initiate a Special Review for the insecticide propoxur (Baygon, Sendran; 2-isopropoxy-phenyl-N-methylcarbamate). Propoxur was being considered for Special Review because of potential carcinogenic risks to applicators and home residents from the registered uses. After evaluating new exposure and carcinogenicity data, and in light of voluntary cancellation and label amendment actions which eliminated those uses posing the greatest concern, EPA believes that the estimated risks do not warrant initiation of a Special Review.

FOR FURTHER INFORMATION CONTACT: By mail: Monica F. Spann, Special Review Branch, Special Review and Reregistration Division (7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Special Review Branch, 3rd Floor, Crystal Station #1, 2800 Crystal Drive, Arlington, VA, Telephone: 703–308–8032, e-mail: spann.monica@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 13, 1995 (60 FR 3210), EPA announced its proposed decision (and solicitation for public comment) not to initiate a Special Review of propoxur based on carcinogenic risks posed to applicators and home residents. The Agency has received one comment from the sole registrant, Bayer Corporation, and decided to maintain the decision not to initiate a Special Review. This notice provides the Agency's final decision, its response to comment, and the rationale for its final decision. For more detailed information, see 60 FR 3210.

I. Introduction

Propoxur (2-isopropoxy-phenyl-N-methylcarbamate) is a carbamate insecticide for the control of insects and other arthropods inside and outside of buildings and on pets. The holders of

the two U.S. technical registrations of propoxur, Baygon and Sendran, are Bayer Corporation, Agriculture Division, and Bayer Corporation, Animal Health Division, respectively. Bayer Corporation was formerly known as Miles Incorporated. Bayer Corporation is a subsidiary of Bayer, AG, Germany.

On March 22, 1988, pursuant to 40 CFR 154.21(a), EPA issued a private (''Grassley-Allen'') notification to propoxur registrants that the Agency was considering a Special Review of propoxur. EPA was concerned with propoxur's potential cancer risk to applicators when applying indoors and outdoors, to occupants of treated buildings, and to those treating pets with propoxur. EPA's concern was based on a 1984 carcinogenicity study which reported increases in the incidences of malignant and benign tumors in the urinary bladders of both male and female rats, an increase in incidence of uterine tumors in female rats, and the early onset and increased incidence of hyperplasia of the urinary bladder in the male and female rats. EPA classified propoxur as a Group B2 (probable human) carcinogen. EPA noted that additional data submitted to the Agency would be used to refine estimates of risk, and that the registrant's responses to this notification would be considered in determining whether to initiate a Special Review.

II. Risk Assessment

Since the issuance of the Grassley-Allen notification, the estimated risk from exposure to propoxur was reduced due to a recalculated (and lower) cancer potency factor (Q_1*) and reductions in estimated exposure. While the Agency continues to classify propoxur as a B2 (probable human) carcinogen, the estimated Q_1* was reduced as a result of additional data submitted in 1988. Estimated exposure was reduced due to new exposure studies submitted in response to the 1987 DCI and better information on compound behavior and use practices. Also, some uses for which the Agency had the greatest concern were voluntarily cancelled. A detailed discussion of the risk assessment for propoxur can be seen in the proposed decision not to initiate a Special Review published on January 13, 1995 (60 FR 3210).

III. Comments

In the January 13, 1995 proposal not to initiate a Special Review on propoxur, the Agency provided a 60-day comment period, which ended on March 14, 1995. EPA received one comment from Bayer Corporation, the sole registrant, who agreed with the Agency's position.

Comment: The registrant concurs with the Agency's evaluation of the estimation of cancer risks. In their comment, Bayer also addressed the Agency's characterization of a proposed food additive regulation (FAR) for food handling establishments. Bayer believes that the Agency misinterpreted their data by assuming that crack and crevice applications result in residues on food and food contact surfaces. Bayer stated that the residue data the Agency cited were for a combination of spot treatment and crack and crevice application, and therefore, does not represent residues that may occur from only crack and crevice applications. Furthermore, the registrant claims that there is no risk from crack and crevice applications.

Response: The petition for a FAR for the spot treatment of propoxur in food handling areas of food establishments included data demonstrating residues of 0.07 parts per million (ppm) on food and/or food contact surfaces, but the crack and crevice treatment was made in addition to the spot treatment. The data do not permit separation of the different applications so that it is apparent which treatment(s) resulted in the residues. EPA believes that in order for the registrant to substantiate a claim that the crack and crevice treatment does not result in residues on food and/or food contact surfaces, additional data would need to be submitted to demonstrate this claim. It should be noted that because propoxur induces cancer within the meaning of the Delaney clause of section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(5)), the proposed FAR cannot be established and it may not be established with the submission of additional data. The Agency mentioned the evaluation of the proposed FAR and related cancellation of food handling uses in the proposed decision for informational purposes. Any tolerance and related cancellation actions will be proposed in a subsequent document or addressed in the reregistration process.

IV. EPA's Decision Regarding Propoxur

The Agency maintains its position that the carcinogenic risks posed by currently registered uses of propoxur do not warrant initiation of a Special Review.

V. Executive Order 12898

In accordance with the Executive Order on Environmental Justice, EPA has reviewed this proposed decision and found it does not result in any adverse environmental effects (including human health, social and economic effects) on minority and low-income communities.

Dated: February 1, 1996.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 96–4252 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–34087; FRL 4994–8]

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: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on May 28, 1996.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 216, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of 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 the 42 pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before May 28,

1996 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
000299–00044	Martin's Cube Powder	Rotenone	Terrestrial crop uses
000432–00558	SBP-1382 Liquid Insecticide 0.5% Formula I	Resmethrin	Thermal application outdoors
000432–00634	Respond w/SBP-1382 Liquid Insecticide Spray 0.5% Formula III	Resmethrin	Thermal application outdoors
000432–00638	SBP-1382 Oil Base Insecticide 0.20% Formula III	Resmethrin	Thermal application outdoors
000572–00315	Rockland Rotenone-Pyrethrum Insecticide	Pyrethrins	Fruit & vegetable uses
000655–00741	Prentox Methoxychlor 50W	Methoxychlor	Agricultural crops, elevator tunnels, parks, beaches, public areas, field & forage crops, mushroom houses, cranberries, grain storage bins, gallery floors, headhouse, standing water, acreage, pet bedding
000655–00742	Prentox 2 Lb. Methoxychlor spray	Methocychlor	Forage crops, grain storage bins, mosquito control, aircraft spraying
000655–00745	Prentox Methoxychlor 25% spray	Methoxychlor	Forage crops, grain storage bins, aircraft spraying
000769–00651	SMCP Methoxychlor 2E Emulsifiable Concentrate	Methoxychlor	Grain storage bins
000769–00855	Pratt 1% Rotenone Dust	Rotenone	Terrestrial crop uses
000769–00857	Science Red Arrow Insect Spray	Piperonyl butoxide	Terrestrial crop uses
000769–00871	Pratt 50W Methoxychlor for Forest & Shade Trees	Methoxychlor	Mosquito control
000769–00903	Science Garden Insect Spray	Methoxychlor	Cranberries
000769–00904	Science 1% Rotenone	Rotenone	Terrestrial crop uses
000769–00914	Science 50% Methoxychlor Wettable Powder	Methoxychlor	Cranberries
000769–00947	Pratt EC 2 Methoxychlor Insect Spray	Methoxychlor	Area control of adult mosquitoes, screen paint
000769–00955	Pratt Methoxy-Diazinon 20–10 EC	Methoxychlor	Cranberries
000869–00186	Green Light Rotenone	Rotenone	Vegetables & fruit uses
002217–00628	Methoxychlor 75 Dust	Methoxychlor	Recreational areas, urban Base & rural areas, agricultural premise use for barns (including dairy barns), milk rooms, pens, sheds, stalls, poultry houses, stables, feed rooms & mature piles, kennels, dog sleeping quarters, cat sleeping quarters, food processing plants (edible & inedible), food processing storage areas (including cereal processing mills, cereal storage areas & flour mills), mausoleums, mushroom house & equipment treatment, transportation vehicles, empty peanut warehouses
002217–00676	Casoron 50W Dichlobenil Herbicide	Dichlobenil	Citrus, nuts other than filberts, figs, mango, alfalfa, avocado, forestry uses, aquatic food uses (lakes/ponds/reservoirs), drainage systems, sewage systems
002217–00679	1 Acme Norosac 10G Dichlobenil Herbicide	Dichlobenil	Citrus, nuts other that filberts, figs, mango, alfalfa, avocado, forestry uses, aquatic food uses (lakes/ponds/reservoirs), drainage systems, sewage systems
003125–00449	DYLOX 80 SP Nursery Insecticide	Trichlorfon	Turf (sod farm) use
003772–00032	Garden Rotenone Dust	Rotenone	All food uses
005440–00113	Cardinal Food Plant 5–1 Insecticide	Piperonyl butoxide; Pyrethrins	Mushroom production & processing
005440–00115	Cardinal 25–5 Insecticide	Piperonyl butoxide; Pyrethrins	Mushroom production & processing
006458–00001	Cube Powder	Rotenone	Terrestrial crop uses
006458–00005	Cube Extract	Rotenone	Terrestrial crop uses
007501–00054	Terraclor Super X 20–5 Dust w/Graphite	Pentachloronitrobenzene	Sugar beet use

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
008590–00487	Agway 25% Methoxychlor Spray	Methoxychlor	Cranberries, mosquito control (outdoors only), yards, patios, picnic areas
011540–00001	ULD BP-300 Insecticide	*N*-Octyl bicyclophep tene dicarboximide; Piperonyl butoxide; Pyrethrins	Greenhouses & horticultural nurseries
011540–00009	ULD BP-100 Insecticide	*N*-Octyl bicycloheptene dicarboximide; Piperonyl butoxide; Pyrethrins	Greenhouses & horticultural nurseries
011540–00013	ULD BP-50 Insecticide	Piperonyl butoxide; Pyrethrins	Greenhouses & horticultural nurseries
011715–00158	Magic Guard with Rotenone & Pyrethrins	Pyrethrins	Terrestrial crop uses
011715–00164	Fire Ant Insecticide with Rotenone	Rotenone	Terrestrial crop uses
019713–00027	Drexel Methoxychlor Technical	Methoxychlor	Agricultural premises, farm buildings, grain storage bins, mushroom houses, elevator tunnels, gallery floors, headhouse, peanut warehouses, freight cars, grain trucks, ships' holds, mosquito breeding areas, alfalfa, cowpeas, forage crops
019713–00032	Drexel Methoxychlor 50 WP	Methoxychlor	Grasses & legumes, farm buildings, grain storage bins, cranberries, field & forage crops, farm bldgs, grain storage bins
019713–00034	Drexel Methoxychlor 2EC	Methoxychlor	Forage crops, agricultural premises, farm buildings, grain storage bins, alfalfa, cowpeas, forage grasses, cranberries, mosquito control
019713–00118	Drexel Methoxychlor 4L	Methoxychlor	Farm buildings, mushroom houses, grain storage bins, elevator tunnels, gallery floor, headhouse, peanut warehouses, freight cars, grain trucks, ships' hold, mosquito breeding areas, forage & field crops, peanuts, soybeans, contact & space spray for flies
028293–00014	Unicorn Flea & Tick Powder for Dogs & Cats #3	Methoxychlor	Pet bedding use
028293–00102	Unicorn Flea & Tick Powder I	Methoxychlor	Pet bedding use
034704–00738	Casoron G-4 Herbicide	Dichlobenil	Nectarines, peaches, plums, prunes
067760–00002	Cheminova Malathion-Methoxychlor Spray	Methoxychlor	Mosquito control uses

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
000299	C.J. Martin Co., 606 West Main St., Nacogdoches, TX 75961.
000432	Agrevo Environmental Health, 95 Chestnut Ridge Rd., Montvale, NJ 07645.
000572	Rockland Corp., P.O. Box 809, West Caldwell, NJ 07006.
000655	Prentiss Incorporated, C.B. 2000 21 Vernon St., Floral Park, NY 11001.
000769	SureCo, Inc., 10012 N. Dale Mabry, Suite 221, Tampa, FL 33618.
000869	Green Light Co., P.O. Box 17985, San Antonio, TX 78217.
002217	PBI/Gordon Corp., 1217 W. 12th St., P.O. Box 4090, Kansas City, MO 64101.
003125	Bayer Corp., P.O. Box 4913, 8400 Hawthorn Rd., Kansas City, MO 64120.
003772	Earl May Seed & Nursery Co., 208 N. Elm Street, Shenandoah, IA 51603.
005440	Cardinal Chemical Co., 1233 E. Beamer St., Suite G, Woodland, CA 95776.
006458	Foreign Domestic Chemical Corp., 95 Chestnut Ridge Road, Montvale, NJ 07645.
007501	Gustafson, Inc., P.O. Box 660065, Dallas, TX 75266.
008590	Agway Inc., Agriculture Group, P.O. Box 4741, Syracuse, NY 13221.
011540	Micro-Gen Equipment Corp., 10700 Sentinel Dr., San Antonio, TX 78217.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

Company No.	Company Name and Address
011715	Speer Products, P.O. Box 18993, Memphis, TN 38181.
019713	Drexel Chemical Co., 1700 Channel Ave., P.O. Box 13327. Memphis, TN 38113.
028293	Unicorn Laboratories, 13535 Feather Sound Drive, Suite 400, Clearwater, FL 34622.
034704	Platte Chemical Co., 419 18th Street, P.O. Box 667, Greeley, CO 80632.
067760	Cheminova, Inc., Oak Hill Park, 1700 Route 23, Suite 210, Wayne, NJ 07470.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: February 1, 1996.

Frank Sanders,

Director, Program Management and Support Division, Office of Pesticide Programs.

[FR Doc. 96–4027 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–F

[PF641; FRL–4992–8]

Aspergillus Flavus Isolate AF36; Notice of Filing of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION. Notice.

SUMMARY: EPA has received from the Interregional Research Project No. 4 (IR–4) a petition (PP 5E4575) to establish an exemption from the requirement of a temporary tolerance for the microbial pesticide *Aspergillus flavus* AF36, non-aflatoxin producing strain, in or on all raw agricultural commodities. EPA considers the petition to be of regional and national significance.

DATES: Comments must be submitted March 29, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field operations Division (7506C), office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA. Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed test and any written comments will be available for public inspection in Rm. 1132 at the Virginia address given above, from 8 a.m. to 4:30 p.m., Monday through Fnday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF641]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in of this document.

FOR FURTHER INFORMATION CONTACT: By mail: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 5th Floor, CS #1, 2805 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-8097; e-mail: hollis.linda@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This notice announces that EPA has received from the IR-4, New Jersey Agncultural Experiment Station, P.O. Box 231, New Brunswick, NJ 08903–0231, a notice of filing under section 408 of the Federal Food Drug, and Cosmetic Act (21 U.S.C. 346a) for pesticide petition (PP) 5E4575 to amend 40 CFR part 180 to establish an exemption from the requirement of a temporary tolerance for the microbial pesticide *Aspergillus flavus* isolate AF36 in or on all raw agricultural commodities.

This petition (PP 5E4575) is associated with an application for an Experimental Use Permit (69224–EUP–R). The application was filed on behalf of the Agricultural Research Service, U. S. Department of Agriculture, 1100 Robert E. Lee Boulevard, P. O. Box 19687, New Orleans, LA. 70179–0687. The use of the atoxigenic strain of *Aspergillus flavus AF36* in the proposed manner is intended to prevent aflatoxin contamination of cottonseed by competitively excluding aflatoxin producing strains from infecting treated crop. The microbial pesticide is to be applied at 10 pounds per acre to 1,120 acres of commercial cotton fields in Yuma County, Arizona, over a 3 year period. There will be one application per crop. Details of the EUP program are available in the Federal Register notice of 69224-EUP-R.

A record has been established for this rulemaking under docket number [PF641] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

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

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

List of Subjects

Environmental protection, Agricultural commodities, Pestcides and pests, Reporting and recordkeeping requirements.

Dated /February 16, 1996.

Janet L. Andersen,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 96–4520 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180996; FRL 5350–3]

Carbofuran; 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 pesticide flowable Carbofuran (Furadan 4F Insecticide/Nematicide) (EPA Reg. No. 279–2876) to treat up to 1.8 million acres of cotton to control cotton aphids. The Applicant proposes the use of a chemical which has been the subject of a Special Review within EPA's Office of Pesticide Programs, and the proposed use could pose a risk similar to the risk assessed by EPA under the Special Review of granular carbofuran. 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 14, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation ''OPP–180996,'' should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, 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. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–180996]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

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. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: David Deegan, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8327; e-mail: deegan.dave@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 state agency from any registration 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 carbofuran on cotton to control aphids. Information in accordance with 40 CFR part 166 was submitted as part of this request.

The Applicant asserts that the state of Texas is likely to experience a non-routine infestation of aphids during the 1996 cotton growing season, which would result in significant economic losses without the use of flowable carbofuran. The applicant also details a use program designed to minimize risks to pesticide handlers and applicators, non-target organisms (both Federally listed endangered species, and non-listed species), and to reduce the possibility of drift and runoff. This use of carbofuran was granted in 1995 to Texas, Mississippi, Oklahoma, and California, and included measures to minimize risk to farm workers and non-target organisms, and requirements for additional monitoring for effects on wildlife.

The applicant proposes to make one application of flowable carbofuran on young cotton (defined as six true leaves to bloom) at the rate of 0.125 lb. active ingredient [(a.i.)] (4 fluid oz.) in a minimum of 2 gallons of finished spray per acre by air, or 10 gallons of finished spray per acre by ground application; and to make no more than two applications on older cotton (bloom to finish) at the rate of 0.25 lb. a.i. (8 fluid oz.) in a minimum of 2 gallons of finished spray per acre by air, or 10 gallons of finished spray per acre by ground application. The total maximum proposed use during the 1996 growing season (March 1, 1996 until September 30, 1996) in Texas would be 0.625 lb. a.i. (20 fluid oz.) per acre. The applicant proposes that the maximum acreage which could be treated under the requested exemption would be 1.8 million acres. If all acres were treated at the maximum proposed rates, then 1,125,000 lbs. a.i. (281,250 gallons Furadan 4F Insecticide/Nematicide) would be used.

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 chemical (i.e., an active ingredient) which has been the subject of a Special Review within EPA's Office of Pesticide Programs, and the proposed use could pose a risk similar the risk assessed by EPA under the previous Special Review. Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number [OPP–180996] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

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

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ADDRESSES at the beginning of this document. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, 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 14, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–4397 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180991; FRL 5348–5]

Chlorfenypr; 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 pesticide chlorfenpyr to treat up to 1.8 million acres of cotton to control the beet armyworm (BAW). The Applicant proposes the use of a new (unregistered) chemical. 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 14, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation ''OPP–180991,'' should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, 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. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–180991]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

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. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Margarita Collantes, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8347; e-mail: collantes.margarita@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 state agency from any registration 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 chlorfenpyr on cotton to control beet armyworm. Information in accordance with 40 CFR part 166 was submitted as part of this request.

According to the Applicant, three primary factors have brought about this situation. These are: (1) the resistance to registered alternative pesticides causing control failures when these products are applied on cotton to control BAW; (2) the weather conditions consisting of mild winters and unusually dry hot weather were conducive to a BAW outbreak, and (3) BAW infesting cotton in unusually large numbers. The yield losses due to infestations of beet armyworms in cotton on a field by field basis have ranged from 0 percent with light populations to 100 percent, due to the crop being completely devoured or the grower abandoning the field. Combining estimates from the Texas Agricultural Extension Entomologists from the various areas of infestation, at least 40 percent yield losses may occur on approximately 35 percent of the cotton acreage in the requested sites. These yield losses will result in significant economic losses for the cotton producers.

Under the proposed exemptions, Pirate 3SC may be applied no more than 2 applications during the growing season, not to exceed the rate of 0.4 lbs a.i. (17.06 fluid ozs.) per acre using ground or aerial equipment.

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 not contained in any currently registered pesticide), [40 CFR 166.24 (a)(1). Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number [OPP–180991] (including comments and data

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

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

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

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, 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 9, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–4030 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180992; FRL 5348–6]

Chlorfenpyr; 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 South Carolina Department of Fertilizer and Pesticide Control (hereafter referred to as the ''Applicant'') to use the pesticide chlorfenpyr to treat up to 150,000 acres of cotton to control the beet armyworm (BAW). The Applicant proposes the use of a new (unregistered) chemical. 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 14, 1996.

ADDRESSES: Three copies of written comments, bearing the identification notation ''OPP–180992,'' should be submitted by mail to: Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, 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. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–180992]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

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. All written comments filed pursuant to this notice will be available for public inspection in Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Margarita Collantes, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Floor 6, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308–8347; e-mail: collantes.margarita@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 state agency from any registration 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 chlorfenpyr on cotton to control beet armyworm. Information in accordance with 40 CFR part 166 was submitted as part of this request.

According to the Applicant, this request is based on the history of beet armyworm infestations throughout South Carolina in past years and the economic losses suffered as a result of those outbreaks. Typically, those outbreaks have occurred in late planted cotton (late May and June planting dates). Research has shown that cotton planted after May 15 will generally suffer a significant yield reduction compared with earlier planted cotton.

Under the proposed exemptions, Pirate 3SC may be applied at the rate of 0.4 lbs a.i. (17.06 fluid ozs.) per acre using ground or aerial equipment. Product may be applied no more than 2 applications during the growing season (not to exceed 0.4 lbs a.i. per acre).

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 not contained in any currently registered pesticide), [40 CFR 166.24 (a)(1). Such notice provides for opportunity for public comment on the application.

A record has been established for this notice under docket number [OPP–180992] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI is available for inspection from 8 a.m to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resource Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

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

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the South Carolina Department of Fertilizer and Pesticide Control.

List of Subjects

Environmental protection, pesticides and pests, emergency exemptions.

Dated: February 2, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–4026 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–F

[PP 3G4263/T685; FRL 5348–4]

Fipronil; Renewal of a Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed a temporary tolerance for combined residues of the insecticide fipronil or its metabolites in or on the raw agricultural commodity field corn grain at 0.02 parts per million (ppm).

DATES: This temporary tolerance expires March 28, 1997.

FOR FURTHER INFORMATION CONTACT: By mail: Richard Keigwin, Product Manager (PM) 10, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 210, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–6788; e-mail: keigwin.richard@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of May 17, 1995 (60 FR 26434), stating that a temporary tolerance had been established for combined residues of the insecticide fipronil (5-amino-3-cyano-1-(2,6-dichloro-4-trifluoromethylphenyl)-4-trifluoromethylsulphinyl pyrazole) or its metabolites MB 46136 (5-amino-3-cyano-1-(2,6-dichloro-4-trifluoromethylphenyl)-4-trifluoromethylsulphonyl pyrazole) or MB 45950 (5-amino-3-cyano-1-(2,6-dichloro-4-trifluoromethylphenyl)-4-trifluoromethylthiopyrazole) in or on the raw agricultural commodity field corn grain at 0.02 parts per million (ppm). This tolerance is renewed in response to a request dated November 15, 1995, to extend Pesticide Petition (PP) 3G4263, submitted by Rhone Poulenc AG Company, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709–2014.

The company has requested a 1-year renewal of a temporary tolerance for residues of the insecticide to permit the continued marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit 264-EUP-95, which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that a renewal of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Rhone Poulenc AG Company must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires March 28, 1997. Residues not in excess of this amount remaining in or on the above raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12866.

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

Authority: 21 U.S.C. 346a(j).

List of Subjects

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

Dated: February 2, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–4025 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50-F

[PF644; FRL–5347–8]

Exemption From the Requirement of Temporary Tolerances for Trichodex (or ABG-8007)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt of Petition.

SUMMARY: EPA has received a petition (PP 6G4622) for an exemption from the requirement of temporary tolerances in or on all raw agricultural commodities which have been treated with Trichodex (or ABG-8007). This petition is associated with a request for an Experimental Use Permit (11678–EUP–R) for the subject pesticide, and is considered to be of regional and/or national significance.

DATES: Written comments should be submitted to EPA by March 29, 1996.

ADDRESSES: By mail, comments should be forwarded to Public Response and

Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection at the address and hours given above.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF644]. No CBI should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Library. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: Shanaz Bacchus, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington DC 20460. Office location and telephone number: 5th Floor, CS #1, 2805 Jefferson Davis Hwy., Arlington, VA, (703)–308–8097; e-mail: bacchus.shanaz@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

PP 6G4622. This notice announces that EPA has received from Makhteshim Chemical Works Ltd., c/o Makhteshim-Agan of North America Inc., 551 Fifth Avenue, Suite 1100, New York, NY 10176, a notice of filing under section 408 of the Federal Food Drug and Cosmetic Act (21 (U.S.C. 346a) for pesticide petition (PP) 6G4622 to amend 40 CFR part 180 to establish an exemption from the requirement of a temporary tolerance for the microbial pesticide Trichodex in or on all raw agricultural commodities. This microbial pesticide is also referred to as ABG-8007. It contains dried fermentation solids and solubles resulting from fermentation of Trichoderma harzianum isolate T-39, containing T-39 fungus propagules as either conidia or mycelia. The petition is associated with an application for an Experimental Use Permit (11678–EUP–R) for a 2–year non-crop destruct program.

A record has been established for this notice of receipt under docket number [PF644] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

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

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

List of subjects

Environmental protection, Temporary tolerances, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 12, 1996.

Janet L. Andersen,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 96–4521 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5431–4]

PCBs: Cancer Dose-Response Assessment and Application to Environmental Mixtures

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of a report titled, PCBs' Cancer Dose-Response Assessment and Assessment and Application to Environmental Mixtures, External Review Draft, (EPA/600/P–96/001A). The National Center for Environmental Assessment (NCEA) of the Office of Research and Development developed this report, which is an external draft for review purposes only and does not constitute U.S. Environmental Protection Agency (EPA) policy. The report will not have official status or receive clearance as an EPA document until after peer review has taken place. The document is being made available at this time because of public interest in PCBs.

ADDRESSES: The document will be available on the Internet at http://www.epa.gov/docs/ORD or for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; telephone 703–487–4650; facsimile 703–321–8547. The NTIS order number is PB96–140603; the price is $19.50 for paper and $9.00 for microfiche. Copies will be available for inspection at the EPA libraries. The EPA Headquarters Library is located at 401 M Street, S.W., Washington, DC; the library is open Monday through Friday between 10 a.m. and 2 p.m., except for Federal holidays. Unfortunately, due to budget restrictions, printed copies of the document are not available from the National Center for Environmental Assessment.

FOR FURTHER INFORMATION CONTACT: Dr. Jim Cogliano, National Center for Environmental Assessment/Washington Office (8602), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington DC 20460. Telephone: 202–260–3830; facsimile: 202–260–3803; E-mail: cogliano.jim@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The draft report updates the cancer dose-response assessment for PCBs and shows how information on toxicity, disposition, and environmental processes can be considered together to evaluate health risks from PCB mixtures in the environment. Guidance is given on applying the assessment to environment mixtures, different exposure routes, partial lifetime exposure, and mixtures containing dioxin-like compounds. In

the Spring, the Agency will convene an external peer-review panel for a workshop that will be announced in the Federal Register. After the peer review workshop, EPA will incorporate the panel's comments and issue a final report. The expected date for the final report is September 1, 1996. At the same time, a summary of the final report will be loaded onto the Agency's on-line database, the Integrated Risk Information System (IRIS).

Dated: February 16, 1996.

Joseph K. Alexander,

Deputy Assistant Administrator for Research and Development.

[FR Doc. 96–4524 Filed 2–27–96; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in section 560.602 and/or 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–200972.

Title: Port of Houston/Transportacion Maritima, S.A. de C.V./Hapag-Lloyd Joint Terminal Services Contract.

Parties: Port of Houston (''Port''), Transportacion Maritima, S.A. de C.V. (''TMM''), Hapag-Lloyd (America), Inc. (''HL'').

Filing Agent: Martha T. Williams, Esquire, Port of Houston Authority, P.O. Box 2562, Houston, TX 77252–2562.

Synopsis: The proposed Agreement permits TMM and HL to perform freight handling services at the port's Fentress Bracewell Barbours Cut Terminal. The term of the Agreement expires November 30, 1996.

By Order of the Federal Maritime Commission.

Dated: February 23, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–4562 Filed 2–27–96; 8:45 am]

BILLING CODE 6730–01–M

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–011528.

Title: Japan/United States Eastbound Freight Conference.

Parties: American President Lines, Ltd., Hapag-Lloyd AG, Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., A.P. Moller-Maersk Line, Nedlloyd Lijnen B.V., Neptune Orient Lines Limited, Nippon Yusen Kaisha, Orient Overseas Container Line (U.S.A.), Inc., Sea-Land Service, Inc., and Wilhelmsen Lines A/S.

Synopsis: The proposed Agreement combines the services of three existing Conferences into one ((1) F.M.C. Agreement No. 202–000150, Trans-Pacific Freight Conference of Japan; (2) F.M.C. Agreement No. 202–003103, Japan-Atlantic and Gulf Freight Conference; and (3) F.M.C. Agreement No. 202–008190, Japan-Puerto Rico and Virgin Islands Freight Conference) in the trade from ports in Japan to U.S. Pacific, Atlantic and Gulf Coast ports and points (including Hawaii and Alaska) and ports in Puerto Rico and the U.S. Virgin Islands, and inland and coastal points via such ports.

Agreement No.: 232–011529.

Title: Thompson Shipping Co. Ltd./Kirk Freight Line, Ltd. Space Charter and Sailing Agreement.

Parties: Thompson Shipping Co. Ltd. (''TSC''), Kirk Freight Line, Ltd. (''KFL'').

Synopsis: The proposed Agreement permits KFL to charter space on TSC's vessels and to rationalize sailings in the trade between Miami, Florida and the Grand Cayman Islands.

By Order of the Federal Maritime Commission.

Dated: February 23, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–4563 Filed 2–27–96; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 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, D.C. 20573.

Trans World Shipments, Inc., 8257 NW 56th Street, Miami, FL 33166. Officers: Paulo C. Pacheco, President, Nathan P. Wannemacher, Vice President.

All Transport Inc., 6510 N.W. 84th Avenue, Miami, FL 33166. Officer: Maria Lynet Lopez, President.

Dated: February 23, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–4478 Filed 2–27–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

First Citizens Bancorp, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company and their subsidiaries. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal

Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 22, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. First Citizens Bancorp, Cleveland, Tennessee; to acquire 100 percent of the voting shares of The Home Bank of Tennessee, Maryville, Tennessee (in organization).

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Aspen Bancshares, Inc., Aspen, Colorado; to acquire 100 percent of the voting shares of Val Cor Bancorporation, Inc., Cortez, Colorado, and thereby indirectly acquire Valley National Bank of Cortez, Cortez, Colorado.

2. CB Holding Company, Edmond, Oklahoma; to become a bank holding company by acquiring up to 80 percent of the voting shares of P.N.B. Financial Corporation, Kingfisher, Oklahoma, parent of Peoples National Bank of Kingfisher, Kingfisher, Oklahoma, and First Bank of Hennessey, Hennessey, Oklahoma, and at least 66.9 percent of the voting shares of City Bank, Weatherford, Oklahoma.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Bastrop Bancshares, Inc., Bastrop, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Bastrop Holdings, Inc., Wilmington, Delaware, and thereby indirectly acquire First National Bank of Bastrop, Bastrop, Texas.

In connection with this application, Bastrop Holdings, Inc., Wilmington, Delaware, also has applied to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Bastrop, Bastrop, Texas.

2. The Caddo Financial Corporation, Caddo Mills, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The State National Bank of Caddo Mills, Caddo Mills, Texas.

3. First National Monahans Bancshares, Inc., Monahans, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Monahans Delaware Financial Corporation, Dover, Delaware, and thereby indirectly acquire First National Bank of Monahans, Monahans, Texas.

In connection with this application, Monahans Delaware Financial Corporation, Dover, Delaware; also has applied to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Monahans, Monahans, Texas.

4. Star Bancshares, Inc., Austin, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Star Bancshares of Nevada, Inc., Carson City, Nevada, and thereby indirectly acquire First State Bank, Austin, Texas.

In connection with this application, Star Bancshares of Nevada, Inc., Carson City, Nevada; also has applied to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Austin, Texas.

Board of Governors of the Federal Reserve System, February 22, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–4447 Filed 2–27–96; 8:45 am]

BILLING CODE 6210–01–F

George Mason Bankshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company and their subsidiaries. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 22, 1996.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. George Mason Bankshares, Inc., Fairfax, Virginia; and Mason Holding Corporation, Fairfax, Virginia; to acquire 100 percent of the voting shares of The Palmer National Bancorp, Inc., Washington, D.C., and thereby indirectly acquire The Palmer National Bank, Washington, D.C.

In connection with this application, Applicants also have applied to acquire Palmer National Mortgage, Inc., Rockville, Maryland, and thereby indirectly acquire in making, acquiring, or servicing loans or other extensions of credit for the company's account or for the account of others, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

In addition, Mason Holding Corporation, Fairfax, Virginia, also has applied to become a bank holding company by acquiring 100 percent of the voting shares of The Palmer National Bancorp, Inc., Washington, D.C., and thereby indirectly acquire The Palmer National Bank, Washington, D.C.

Board of Governors of the Federal Reserve System, February 22, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–4448 Filed 2–27–96; 8:45 am]

BILLING CODE 6210–01–F

Woodforest Bancshares, Inc.; Notice to Engage in Nonbanking Activities

Woodforest Bancshares, Inc., Houston, Texas (Notificant), has given notice pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), to acquire Mutual Money Investments, Inc. (d/b/a Tri-Star Financial), Houston, Texas (Company), and thereby engage in providing securities brokerage services pursuant to § 225.25(b)(15) of Regulation Y (12 CFR 225.25(b)(15)) and data processing services pursuant to § 225.25(b)(7) of Regulation Y (12 CFR 225.25(b)(7)). Notificant also proposes to act through Company as a riskless principal in the purchase and sale of all types of securities on the order of investors. This activity has previously been determined by Board Order to be closely related to banking. Notificant proposes to engage in the proposed activities nationwide.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity ''which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto.'' 12 U.S.C. 1843(c)(8).

Notificant maintains that the Board previously has determined that the proposed activities are ''so closely related to banking or managing or controlling banks as to be proper incident thereto.'' The Board previously has approved, by order, the proposed riskless principal activities, and Notificant has stated that it will conduct these activities using the same methods and subject to the prudential limitations established by the Board in its previous orders. *See J.P. Morgan & Co. Incorporated*, 76 Fed. Res. Bull. 26 (1990); *Bankers Trust New York Corporation*, 75 Fed. Res. Bull. 829 (1989).

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the notice, and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than March 13, 1996. Any request for a hearing on this proposal must, as required by section 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. The notice may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas.

Board of Governors of the Federal Reserve System, February 22, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–4449 Filed 2–27–96; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Paperwork Reduction Act Approvals

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: Notice of Approvals received from the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act (''PRA''), 44 U.S.C. §§ 3501–3520, certain ''collections of information'' contained in regulations issued or enforced by the FTC.

FOR FURTHER INFORMATION CONTACT: Elaine W. Crockett, Attorney, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580 (202) 326–2453.

SUPPLEMENTARY INFORMATION: The Federal Trade Commission is publishing a list of its current control numbers, approved by OMB, for collections of information contained in its regulations and in four Federal Reserve Board Regulations that the Commission enforces. This Notice fulfills the requirements for the ''display'' of these numbers under section 3512 of the PRA.

Many of these collections of information were submitted to OMB in August 1995 in response to the 1995 amendments to the PRA, which expanded the definition of ''collection of information'' to include ''disclosures to third parties or the public.'' At that time, the FTC submitted twenty-four rules and the Commission's administrative activities, all of which are reflected below. For some rules, the FTC modified current OMB clearance by revising the existing estimates of ''burden'' to include provisions requiring disclosures to consumers or other third parties. For other rules, the FTC sought approval for disclosure requirements that did not have a current OMB clearance. For ease of reference, this list also includes several control numbers that the Commission has already ''displayed'' in the preamble that accompanied the final rule.

The Commission's own rules are all published in 16 CFR. The Commission also enforces four Federal Reserve Board Regulations: Regulations B, E, M, and Z, which implement respectively, the Equal Credit Opportunity Act, 15 U.S.C. 1691 *et seq.*; the Electronic Fund Transfer Act, 15 U.S.C. 1693 *et seq.*; the Consumer Leasing Act, 15 U.S.C. 1667 *et seq.*; and the Truth-in-Lending Act, 15 U.S.C. 1601 *et seq.* These regulations are published by the Federal Reserve Board in Title 12 of the Code of Federal Regulations. The FTC is responsible for publishing only the control numbers pertaining to those provisions in the regulations that affect non-bank creditors and lessors.

Short title	12 CFR	OMB Control No.
Regulation B (Equal Credit Opportunity)	Part 202	3084–0087
Regulation E (Electronic Fund Transfer)	Part 205	3084–0085
Regulation M (Consumer Leasing)	Part 213	3084–0086
Regulation Z (Truth-In-Lending)	Part 226	3084–0088

Short title	16 CFR	OMB Control No.
Wool Act Regulations	Part 300	3084–0100
Fur Act Regulations	Part 301	3084–0099
Textile Act Regulations	Part 303	3084–0101
Appliance Labeling Rule	Part 305	3084–0069
Fuel Rating Rule	Part 306	3084–0068
Smokeless Tobacco Rule	Part 307	3084–0082
900 Number Rule	Part 308	3084–0102
Alternative Fuel Rule	Part 309	3084–0094
Telemarketing Rule	Part 310	3084–0097
Games of Chance Rule	Part 419	3084–0067
Care Labeling Rule	Part 423	3084–0103
Negative Option Plans Rule	Part 425	3084–0104
Amplifier Rule	Part 432	3084–0105
Mail Order Rule	Part 435	3084–0106
Franchise Rule	Part 436	3084–0107
Funeral Rule	Part 453	3084–0025
Used Car Rule	Part 455	3084–0108
R-Value Rule (Home Insulation)	Part 460	3084–0109
Fair Packaging and Labeling Act Regulations	Part 500	3084–0110
Conumer Product Warranty Rule	Part 701	3084–0111
Pre-Sale Availability Rule	Part 702	3084–0112
Informal Dispute Settlement Rule	Part 703	3084–0113
Rules under the Hart-Scott-Rodino Act	Part 801–803	3084–0005
FTC Administrative and Procurement Activities	Part Parts 1, II, and IV, Part III, Subpart I, Part 901, FTC Form 14.	3084–0047

By direction of the Commission.

[FR Doc. 96–4561 Filed 2–27–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95N–0280]

Fredrick Jay Shainfeld; Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the act) permanently debarring Dr. Fredrick Shainfeld from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Dr. Shainfeld was convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product; and relating to the regulation of a drug product under the act. Dr. Shainfeld has notified FDA that he acquiesces to debarment and, therefore, has waived his opportunity for a hearing concerning this action.

EFFECTIVE DATE: March 10, 1995.

ADDRESSES: Application for termination of debarment to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tamar S. Nordenberg, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

Dr. Fredrick Shainfeld, a former senior vice president of Technical and Regulatory Affairs and New Product Development at Halsey Drug Co. (Halsey), was sentenced on January 6, 1995, pursuant to a guilty plea, for obstruction of an agency proceeding, a Federal felony under 18 U.S.C. 1505. The basis for this conviction was as follows:

Dr. Shainfeld, in his capacity as senior vice president for Technical and Regulatory Affairs and New Product Development, supervised Halsey's regulatory filings to FDA. During a 1989 FDA establishment inspection of Halsey, Dr. Shainfeld and other members of Halsey's upper management provided FDA inspectors with a falsified raw material inventory card for Fenoprofen Calcium.

Dr. Shainfeld knew that the raw material card falsely stated that Halsey had received 50 kilograms of Fenoprofen Calcium on September 11, 1987, when in fact Halsey had received half that amount, and Dr. Shainfeld knew that the purpose of the falsification was to conceal from FDA that Halsey did not have enough raw material to manufacture its pilot batches in the sizes represented in abbreviated new drug applications (ANDA's) for the generic drug product Fenoprofen Calcium.

Dr. Shainfeld is subject to debarment based on a finding, under section 306(a)(2) of the act (21 U.S.C. 335a(a)(2)), that he was convicted of a felony under Federal law for conduct relating to the development, approval, and regulation of a drug product.

The purpose of the falsification of the raw material inventory cards for Fenoprofen Calcium was to conceal from FDA the fact that Halsey did not have enough raw material to manufacture its pilot batches in the sizes represented in the product's ANDA's. The falsification relates to the development or approval of a drug product because FDA makes its decisions whether to approve a product based on the information in the ANDA's. If the pilot batches were not manufactured in the sizes represented in the ANDA's, FDA made its approval decisions based on erroneous information.

The falsification of the raw material inventory cards relates to the regulation of drug products because FDA's regulatory decisions about Halsey drug

products may have been affected by the conduct.

In a letter received by FDA on March 10, 1995, Dr. Shainfeld notified FDA of his acquiescence to debarment, as provided for in section 306(c)(2)(B) of the act. A person subject to debarment is entitled to an opportunity for an agency hearing on disputed issues of material fact under section 306(i) of the act, but by acquiescing to debarment, Dr. Shainfeld waived his opportunity for a hearing and any contentions concerning his debarment.

II. Findings and Order

Therefore, the Deputy Commissioner for Operations, under section 306(a) of the act, and under authority delegated to him (21 CFR 5.20), finds that Dr. Fredrick Shainfeld has been convicted of a felony under Federal law for conduct: (1) Relating to the development or approval, including the process for development or approval, of a drug product (21 U.S.C. 335a(a)(2)(A)); and (2) relating to the regulation of a drug product (21 U.S.C. 335a(a)(2)(B)).

As a result of the foregoing findings and based on his notification of acquiescence, Dr. Fredrick Shainfeld is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under section 505, 507, 512, or 802 of the act (21 U.S.C. 355, 357, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective March 10, 1995, the date of notification of acquiescence (21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(ii) and 21 U.S.C. 321(dd)). Any person with an approved or pending drug product application who knowingly uses the services of Dr. Shainfeld, in any capacity, during his period of debarment, will be subject to civil money penalties. If Dr. Shainfeld, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application, he will be subject to civil money penalties. In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Dr. Shainfeld during his period of debarment.

Any application by Dr. Shainfeld for termination of debarment under section 306(d)(4) of the act should be identified with Docket No. 95N–0280 and sent to the Dockets Management Branch (address above). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 8, 1996.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 96–4473 Filed 2–27–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Public Information Collection Requirements Submitted for Public Comment and Recommendations

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 summaries 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.

1. *Type of Information Collection Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Medicare and Medicaid Disclosure of Ownership and Control Interest Statement; *Form No.:* HCFA–1513; *Use:* The information provided on this form is used by State agencies and HCFA regional offices to determine whether providers meet the eligibility requirements for Titles 18 and 19 (Medicare and Medicaid) and for grants under Titles 5 and 20. Review of ownership and control is particularly necessary to prohibit ownership and control for individuals excluded under Federal Fraud statutes; *Frequency:* On Occasion; *Affected Public:* Business or other for profit, not-for-profit; *Number of Respondents:* 60,000; *Total Annual Hours:* 30,000.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Evaluation of the Program of All-Inclusive Care for the Elderly (PACE) Demonstration; *Form No.:* HCFA-R–165; *Use:* This survey will collect data on functional status, service utility, and out-of-pocket costs, and satisfaction for a sample of applicants to the PACE program. This information will be to analyze the decision to participate in PACE and the impact of the program; *Frequency:* Semi-annually; *Affected Public:* Individuals and households; *Number of Respondents:* 1,833; *Total Annual Hours:* 3,745.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.ssa.gov/hcfa/hcfahp2.html , or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, 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 Financial and Human Resources, Management Planning and Analysis Staff, Attention: John Burke, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 16, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–4534 Filed 2–27–96; 8:45 am]

BILLING CODE 4120–03–P

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Projects

1. National Health Service Corps (NHSC) Professional Training and Information Questions (PTIQs)—The mission of the National Health Service Corps (NHSC) is to provide health professionals to those communities and populations located in federally designated health professional shortage areas (HPSAs) of greatest need. Through the NHSC Scholarship Program, health professions students receive scholarship support in return for a commitment to serve in a HPSA for a specified period of time. The NHSC will utilize the Professional Training and Information Questionnaire (PTIQ) to collect information from NHSC scholarship recipients on individual interests, family concerns, and assignment preferences which will be used in matching scholars to HPSAs with the greatest need for providers.

Burden estimates are as follows:

Type of respondent	Number of respondents	Responses per respondent	Hours per response	Total burden hours
Physicians	200	1	0.50	100
Nurse Practitioners, Physician Assistants, and Certified Nurse Midwives	50	1	0.50	25

Estimated Total Annual Burden: 125 hours.

2. Annual Administrative Report for Titles I and II of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990—Extension and Revision—The Uniform Reporting System provides for reports by grantees under Titles I and II of the Ryan White CARE Act of aggregate information about disbursal of funds, number of clients served and services provided, demographic information about clients served, and costs of provided services.

Title I grantees include local governments that meet legislative criteria for disproportionate impact of AIDS. Title II grantees include the 50 States, the District of Columbia, and a small number of territories. Grantees obtain the information for the AAR from individual service providers. Automated reporting alternatives are available to grantees and to providers at the grantee's option. This information is used to determine whether the purposes of the Act and the grants made pursuant to it are being fulfilled. The information is also used locally for planning and priority setting. Respondents include state and local governments, individuals, non-profit institutions, businesses and other for-profit organizations, and small businesses and entities. HRSA proposes to make some changes in the data elements, to improve their value and/or reduce the burden of data collection and reporting. To allow adequate lead time, the changes would be effective for data collection by service providers beginning in January, 1998. In addition to minor technical changes, the proposed changes include:

- In all reports, deleting elements concerning total expenditures and expenditures by accounting categories, because of the difficulty these elements posed for respondents;
- In all reports, adding several age breakouts for adult clients (currently a single figure is reported for all adults), to increase the local and national usefulness of the data;
- Eliminating the Modified AAR, which was used by fewer than 2% of providers, so that lead or fiscal agents for fee-for-service arrangements would instead submit a Standard AAR covering all of their subcontractors;
- In the Standard AAR, deleting elements concerning staffing levels and whether staff were added with CARE funds (useful in initial reports, these elements would be deleted now to reduce reporting burden);
- In the Standard AAR, adding elements for the number of clients receiving office-based health services, case management services, and home health care services (currently only the number of service encounters in these areas is reported), because of the importance of knowing how many people are receiving these services;
- Also in the Standard AAR, refining the list of ''Other Health and Social Support Services'' to add several services that have been cited frequently as important omissions (e.g., alternative therapy, medications, referrals and translation) and to delete or consolidate some existing categories (e.g., foster care/adoption and the two current categories for hospice care); and
- In the AIDS Drug Assistance Program AAR, adding some recently emerging drugs to the list of those to be reported on and deleting other drugs no longer widely used.

HRSA invites comment on another possible change, which has been suggested by numerous respondents: deleting the elements in the Standard AAR that deal with clients' primary HIV exposure categories.

The annual burden estimates are as follows:

Type of respondent	No. of respondents	Annual responses per respondent	Hours/response	Total burden hours
State Grantees	52	1	63	3,276
Local Grantees	49	1	25	1,225
Providers	2,500	1	23	57,500

Estimated total annual burden: 62,001 hours.

3. Health Professions Student Loan (HPSL) Program and Nursing Student Loan (NSL) Program Administrative Requirements (Regulations and Policy) (0915–0047)—Extension, No Change—The regulations for the Health Professions Student Loan (HPSL) Program and Nursing Student Loan (NSL) Program contain a number of reporting and recordkeeping

requirements for schools and loan applicants. The requirements are essential for assuring that borrowers are aware of their rights and responsibilities, that schools know the history and status of each loan account, that schools pursue aggressive collection efforts to reduce default rates, and that they maintain adequate records for audit and assessment purposes. Schools are free to use information technology to manage the information required by the regulations. The estimated burden is as follows:

Recordkeeping Requirements:

Reg./section requirement	Number of record-keepers	Hours per year	Total burden hours
HPSL Program:			
57.206(b)(2) Documentation of Cost of Attendance	290	1.17	339
57.208(a) Promissory Note	290	1.25	363
57.210(b)(1)(i) Documentation of Entrance Interview	290	1.25	363
57.210(b)(1)(ii) Documentation of Exit Interview	313	.33	103
57.215 (a) & (d) Program Records	313	10	3,130
57.215(b) Student Records	313	10	3,130
57.215(c) Repayment Records	313	18.75	5,869
HPSL subtotal	313	42.48	13,297
NSL Program:			
57.306(b)(2)(ii) Documentation of Cost of Attendance	435	.3	131
57.308(a) Promissory Note	435	.5	218
57.310(b)(1)(i) Documentation of Entrance Interview	435	.5	218
57.310(b)(1)(ii) Documentation of Exit Interview	909	.17	155
57.315 (a)(1) & (a)(4) Program Records	909	5.0	4,545
57.315(a)(2) Student Records	909	1.0	909
57.315(a)(3) Repayment Records	909	2.5	2,273
NSL subtotal	909	10.56	8,449

Reporting Requirements:

Req./Sect. Requirement	No. of Respondents	Responses Per Respondent	Total Annual Responses	House Per Response	Total Hour Burden
HPSL Program:					
57.205(a)(2) Excess Case	[Burden included under 0915–0044 and 0915–0046]				
57.206(a)(3) Student Financial Aid Transcrip	5,000	1	5,000	0.25	1,250
57.208(c) Loan Information Disclosure	290	72.41	21,000	.083	1,743
57.210(a)(3) Deferment Eligibility	[Burden included under 0915–0044]				
57.210(b)(1)(i) Entrance Interview	290	72.41	21,000	.167	3,507
57.210(b)(1)(ii) Exit Interview	313	15.97	5,000	.483	2,415
57.210(b)(1)(iii) Notification of Repayment	313	35.14	11,000	.167	1,837
57.210(b)(1)(iv) Notification During Deferment	313	28.75	9,000	.083	747
57.210(b)(1)(vi) Notification of Delinquent Accounts	313	15.97	5,000	.167	835
57.210(b)(1)(x) Credit Bureau Notification	313	12.78	4,000	.6	2,400
57.210(b)(4)(i) Write-off of Uncollectible Loans	26	1.8	48	.5	24
57.211(a) Disability Cancellation	16	1	16	.75	12
57.215(a) Reports	[Burden included under 0915–0044]				
57.215(a)(2) Admin. Hearings	0	0	0	0	0
57.216a(d) Admin. Hearings	0	0	0	0	0
HPSL Subtotal	5,313	15.26	81,064	.182	14,770
NSL Program:					
57.305(a)(2) Excess Cash	[Burden included under 0915–0044 and 0915–0046]				
57.306(a)(2) Student Financial Aid Transcript	3,000	1	3,000	.25	750
57.310(b)(1)(i) Entrance Interview	435	27.59	12,000	.167	2,004
57.310(b)(1)(ii) Exit Interview	909	4.4	4,000	.483	1,932
57.310(b)(1)(iii) Notification of Repayment	909	7.37	6,700	.167	1,119
57.310(b)(1)(iv) Notification During Deferment	909	.77	700	.083	58
57.310(b)(1)(vi) Notification of Delinquent Accounts	909	5.5	5,000	.167	835
57.310(b)(1)(x) Credit Bureau Notification	909	9.9	9,000	.6	5,400
57.310(b)(4)(i) Write-off of Uncollectible Loans	45	2.13	96	.5	48
57.311(a) Disability Cancellation	14	1	14	.75	11
57.312(a)(3) Evidence of Educational Loans	[Inactive provision]				
57.315(a)(1) Reports	[Burden included under 0915–0044]				
57.315(a)(1)(ii) Admin. Hearings	0	0	0	0	0
57.316a(d) Admin. Hearings	0	0	0	0	0
NSL Subtotal	3,909	10.36	40,510	.30	12,157

Estimated total annual burden: 48,673 hours.

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: February 28, 1996.

J. Henry Montes,

Associate Administrator for Policy Coordination.

[FR Doc. 96–4475 Filed 2–27–96; 8:45 am]

BILLING CODE 4160–15–M

Special Projects of National Significance; Integrated Service Delivery Models

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of Availability of Funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year (FY) 1996 Grants for Special Projects of National Significance (SPNS) funded under the authority of Section 2618(a) of the Public Health Service Act, as established by the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, Public Law 101–381, dated August 18, 1990. This announcement solicits applications addressing integrated service delivery for persons with HIV disease. Under this announcement, applicants must respond to one of the two categories delineated in the section entitled, ''Description of Categories''. Applicants *can* apply for project periods of up to 5 years. The SPNS program, in collaboration with the SPNS funded HIV Evaluation Technical Assistance Center grantee, will provide technical assistance and support for project's program evaluation studies.

This program announcement is subject to the appropriation of funds. Applicants are advised that this program announcement is a contingency action being taken to assure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for an even distribution of funds throughout the fiscal year. At this time, given a continuing resolution and the absence of FY 1996 appropriations for the Ryan White CARE Act programs, the amount of available funding for these specific grant programs cannot be estimated.

The SPNS program is designed to demonstrate and evaluate innovative and potentially replicable HIV service delivery models. The authorizing legislation specifies three SPNS program objectives: (1) To assess the effectiveness of particular models of care; (2) to support innovative program design; and (3) to promote replication of effective models.

DATES:

Notification

In order to allow HRSA to plan for the Objective Review Process, applicants are encouraged to contact the grants office in writing to notify HRSA of their intent to apply. This notification serves to inform HRSA of the anticipated number of applications and the category (and sub-category, if applicable) in which applications are being submitted. If notification is offered, it should be received within 30 days after publication of the Notice of Availability of Funds in the Federal Register. The address is: Grants Management Branch; Bureau of Health Resources Development; Health Resources and Services Administration; Room 7–15; Rockville, MD 20857.

Application

Applications for these announced grants must be received in the Grants Management Branch by the close of business May 28, 1996, to be considered for competition. Applications will meet the deadline if they are either: (1) received on or before the deadline date; or (2) postmarked on or before the deadline date, and received in time for submission to the objective review panel. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted as proof of timely mailing. Applications received after the deadline will be returned to the applicant.

ADDRESSES: Grant applications, guidance materials, and additional information regarding business, administrative, and fiscal issues related to the awarding of grants under this Notice may be requested from Mr. Neal Meyerson, Grants Management Branch, Bureau of Health Resources Development, Health Resources and Services Administration, 5600 Fishers Lane, Room 7–15, Rockville, MD, 20857. The telephone number is (301) 443–2280 and the FAX number is (301) 594–6096. Applicants for grants will use Form PHS 5161–1, approved under OMB Control No. 0937–0189. Completed applications should be sent to the Grants Management Branch.

FOR FURTHER INFORMATION CONTACT: Additional technical information may be obtained from the SPNS Branch, Office of Science and Epidemiology, Bureau of Health Resources Development, Health Resources and Services Administration, 5600 Fishers Lane, Room 7A–07, Rockville, MD 20857. The telephone number is (301) 443–9976 and the FAX number is (301) 594–2511.

HEALTHY PEOPLE 2000 OBJECTIVES: The Department of Health and Human Services (DHHS) urges applicants to address specific objectives of Healthy People 2000 in their work plans. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 200402–9325 (Telephone 202–783–3238).

SUPPLEMENTARY INFORMATION:

Background and Objectives

The SPNS program endeavors to advance knowledge and skills in HIV services delivery, stimulate the design of innovative models of care, and support the development of effective delivery systems for these services. SPNS accomplishes its purpose through funding and technical support of innovative HIV service delivery models. For purposes of this announcement, models seeking SPNS support must address one of the two categories described below.

In establishing the current special project categories, consideration was given to priority service areas identified in the SPNS concept paper, *Future Directions: Increasing Knowledge about Health and Support Service Delivery to People with HIV Disease.* This document was developed through interviews with and written comments from, key HRSA staff and experts inside and outside the U.S. Public Health Service, following a review of relevant HIV-related service delivery, research, evaluation, policy and planning documents. Consideration was also given to recommendations expressed during the *1995 White House Conference on HIV and AIDS.* Participants in the White House Conference and others recommended that collaborative efforts be made by the Departments of Health and Human Services and Housing and Urban Development to integrate funding streams for projects that address the needs of clients with multiple diagnoses.

The SPNS program supports innovative projects for which implementation, utilization, costs, and outcomes can be evaluated rigorously.

Proposals will be expected to adequately define and justify the need, innovative nature, and evaluation methodology of the proposed model of services. These funds should be used to create and/or evaluate models of care that would likely not exist nor be evaluated without SPNS support, or that would extend the care model to previously underserved or unserved populations defined either geographically or demographically.

SPNS funds cannot be used for expenses related to the provision of medical care; supportive services; or any other expenses currently reimbursed, subsidized or eligible for reimbursement through third party payers, grants awarded under Titles I-IV of the Ryan White CARE Act, or other grant and foundation sources.

Description of Categories

The Special Project Categories for FY 1996 will support the development and evaluation of models of care that address the formal linkage and integration of HIV ambulatory medical care (including primary medical care, mental health, substance abuse treatment and/or other critical HIV services).

Applications will be accepted that propose to demonstrate and evaluate:

Category A—Models of Integrated Service Delivery for Persons with HIV Disease

The formal linkage and integration of mental health, substance abuse treatment, rehabilitation and/or other critical HIV services with HIV ambulatory medical care (such as primary medical care and/or home/health care) in new or existing projects. Projects may provide comprehensive services to people with HIV disease in locations or facilities or clinics that serve only people with HIV disease or those that also care for people who do not have HIV disease. Where applicable, project evaluations should compare client and provider outcomes and satisfaction with care for HIV infected clients receiving care in HIV specific provider sites as compared to HIV infected clients receiving care in non-HIV specific settings.

Applicants for this category must address one of the following sub-categories:

(1) Coordinated delivery of HIV health and support services to specified transient, homeless, migrant, immigrant or mobile populations to ensure the delivery of a comprehensive continuum of care throughout the course of HIV infection and disease;

(2) Delivery of comprehensive health and support services to Native Americans (such as American Indians, Alaskan Natives or Native Hawaiians) through a network of providers experienced in caring for Native American communities; or

(3) Development of an integrated system of HIV ambulatory medical care services for an unserved or underserved population group that is experiencing a significant barrier(s) to care (e.g., ethnic and language minorities, visually or hearing impaired communities, the severely and persistently mentally ill, rural communities, or others) that improves access to and retention in the health care delivery system.

Category B—The Multiple Diagnoses Initiative

This initiative, a collaborative effort between the Departments of Health and Human Services (HHS) and Housing and Urban Development (HUD), is designed to develop and evaluate programs for the integration of medical, substance abuse, mental health services and other support services with housing assistance for homeless persons with HIV/AIDS and a serious mental illness and/or alcohol or substance abuse problems. The collaboration targets ''on the street'' homeless persons who currently do not have a place to live. This would include an innovative strategy for developing an integrated system of outreach, needs assessment, comprehensive health and other support services and various types of transitional and permanent housing which has the potential for replication. Related assistance is being announced under the Special Projects of National Significance component of HUD's Housing Opportunities for Persons with AIDS (HOPWA) program. For further information about HUD assistance, please contact Fred Karnas, Office of HIV/AIDS Housing, Community Planning and Development, 451 Seventh Street, SW, Room 7154, Washington, DC, 20410–7000. The telephone number is 202–708–1934 and the FAX number is 202–708–1744.

Review Criteria

Applications submitted to the SPNS program under this announcement will be reviewed and rated by an objective review panel. Criteria for the technical review of applications will include the following factors:

Factor 1: Justification of Need (15 points) Adequacy of demonstrated knowledge of the local HIV service delivery system and the adequacy of the justification of need within the community and target population for the proposed integration model. The extent to which the applicant's justification of need goes beyond documenting the existence of an available population in need of HIV services and describes what is innovative about the proposed model, how this model will be of benefit to the population in need, and its potential to advance knowledge in the HIV service delivery field. The adequacy of the discussion about whether or not this or similar models have been evaluated in published literature or reports. The extent to which the applicant identifies past/existing/future systemic or programmatic issues that have contributed to a fragmented service delivery system and how this model will develop a more integrated system of care.

Factor 2: Description of Proposed HIV Service Integration Model (25 points) The extent of the feasibility and clarity of the description, appropriateness, innovative quality, and potential for evaluation, replication and dissemination of the proposed model. The amount of emphasis given to the definitive integration of services to ensure the delivery of a comprehensive spectrum of care to persons with HIV disease. The extent to which the identification of providers and services integrated by the model is described. The adequacy of the discussion of the rationale for the selection of providers and services integrated by the proposed model.

Factor 3: Description of Program Plan (20 points) Comprehensiveness of the program plan as described in clearly stated goals, time-limited and measurable objectives for each goal, activities directly related to each objective, and a time line that shows the schedule of activities and production of materials that corresponds to milestones stated in the objectives and program evaluation. The extent to which the applicant demonstrates access to the proposed target population. The feasibility of the description of a process for maintaining client confidentiality throughout the project period.

Factor 4: Description of Evaluation Plan (20 points) Thoroughness, feasibility and appropriateness of the project's evaluation design from a methodological and statistical perspective. The extent to which the design of the evaluation allows a generalized conclusion regarding the outcomes of the integration model and its suitability for replication. The adequacy of the plan to assess HIV-related health outcomes among the population serviced and followed, and

the anticipated outcome impact from a systems level perspective.

Factor 5: Description of Dissemination (10 points) The extent to which the applicant demonstrates past involvement with disseminating information about HIV service delivery by describing dissemination activities to date (e.g., presenting and publishing findings through reports and papers, training, or technical assistance). The adequacy and feasibility of the preliminary dissemination plan.

Factor 6: Description of Organizational Capacity (10 points) Competency of the applicant organization in terms of fiscal, program management, and evaluation, as evidenced by (a) the consistency between the proposed level of effort and the budget justification; (b) skill level and time commitment required in the personnel specifications for program and evaluation staff; (c) the adequacy of resources proposed to conduct a quality evaluation of the project and dissemination of the project's findings; (d) the qualifications and experience of the proposed evaluation staff; and (e) appropriate confidential handling of clients' medical, social service, and epidemiological data. Extent of documentation demonstrating current and proposed coordination, formal collaboration, and specific linkages with related medical, health and support service activities within the project's catchment area.

Other Grant Information

Allowable Costs

The basis for determining allocable and allowable costs to be charged to PHS grants is set forth in 45 CFR part 74, subpart Q and 45 CFR part 92 for State, local or tribal governments. The four separate sets of cost principles prescribed for public and private non-profit recipients are OMB Circular A–87 for State, local or tribal governments; OMB Circular A–21 for institutions of higher education; 45 CFR part 74, appendix E for hospitals; and OMB Circular A–122 for nonprofit organizations.

Reporting and Other Requirements

A successful applicant under this notice will submit semi-annual activity summary reports in accordance with provisions of the general regulations which apply under 45 CFR part 74, subpart 74.51, ''Monitoring and Reporting Program Performance,'' with the exception of State and local governments to which 45 CFR part 92, Subpart C reporting requirements apply. Also, grantees must be prepared to collaborate with other grantees on the design and implementation of project evaluations which may include multi-site evaluation studies.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements which have been approved by the Office of Management and Budget under No. 0937–0195. Under these requirements, any community-based, non-governmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to keep State and local health officials apprised of proposed health services grant applications submitted from within their jurisdictions.

Community-based, non-governmental applicants are required to submit, no later than the Federal due date for receipt of the application, the following information to the administrator of the State and local AIDS programs in the area(s) to be impacted by the proposal: (a) A copy of the face page of the application (SF424); and, (b) a summary of the project (PHSIS), not to exceed one page, which provides: (1) A description of the population to be served; (2) a summary of the services to be provided; and, (3) a description of the coordination planned with the appropriate State or local health agencies. Copies of the letters forwarding the PHSIS to these authorities must be contained in the application materials submitted to this program.

Certification Regarding Environmental Tobacco Smoke

The Public Health Service strongly encourages all grant and contract recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children.

Executive Order 12372

The Special Projects of National Significance Grant Program has been determined to be a program subject to the provisions of Executive Order 12372, as implemented by 45 CFR part 100. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages to be made available under this notice will contain a listing of States which have chosen to set up a review system and will provide a State Single Point of Contact (SPOC) in the State for the review. Applicants (other than federally recognized Indian tribes) should contact their SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected state. The due date for State process recommendations is 60 days after the appropriate deadline dates. The Health Resources and Services Administration does not guarantee that it will accommodate or explain its responses to State process recommendations received after the due date. (See ''Intergovernmental Review of Federal Programs,'' Executive Order 12372, and 45 CFR part 100, for a description of the review process and requirements.)

OMB Catalog of Federal Domestic Assistance

Number for the Special Projects of National Significance is 93.928.

Dated: February 14, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–4477 Filed 2–27–96; 8:45 am]

BILLING CODE 4160–15–P

Special Projects of National Significance; Evaluation Technical Assistance Center

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of Availability of Funds

SUMMARY: The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year (FY) 1996 Grants for Special Projects of National Significance (SPNS) funded under the authority of Section 2618 (a) of the Public Health Service Act, as established by the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990, Public Law 101–381, dated August 18, 1990. This announcement solicits applications to design and develop an HIV Evaluation Technical Assistance Center. This Evaluation Technical Assistance Center will provide technical assistance to SPNS grantees in designing and implementing evaluation studies and dissemination activities for individual projects and develop and coordinate the implementation of any multi-site evaluations. Evaluation activities will

include a description and evaluation of the various demonstration projects involved in an effort to determine which models might be replicated and integrated into HIV/AIDS health care delivery systems nationally and an analysis of changes in client outcomes. Applicants *must* apply for a 5 year project period. The SPNS program, in collaboration with the HIV Evaluation Technical Assistance Center grantee, will provide technical assistance and support for the program evaluation studies for three groups of SPNS grantees. These grantee groups are: (1) Models of Integrated Service Delivery for Persons with HIV Disease, (2) HIV Multiple Diagnoses Initiative (a collaborative effort between the Departments of Health and Human Services and Housing and Urban Development) and (3) Health Care Services Demonstration Models for HIV Infected Youth.

This program announcement is subject to the appropriation of funds. Applicants are advised that this program announcement is a contingency action being taken to assure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for an even distribution of funds throughout the fiscal year. At this time, given a continuing resolution and the absence of FY 1996 appropriations for the Ryan White CARE Act programs, the amount of available funding for these specific grant programs cannot be estimated.

The authorizing legislation specifies three SPNS program objectives: (1) to assess the effectiveness of particular models of care; (2) to support innovative program design; and (3) to promote replication of effective models. The SPNS program endeavors to advance knowledge and skills in HIV services delivery by stimulating the design of innovative models of care. SPNS accomplishes its purpose through funding the technical support and evaluation of innovative and potentially replicable HIV service delivery models.

DATES:

Notification

In order to allow HRSA to plan for the Objective Review Process, applicants are encouraged to contact the grants office in writing to notify HRSA of their intent to apply. This notification serves to inform HRSA of the anticipated number of applications which are being submitted. If notification is offered, it should be received within 30 days after publication of the Notice of Availability of Funds in the Federal Register. The address is: Grants Management Branch; Bureau of Health Resources Development; Health Resources and Services Administration; Room 7–15; Rockville, MD 20857.

Application

Applications for this announced grant must be received in the Grants Management Branch by the close of business April 29, 1996 to be considered for competition. Applications will meet the deadline if they are either (1) received on or before the deadline date or (2) postmarked on or before the deadline date, and received in time for submission to the objective review panel. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted as proof of timely mailing. Applications received after the deadline will be returned to the applicant.

ADDRESSES: Grant applications, guidance materials, and additional information regarding business, administrative, and fiscal issues related to the awarding of grants under this Notice may be requested from Mr. Neal Meyerson, Grants Management Branch, Bureau of Health Resources Development, Health Resources and Services Administration, 5600 Fishers Lane, Room 7–15, Rockville, MD, 20857. The telephone number is (301) 443–2280 and the FAX number is (301) 594–6096. Applicants for grants will use Form PHS 5161–1, approved under OMB Control No. 0937–0189. Completed applications should be sent to the Grants Management Branch.

FOR FURTHER INFORMATION CONTACT: Additional technical information may be obtained from the SPNS Branch, Office of Science and Epidemiology, Bureau of Health Resources Development, Health Resources and Services Administration, 5600 Fishers Lane, Room 7A–07, Rockville, MD 20857. The telephone number is (301) 443–9976 and the FAX number is (301) 594–2511. Questions concerning the Health Care Services Demonstration Models for HIV Infected Youth should be directed to Evelyn M. Rodriguez, M.D., M.P.H., Office of the Director, Bureau of Health Resources Development, Health Resources and Services Administration, 5600 Fishers Lane, Room 7–13, Rockville, MD 20857. The telephone number is (301) 443–9530 and the FAX number is (301) 443–9645.

HEALTHY PEOPLE 2000 OBJECTIVES: The Department of Health and Human Services (DHHS) urges applicants to address specific objectives of Healthy People 2000 in their work plans. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 200402–9325 (Telephone 202–783–3238).

SUPPLEMENTARY INFORMATION:

Description of Grant

This grant will support the establishment of an Evaluation Technical Assistance Center to provide evaluation and dissemination technical assistance. Applicants should propose a plan to provide technical assistance to design and implement outcome evaluation studies and dissemination activities for SPNS grantees funded under the Models of Integrated Service Delivery for Persons with HIV Disease Demonstration Projects, the HIV Multiple Diagnoses Initiative and the Health Care Services Demonstration Models for HIV Infected Youth. In addition, the HIV Evaluation Technical Assistance Center will be responsible for developing and coordinating the implementation of any multi-site evaluations within groups of similar projects.

Evaluation and technical assistance will include providing overall evaluation coordination, including data management and analysis, training in common procedures, and distribution of necessary materials to all projects. Specifically, the Evaluation Technical Assistance Center will work with the grantees in the planning phase to: (1) Provide advice regarding the evaluation personnel needs at the project level; (2) develop criteria for compatible computer equipment; (3) recommend cross-cutting outcome measures; (4) develop model data collection formats that can be used by grantees at their discretion and (5) provide assistance in the development, preparation and dissemination of evaluation results and findings. It is anticipated that many of these tasks will be coordinated through a series of grantee meetings to commence early in the first project year.

Description of SPNS Projects

The Models of Integrated Service Delivery Demonstration Projects will be a group of approximately eight to ten grants. These projects will focus on defining and evaluating innovative

models of care that address the formal linkage and integration of mental health, substance abuse treatment, rehabilitation and/or other critical services with HIV ambulatory medical care (such as primary medical care and/or home health care). In developing integrated models, projects will address the following sub-categories: (1) Coordinated delivery of HIV health and support services to specified transient, homeless, migrant, immigrant or mobile populations to ensure the delivery of a comprehensive continuum of care throughout the course of HIV infection and disease; (2) Delivery of comprehensive health and support services to Native Americans (American Indian, Alaskan Natives and Native Hawaiians) through a linked network of providers experienced in caring for Native American communities; and, (3) Development of a formally linked system of HIV ambulatory care services for an underserved population group experiencing significant barriers to care, (e.g., ethnic and language minorities, visually or hearing impaired communities, the severely and persistently mentally ill, rural communities or *others*) that improves access to and retention in the health care delivery system.

The HIV Multiple Diagnoses Initiative. This initiative, a collaborative effort between the Departments of Health and Human Services (HHS) and Housing and Urban Development (HUD), is designed to develop and evaluate programs for the integration of medical, substance abuse, mental health services and other support services with housing assistance for homeless persons with HIV/AIDS and a serious mental illness and/or alcohol or substance abuse problems. The collaboration targets ''on the street'' homeless persons who currently do not have a place to live. Applicants should propose an innovative strategy for developing an integrated system of outreach, needs assessment, comprehensive health and other support services and various types of transitional and permanent housing which has the potential for replication. Related assistance is being announced under the Special Projects of National Significance component of HUD's Housing Opportunities for Persons with AIDS (HOPWA) program. The Evaluation Technical Assistance Center will be responsible for evaluating the medical, substance abuse, mental health and other support services components of these jointly funded projects.

Projects funded under the Health Care Services Demonstration Models for HIV Infected Youth will develop, expand, implement, and provide health and related support services for youth with HIV infection. Three to four grantees will be funded to incorporate innovative health, nursing, and ancillary care services (such as mental health and substance abuse treatment) to improve participation by youth in HIV counseling and testing, diagnosis, prophylaxis, and treatment of manifestations and complications of HIV infection and AIDS, including: (1) Antiretroviral therapy to children and youth, and (2) prophylactic therapy for opportunistic infections for children and youth, including tuberculosis. Models will also determine the spectrum of HIV disease among treated and untreated children/adolescents (upon entry to care), the progression of HIV disease among children/adolescents, physical growth and development, adherence to antiretroviral treatment and PCP prophylaxis.

Review Criteria

Applications submitted to the SPNS program under this announcement will be reviewed and rated by an objective review panel. Criteria for the technical review of applications will include the following factors:

Evaluation Technical Assistance Center

Factor 1: Professional Qualifications of Personnel (15 points) Qualifications, i.e., professional degree(s), work experience, publication(s), training provider, etc., of the project director, existing staff, proposed staff and/or consultants in (a) the design and direction of national and multi-site health services models evaluation and/or research, (b) the dissemination of progress reports and final results of completed studies, (c) the provision of technical assistance on both qualitative and quantitative evaluation techniques, and in (d) the development of various types of dissemination products, i.e., professional journal articles, media work, manuals, training programs, etc.

Factor 2: Organizational Capacity (20 points) Proficiency of applicant's administrative, fiscal and professional management in the use of grant funds and personnel resources as evidenced in (a) the appropriateness of the proposed budget for the entire project period, (b) proposed staffing patterns during various phases, e.g., planning, start up, implementation, analysis and reporting of the project's operations, (c) proposed apportionment of existing facilities and information management resources, and (d) the justification(s) for additional space and equipment if requested.

Factor 3: Implementation Plan (25 points) Comprehensiveness of applicant's plan for implementing national and multi-site evaluation studies as evidenced by (a) the relevancy of the goals and objectives for measuring progress and achievement of completion of the evaluation studies, (b) the feasibility of the projected time line, (c) capability of meeting the needs of the Federal government through production of timely reports and providing assistance in managing the meetings of the three groups of grantees, and (d) meeting the needs of the grantees through the provision of ongoing technical assistance, designing efficient measurement tools, and the initiation and receipt of continuous support in their data collection process.

Factor 4: Management Information Systems (MIS) and Procedures (20 points) Capacity of the applicant's MIS hardware and software to manage the scope of the proposed project; the professional expertise of the MIS staff in programming, maintaining data set(s), implementing the applicant organization's quality control policies and in providing technical assistance to the grantees; the adequacy of the applicant's plan for providing technical assistance to grantees and coordinating grantee project evaluations; and the feasibility of the policies and procedures utilized to ensure reliable and confidential management of the data set(s).

Factor 5: Dissemination Activities (20 points) Thoroughness of means for addressing and assessing the knowledge and skills needed within the field of HIV/AIDS health services delivery; creativity and timeliness of approaches for the dissemination of ''lessons learned'' and ''best practices''; the release of various types of dissemination products that describe unique and cross-cutting operational issues, i.e., small studies using interim data, qualitative reports on implementation barriers experienced by the grantees, ''special reports'', etc.; and capability to assist grantees in preparation of reports, releases to local media, training curricula, manual development and consultant services for replication of grantee service delivery models.

Other Grant Information

Allowable Costs

The basis for determining allocable and allowable costs to be charged to PHS grants is set forth in 45 CFR part 74, subpart Q and 45 CFR part 92 for State, local or tribal governments. The four separate sets of cost principles prescribed for public and private non-profit recipients are OMB Circular A–87 for State, local or tribal governments;

OMB Circular A–21 for institutions of higher education; 45 CFR part 74, appendix E for hospitals; and OMB Circular A–122 for nonprofit organizations.

Reporting and Other Requirements

A successful applicant under this notice will submit semi-annual activity summary reports in accordance with provisions of the general regulations which apply under 45 CFR part 74, subpart 74.51, ''Monitoring and Reporting Program Performance,'' with the exception of State and local governments to which 45 CFR part 92, Subpart C reporting requirements apply. Also, grantees must be prepared to collaborate with other grantees on the design and implementation of project evaluations which may include multi-site evaluation studies.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements which have been approved by the Office of Management and Budget under No. 0937–0195. Under these requirements, any community-based, non-governmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to keep State and local health officials apprised of proposed health services grant applications submitted from within their jurisdictions.

Community-based, non-governmental applicants are required to submit, no later than the Federal due date for receipt of the application, the following information to the administrator of the State and local AIDS programs in the area(s) to be impacted by the proposal: (a) a copy of the face page of the application (SF424); and, (b) a summary of the project (PHSIS), not to exceed one page, which provides: (1) a description of the population to be served; (2) a summary of the services to be provided; and, (3) a description of the coordination planned with the appropriate State or local health agencies. Copies of the letters forwarding the PHSIS to these authorities must be contained in the application materials submitted to this program.

Certification Regarding Environmental Tobacco Smoke

The Public Health Service strongly encourages all grant and contract recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children.

Executive Order 12372

The Special Projects of National Significance Grant Program has been determined to be a program subject to the provisions of Executive Order 12372, as implemented by 45 CFR part 100. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs.

The application packages to be made available under this notice will contain a listing of States which have chosen to set up a review system and will provide a Single Point of Contact (SPOC) in the State for the review. Applicants (other than federally recognized Indian tribes) should contact their SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected state. The due date for State process recommendations is 60 days after the appropriate deadline dates. The Health Resources and Services Administration does not guarantee that it will accommodate or explain its responses to State process recommendations received after the due date. (See ''Intergovernmental Review of Federal Programs,'' Executive Order 12372, and 45 CFR part 100, for a description of the review process and requirements.)

OMB Catalog of Federal Domestic Assistance

Number for the Special Projects of National Significance is 93.928.

Dated: February 14, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–4476 Filed 2–27–96; 8:45 am]

BILLING CODE 4160–15–P

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month March 1996:

Name: Council on Graduate Medical Education.

Date and Time: March 12, 1996, 8 a.m.–5 p.m.

Place: Governor's House Hotel, 17th Street at Rhode Island, Avenue, N.W., Washington, D.C. 20036.

This meeting is open to the Public.

Agenda: The agenda will include a panel to discuss International Medical Graduates, data and trends, and entry and participation in the U.S. physician workforce. There will be reports and updates on the work Groups: Minorities in Medicine; Geographic Distribution/Medical Education Consortia; Physician Competencies in a Managed Care World; and IMG entry and Participation in the physician workforce.

Anyone requiring information regarding the subject should contact F. Lawrence Clare, M.D., M.P.H., Acting Executive Secretary, telephone (301) 443–6326, Council on Graduate Medical Education, Division of Medicine, Bureau of Health Professions, Health Resources and Service Administration, Room 9A–27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Agenda Items are subject to change as priorities dictate.

Dated: February 23, 1996.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 96–4474 Filed 2–27–96; 8:45 am]

BILLING CODE 4160–15-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. FR–2491–N–04]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: April 29, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 415–7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Oliver Walker, Telephone number (202) 708–1694 (this is not a toll-free number)

for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Actions to Reduce Losses in FHA Programs FR–2491.

OMB Control Number: 2502–0392.

Description of the need for the information and the proposed use: A uniform form for HUD and HUD approved lenders to use which puts forth the value, terms and conditions of a property for mortgage insurance purposes.

Agency form numbers: Not Applicable.

Members of affected public: Business or other for profit.

An estimation of the total numbers of hours needed to prepare the information collection is 8,000 number of respondents is 200 frequency response is yearly and the hour of response is 1.

Status of the proposed information collection: Extension of a currently approved collection.

Dated: February 15, 1996.

Nicolas P. Retsinas,

A/S Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96–4440 Filed 2–27–96; 8:45 am]

BILLING CODE 4210–27–M

Office of Administration

[Docket No. FR–3929–N–02]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: March 29, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 20, 1996.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program (FR–3929).

Office: Community Planning and Development.

OMB Approval Number: 2506–0131.

Description of the Need for the Information and Its Proposed Use: The information requested will assist the Department in selecting applicants which meet program requirements and demonstrate the greatest need for Section 8 Moderate Rehabilitation SRO program funds. The purpose of this program is to provide Rental Assistance for homeless individuals in rehabilitated SRO housing.

Form Number: HUD–52515–B.

Respondents: State, Local, or Tribal Government and Not-For-Profit Institutions.

Frequency of Submission: On occasion.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Information Collection	150		1		25.5		3,825

Total Estimated Burden Hours: 3,825.
Status: Reinstatement without change.
Contact: Marian V. Jones, HUD, (202) 708–1234, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: February 20, 1996.

[FR Doc. 96–4439 Filed 2–27–96; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. FR–3798–N–03]

Announcement of Funding Awards: Community Development Block Grant Program for Indian Tribes and Alaska Native Villages, Fiscal Year 1995

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 1995 for the Community Development Block Grant Program for Indian Tribes and Alaska Native Villages. The purpose of this Notice is to publish the names and addresses of the award winners and the amount of the awards made available by HUD to provide assistance to the Indian Tribes and Alaska Native Villages.

FOR FURTHER INFORMATION CONTACT: Dom Nessi, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, Room B–133, 451 Seventh Street SW, Washington, DC 20410. Telephone (202) 755–0068 (this is not a toll-free number). Hearing- or speech- impaired persons, may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The CDBG Program is authorized under Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); 24 CFR Part 953.

This Notice announces FY 1995 funding of $46,000,000 to be used to assist in the development of viable Indian and Alaskan native communities, including decent housing, a suitable living environment, and economic opportunities. The FY 1995 awards announced in this Notice were selected for funding consistent with the provisions in the Notices of Funding Availability (NOFAs) published in the Federal Register on February 24, 1995 (60 FR 10452).

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing the names, addresses, and amounts of those awards as shown in Appendix A.

Dated: February 22, 1996.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

Appendix A.—Community Development Block Grant; Program for Indian Tribes and Alaskan Native Villages, Recipients of Funding Decisions, Fiscal Year 1995

Funding recipient (name and address)	Amount approved
Eastern/Woodlands ONAP	
Bois Forte Reservation, P.O. Box 16, Nett Lake, Minnesota 55772	$300,000
Eastern Band of Cherokee Indians, P.O. Box 455, Cherokee, North Carolina 28719	300,000
Forest County Potawatomi Community, P.O. Box 340, Crandon, Wisconsin 54520	300,000
Ho Chunk Nation, P.O. Box 54, Black River Falls, Wisconsin 54615	300,000
Lac Vieux Desert Band of Lake Superior Chippewa Indians, P.O. Box 249–Choate Road, Watersmeet, Michigan 49969	300,000
Leech Lake Tribal Council, P.O. Box 100, Cass Lake, Minnesota 56633	300,000
Passamaquoddy Joint Tribal Council, 36 North Street, Calais, Maine 04619	300,000
Poarch Band of Creek Indians, HCR–69 Box 85–B, Atmore, Alabama 36502	300,000
Red Cliff Band of Lake Superior Chippewa Indians, P.O. Box 529, Bayfield, Wisconsin 54814	300,000
Sokaogon Chippewa Community Mole Lake Band, Route 1, Box 625, Crandon, Wisconsin 54520	300,000
White Earth Reservation Tribal Council, P.O. Box 418, White Earth, Minnesota 56591	300,000
Southern Plains ONAP	
Cherokee Tribe, P.O. Box 948, Tahlequah, OK 74465	750,000
Seneca-Cayuga Tribe, P.O. Box 1284, Miami, OK 74355	161,288
Osage Tribe, 627 Grandview, Pawhuska, OK 74056	100,000
Alabama-Quassarte Tribe, P.O. Box 537, Henryetta, OK 74437	343,900
Choctaw Tribe, Drawer 1210, Durant, OK 74702–1210	750,000
Sac & Fox of Oklahoma, Rt 2, Box 246, Stroud, OK 74079	750,000
Iowa Tribe of Kansas & Nebraska, Rt 1, Box 58–A, White Cloud, KS 66094	375,000
Peoria Tribe, P.O. Box 1527, Miami, OK 74355	700,000
Chitimacha, P.O. Box 661, Charenton, LA 70523–6691	662,900
Osage Tribe, 627 Grandview, Pawhuska, OK 74056	150,000
Kaw Tribe, P.O. Box 50, Kaw City, OK 74641	670,520
Comanche Tribe, P.O. Box 908, Lawton, OK 73502	600,120
Apache Tribe, P.O. Box 1220, Anakarko, OK 73005	500,000
Osage Tribe, 627 Grandview, Pawhuska, OK 74056	248,700
Absentee-Shawnee Tribe, 2025 S. Gordon Cooper, Shawnee, OK 74801	110,000
Prairie Band Potawatomi Tribe, 14880 "K" Road, Mayetta, KS 66509	685,072
Pawnee Tribe, P.O. Box 470, Pawnee, OK 74058	750,000
Ponca Tribe, Box 2, White Eagle, Ponca City, OK 74601	12,400
Northern Plains ONAP	
Blackfeet Tribe, P.O. Box 850, Browning, MT 59417	382,000
Fort Berthold Tribes, HC Box 2, New Town, ND 58763	798,601
Northern Arapaho Tribe, P.O. Box 396, Ft. Washakie, WY 82514	800,000
Southern Ute Tribe, P.O. Box 737, Ignacio, CO 81137	564,000
Standing Rock Sioux Tribe, P.O. Box D, Fort Yates, ND 58538	400,000
Turtle Mountain Band of Chippewa, P.O. Box 900, Belcourt, ND 58316	400,000
Utah Paiute Tribe, 600 North, 100 East, Cedar City, UT 84720	800,000
Chippewa Cree Tribe, P.O. Box 544, Box Elder, MT 59521	400,000
Ute Indian Tribe, P.O. Box 190, Ft. Duchesne, UT 84026	200,000
Northern Cheyenne Tribe, P.O. Box 128, Lame Deer, MT 59043	800,000
Fort Belknap Indian Community, R.R. 1, Box 66, Harlem, MT 59526	800,000
Southwest ONAP	
Navajo Nation, P.O. Box 9000, Window Rock, AZ 86515	4,516,703
Colusa Rancheria, P.O. Box 8, Colusa, CA 95932	117,102
Ysleta Del Sur, P.O. Box 17579, El Paso, TX 79917	386,280
Coyote Valley Rancheria, P.O. Box 39, Redwood Valley, CA 95470	450,000
Cocopah Indian Reservation, Bin G, Somerton, AZ 85350	450,000

Funding recipient (name and address)	Amount approved
Redwood Valley Rancheria, P.O. Box 499, Redwood Valley, CA 95470	450,000
Chemehuevi Indian Reservation, P.O. Box 1976, Chemehuevi Valley, CA 92363	450,000
Hualapai Indian Reservation, P.O. Box 179, Peach Springs, AZ 86434	435,500
Grindstone Rancheria, P.O. Box 63, Elk Creek, CA 95939	450,000
Washoe Tribe of NV and CA, 919 Highway 395 South, Gardnerville, NV 89410	450,000
Yavapai Apache Tribe, P.O. Box 1188, Camp Verde, AZ 86322	432,500
Tule River Reservation, P.O. Box 589, Porterville, CA 93258	444,339
White Mountain Apache Tribe, P.O. Box 700, Whiteriver, AZ 85941	2,000,000
Mesa Grande Indian Reservation, P.O. Box 270, Santa Ysabel, CA 92070	450,000
Mescalero Indian Reservation, P.O. Box 176, Mescalero, NM 88340	585,000
Ely Colony, 16 Shoshone Circle, Ely, NV 89301	386,750
Tohono O'Odham Nation, P.O. Box 837, Sells, AZ 85634	516,200
Duck Valley Indian Reservation, P.O. Box 219, Owyhee, NV 89832	289,125
Redding Rancheria, 2000 Rancheria Road, Redding, CA 96001	367,429
Sherwood Valley Rancheria, 190 Sherwood Hill Drive, Willits, CA 95490	440,910
Trinidad Rancheria, P.O. Box 630, Trinidad, CA 95570	447,000
Santa Ana Pueblo, 02 Dove Road, Bernalillo, NM 87004	425,000
Picuris Pueblo, P.O. Box 127, Penasco, NM 87553	450,000
La Jolla Indian Reservation, Star Route Box 158, Valley Center, CA 92082	450,000
Pala Indian Reservation, P.O. Box 43, Pala, CA 92059	431,022
Yomba Indian Reservation, HC 61, Box 6275, Austin, NV 89310	170,670
Scotts Valley Band of Pomo Indians, 149 North Main St., Ste. 200, Lakeport, CA 95453	301,484
Fallon Indian Reservation, 8955 Mission Road, Fallon, NV 89406	450,000
Pueblo of Jemez, P.O. Box 78, Jemez Pueblo, NM 87024	550,000
Cabazon Band of Mission Indians, 84–245 Indio Springs Dr., Indio, CA 92201	450,000
Gila River Indian Community, P.O. Box 97, Sacaton, AZ 85247	365,470
Northwest Coast ONAP	
Makah Indian Tribe, P.O. Box 115, Neah Bay, WA 98357	320,000
Spokane Indian Tribe, P.O. Box 7334, Wellpinit, WA 99207	320,000
Conf. Tribes of Warm Springs, P.O. Box C, Warm Springs, OR 97761	320,000
Suquamish Indian Tribe, P.O. Box 498, Suquamish, WA 98392	240,000
Nooksack Indian Tribe, P.O. Box 157, Deming, WA 98244	320,000
Klamath Indian Tribe, P.O. Box 426, Choloquin, OR 97624	168,664
Coeur d'Alene Tribe, P.O. Box 388, Plummer, ID 83851	320,000
Upper Skagit Indian Tribe, 2284 Community Plaza Way, Sedro Woolley, WA 98284, Squaxin Island Tribe, S.E. 70, Squaxin Land, Shelton, WA 98584	320,000
Anchorage ONAP	
Pitka's Point Traditional Council, P.O. Box 127, St. Mary's, AK 99658	205,658
Native Village of Shageluk, General Delivery, Shageluk, AK 99665	300,000
Native Village of Savoonga, P.O. Box 120, Savoonga, AK 99769	350,287
Tatitlek IRA Council, P.O. Box 171, Tatitlek, AK 99677	333,760
Mt. Sanford Tribal Consortium, P.O. Box 357, Gakona, AK 99586	499,041
Native Village of Koyuk, P.O. Box 30, Koyuk, AK 99753	310,573
Native Village of Kwigillingok, P.O. Box 49, Kwigillingok, AK 99622	500,000
Kokhanok Village Council, P.O. Box 1007, Kokhanok, AK 99606	136,700
Native Village of Atmautluak, General Delivery, Atmautiuak, AK 99559	500,000
Native Village of Mekoryuk, Box 66, Mekoryuk, AK 99630	274,500
Native Village of Kwinhagak (Quinhagak), General Delivery, Quinhagak, AK 99655	328,525

[FR Doc. 96–44351 Filed 2–27–96; 8:45 am]

BILLING CODE 4210–33–P

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–4004–N–02]

Notice of Funding Availability for the HUD-Administered Small Cities Community Development Block Grant (CDBG) Program—Fiscal Year 1996; and the Section 108 Loan Guarantee Program for Small Communities in New York State; Amendment

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1996; Amendment.

SUMMARY: This notice amends the NOFA for the HUD-Administered Small Cities Community Development Block Grant (CDBG) Program and the Section 108 Loan Guarantee Program for Small Communities in New York State, published in the Federal Register on December 28, 1995 (60 FR 67260). This notice provides an additional contact for New York State and to clarify certain other items as described below.

DATES: This notice does not effect the deadline dates described in the December 28, 1995 NOFA for the HUD-Administered Small Cities CDBG Program and the Section 108 Loan Guarantee Program for Small Communities in New York State (60 FR 67260).

FOR FURTHER INFORMATION CONTACT: Joseph A. D'Agosta, Director, Office of Community Planning and Development, Department of Housing and Urban Development, 26 Federal Plaza, New York, NY 10278–0068; telephone (212) 264–0771. (This is not a toll-free number.) Hearing- or speech-impaired persons may call (212) 264–0927 (TDD).

SUPPLEMENTARY INFORMATION: The NOFA for the HUD-Administered Small Cities Community Development Block Grant (CDBG) Program—Fiscal Year (FY) 1996, and the Section 108 Loan Guarantee Program for Small Communities in New York State was published in the Federal Register on December 28, 1995 (60 FR 67260). Today's notice amends sections I.C.2. (Previous Grantees) and I.E.2.c. (Performance Assessment Reports) of the December 28, 1995 NOFA to clarify that the submission date of annual Performance Assessment Reports (PARs) is no later than October 31 for all grant agreements executed before April 1 of the same calendar year, and that the first report should cover the period from the execution of the grant until September 30. Reports on grants made after March 31 of a calendar year will be due October 31 of the following calendar year, and the report should cover the period of time from the execution of the grant until September 30 of the calendar year following grant execution. After the submission of the initial report, PARs will be submitted annually on October 31 until completion of the activities funded under the grant.

Today's notice also amends section I.D.5.b. (Grant Limits and Funding Requirements) of the December 28, 1995 NOFA to clarify that multi-year requests may be for single purpose grants as well

as comprehensive grants. This notice specifies limits for single purpose and comprehensive grants.

With regard to section I.E.3.c.(1)(a)(iii) (Direct Homeownership Assistance) of the December 28, 1995 NOFA, the authority under the CDBG program to carry out direct homeownership assistance activities has expired. The FY 1996 HUD appropriations bill would have amended the CDBG program to make homeownership activities a permanent eligible CDBG activity. The FY 1996 HUD appropriations bill was not approved by the President, and as of this date such activities are not authorized. If there is a HUD appropriation bill enacted with this provision prior to HUD's announcement of grant awards, then any fundable applications containing such activities would be approvable. However, potential applicants are advised that should direct homeownership activities not be authorized by the time HUD makes the grant awards, HUD would not be able to make a grant obligation for such activities. Applicants should take these matters into consideration when preparing an application that contains direct homeownership activities. It is noted that some direct homeownership activities are eligible under other provisions of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301–5320).

Today's notice corrects section II.C.2. (Streamlined Application Requirements for Certain Applicants) to be consistent with 24 CFR 570.425(c) to provide that a previous year's applicant, whose application was not funded, may notify HUD in writing within the application period that it wishes its previous application to be reconsidered in the current competition. The NOFA published on December 28, 1995 erroneously stated that all previous year's unfunded applications would be automatically reconsidered. This provision was in effect for the Fiscal Year 1995 competition only.

Today's notice amends section III (Technical Assistance) to clarify that both of HUD's New York offices, located in Buffalo and New York City, will be available to provide technical assistance to prospective applicants.

Today's notice also provides the correct phone number for HUD's Buffalo office, which is (716) 551–5742.

Accordingly, FR Doc. 95–31383, the NOFA for the HUD-Administered Small Cities Community Development block Grant (CDBG) Program—Fiscal Year 1996, and the Section 108 Loan Guarantee Program for Small Communities in New York State, published in the Federal Register on December 28, 1995 (60 FR 67260), is amended as follows:

1. On page 67263, in column 1, section I.C.2., under the heading ''Previous grantees,'' is amended to read as follows:

I. Purpose and Substantive Description

* * * * *

C. Eligibility

* * * * *

2. Previous grantees. Eligible applicants, which previously have been awarded Small Cities Program CDBG grants, are also subject to an evaluation of capacity and performance. Numerical thresholds for drawdown of funds have been established to assist HUD in evaluating a grantee's progress in implementing its program activities. (These standards apply to all CDBG Program grants received by the community.) An additional threshold relates to the submission of annual Performance Assessment Reports (PARs) which were due October 31, 1995, for all grant agreements executed before April 1, 1995. (See 24 CFR § 570.507(a)(2)(ii)(A).) Failure to submit a PAR is not a curable technical deficiency. Applicants generally will be determined to have performed adequately in the area(s) where the thresholds are met. Where a threshold has not been met, HUD will evaluate the documentation of any mitigating factors, particularly with respect to actions taken by the applicant to accelerate the implementation of its program activities.

* * * * *

2. On page 67264, in column 1, section I.D.5.b., under the heading ''Grant Limits and Funding Requirements'' is amended to read as follows:

I. Purpose and Substantive Description

* * * * *

D. Types of Grants

* * * * *

5. Multi-year Plans

* * * * *

b. *Grant Limits and Funding Requirements. Single Purpose Multi-year requests*: The maximum annual grant for a Single Purpose grant is $600,000, except that counties may apply for up to $900,000 in Single Purpose funds. The maximum amount for Single Purpose grant applications made jointly by units of general local government will be $900,000. The maximum funding for implementing an entire multi-year plan is $1,200,000 for a two year multi-year plan ($1,800,000 for counties and joint applications by units of general local government), and $1,800,000 for a three year multi-year plan ($2,700,000 for counties and joint applications by units of general local government).

Comprehensive Multi-year requests. The maximum funding for implementing an entire multi-year plan is $3,100,000 for a two year multi-year plan, and $5,000,000 for a three year multi-year plan. However, in no event will HUD award more than $1,200,000 in grant funds for the first year's increment of either a 2-year or 3-year multi-year request.

Grant funds requested must be sufficient, either by themselves or in combination with funds from other sources, (including any Section 108 Loan Guarantee resources requested in conjunction with a Small Cities application under this NOFA) to complete the project within a reasonable amount of time. If other sources of funds are to be used with respect to a project, the source of those funds should be identified and the level of commitment indicated.

* * * * *

3. On page 67265, in column 1, section I.E.2.c., under the heading ''Performance Assessment Reports'' is amended to read as follows:

I. Purpose and Substantive Description

* * * * *

E. Selection Criteria/Ranking Factors and Final Selection

* * * * *

2. Performance Evaluation

* * * * *

c. *Performance Assessment Reports.* Under 24 CFR 570.507, Small Cities CDBG grantees are required to submit Performance Assessment Reports (PARs) no later than October 31 for all grants executed before April 1 of the same calendar year. The first report should cover the period from the execution of the grant until September 30. Reports on grants made after March 31 of a calendar year will be due October 31 of the following calendar year, and the reports will cover the period of time from the execution of the grant until September 30 of the calendar year following grant execution. After the submission of the initial report, PARs will be submitted annually on October 31 until completion of the activities funded under the grant. For an application for FY 1996 funds to be considered for funding, the applicant must be current in its submission of Performance Assessment Reports. Failure to submit a PAR is not a curable technical

deficiency under Section V of this NOFA.

* * * * *

4. On page 67268, in column 2, section I.E.3.c.(1)(a)(iii), under the heading ''Direct Homeownership Assistance,'' after the fifth paragraph, a new paragraph is added, to read as follows:

I. Purpose and Substantive Description

* * * * *

E. Selection Criteria/Ranking Factors and Final Selection

* * * * *

3. Four Factor Rating

* * * * *

c. Program Impact—General.

* * * * *

(1) *Program Impact—Single Purpose Grants.*

* * * * *

(a) *Program Impact—Single Purpose—Housing.*

* * * * *

(iii) *Direct Homeownership Assistance.*

* * * * *

The authority under the CDBG program to carry out direct homeownership assistance activities has expired. The FY 1996 HUD appropriations bill would have amended the CDBG program to make homeownership activities a permanent eligible CDBG activity. The FY 1996 HUD appropriations bill was not approved by the President, and as of this date such activities are not authorized. If there is a HUD appropriation bill enacted with this provision prior to HUD's announcement of grant awards, then any fundable applications containing such activities would be approvable. However, potential applicants are advised that should direct homeownership activities not be authorized by the time HUD makes the grant awards, HUD would not be able to make a grant obligation for such activities. Applicants should take these matters into consideration when preparing an application that contains direct homeownership activities. It is noted that some direct homeownership activities are eligible under other provisions of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301–5320).

* * * * *

5. On page 67278, in column 1, section II.A., under the heading ''Obtaining Applications'' is amended to read as follows:

II. Application and Funding Award Process

A. Obtaining Applications

All nonentitled communities in New York State may obtain application kits through HUD's New York or Buffalo Offices. The addresses for HUD's Buffalo and New York offices are:

Department of Housing and Urban Development, Office of Community Planning and Development, Attention: Small Cities Coordinator, 26 Federal Plaza, New York, NY 10278–0068, Telephone (212) 264–6500

Department of Housing and Urban Development, Community Planning and Development Division, Attention: Small Cities Coordinator, 465 Main Street, Lafayette Court, Buffalo, NY 14203, Telephone (716) 551–5742

* * * * *

6. On page 67278, in column 1, section II.B., under the heading ''Submitting Applications,'' the third sentence of the first paragraph is amended to read as follows:

II. Application and Funding Award Process

* * * * *

B. Submitting Applications

* * * Final applications may be mailed, and if they are received after the deadline, must be postmarked no later than midnight, March 13, 1996. * * *

* * * * *

7. On page 67278, in column 2, section II.C.2., under the heading ''Streamlined Application Requirements for Certain Applicants'' is amended to read as follows:

II. Application and Funding Award Process

* * * * *

C. The Application

* * * * *

2. Streamlined Application Requirements for Certain Applicants

An eligible applicant that submitted an application under the Fiscal Year 1995 NOFA, but whose application was not selected for funding, may notify HUD in writing by the application deadline date, March 13, 1996, that it wishes its FY 1995 application to be reactivated for consideration under this NOFA. Applications that are reactivated may be updated, amended, or supplemented by the applicant, provided that such amendment or supplementation is received no later than the due date for applications under this NOFA. If there is no significant change in the application involving new activities or alteration of proposed activities that will significantly change the scope, location, or objectives of the proposed activities or beneficiaries, there will be no further citizen participation requirement to keep the application active for a succeeding round or competition.

Applicants with activities approved for funding under the Fiscal Year 1995 NOFA are eligible for additional funding for those activities under this NOFA. Applicants seeking additional funding for activities selected for funding under the Fiscal Year 1995 NOFA may notify the Department in writing by March 13, 1996 that they wish to seek additional funding for those activities. Such applicants may incorporate by reference the application materials in the applicant's Fiscal Year 1995 application, and may provide material to update or supplement the prior application.

All applicants are free to submit an entirely new application in place of a previous application should they so desire.

* * * * *

8. On pages 67278, column 3, to page 67279, column 1, section III., under the heading ''Technical Assistance'' is amended to read as follows:

III. Technical Assistance

Prior to the application deadline, the Buffalo and New York Offices will provide technical assistance on request to individual applicants, including explaining and responding to questions regarding program regulations, and defining terms in the application package. In addition, HUD plans to conduct informational meetings around the State to discuss the Small Cities Program, and will conduct application workshops in conjunction with these meetings. Please contact the Buffalo or New York Office for further information regarding these meetings. Application kits will be available at these meetings, as well as from the HUD offices previously identified in Section II of this NOFA, and will also be available at the informational meetings. In order to ensure that the application deadline is met, it is strongly suggested that applicants begin preparing their applications immediately and not wait for the informational meetings.

In order to be considered for funding, complete applications (an original and two photocopies of the entire application) must be physically received by the appropriate HUD office on March 13, 1996, by 4 p.m. or, if mailed, postmarked no later than midnight, March 13, 1996. Applications must be

delivered or mailed to the appropriate HUD office at the address indicated in Section II.

Dated: February 22, 1996.

Mark C. Gordon,

General Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 96–4500 Filed 2–27–96; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P; F–14841–A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Brevig Mission Native Corporation for 868.63 acres. The lands involved are in the vicinity of Brevig Mission, Alaska.

Kateel River Meridian

Tract A of U.S. Survey No. 4494

A notice of the decision will be published once a week, for four (4) consecutive weeks, in The Nome Nugget. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until March 29, 1996 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of 962 Adjudication.

[FR Doc. 96–4510 Filed 2–27–96; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

February 22, 1996.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5095). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration, and the OMB Desk Officer for the Bureau of Labor Statistics, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the Federal Register.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Administration.

Title: Application to Employ Special Industrial Homeworkers; Application to Employ Student-Learners; Application to Employ Workers with Disabilities; Supplemental Data Sheet for Application to Employ Workers with Disabilities.

OMB Number: 1215–0005.

Agency Number: WH–2; WH–205; WH–266–MIS; WH–226A–MIS.

Frequency: On occasion.

Affected Public: Individuals or households; Business or other for-profit, Not-for-profit institutions; Farms; State, Local or Tribal Government.

Form	Number of respondents	Estimated time per response	Subtotal
WH–2	50	30 minutes	25
WH–205	600	30 minutes	300
WH–226–MIS	5,000	45 minutes	3,750
WH–226A–MIS	7,200	45 minutes	5,400

Total Burden Hours: 9,475.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): $2,000.

Description: This information is necessary to determine whether respondents will be authorized to pay subminimum wages to individuals with disabilities and learners and employ homeworkers in the restricted industries under the provisions of sections 11(d), 14 (a), and (c) of the Fair Labor Standards Act.

Agency: Employment Standards Administration.

Title: Miner's Claim for Benefits Under the Black Lung Benefits Act; Employment History; Miner Reimbursement Form.

OMB Number: 1215–0052.

Agency Number: CM–911; CM–911a; CM–915.

Frequency: On occasion.

Affected Public: Individuals or households; Business or other for-profit.

Form	Number of respondents	Estimated time per response	Subtotal
CM–911	4,800	45 minutes	3,600
CM–911a	5,900	40 minutes	3,933
CM–915	9,500	10 minutes	1,583

Total Burden Hours: 9,116.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): $3,500.

Description: The CM–911 is the standard application form filed by the miner for benefits under the Black Lung Benefits Act. The information is used by the program to determine the miner's eligibility for benefits. The CM–911a lists the miner's work history and is used to establish whether the miner currently or formerly worked in a coal mine. The CM–915 is used by the miner to provide information necessary for reimbursement of medical expenses incurred by the miner.

Agency: Employment Standards Administration.

Title: Pre-Hearing Statement.

OMB Number: 1215–0085

Agency Number: LS–18.

Frequency: On occasion.

Affected Public: Individuals or households; Business or other for-profit.

Number of Respondents: 6,800.

Estimated Time Per Respondent: 10 minutes.

Total Burden Hours: 1,088.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): $2,500.

Description: This form is used to refer cases to the Office of the Administrative Law Judge for formal hearing under the Longshore and Harbor Workers' Compensation Act.

Agency: Employment Standards Administration.

Title: Overpayment Recovery Questionnaire.

OMB Number: 1215–0144.

Agency Number: OWCP–20.

Frequency: On occasion.

Affected Public: Individuals or households.

Number of Respondents: 4,500.

Estimated Time Per Respondent: 1 hour.

Total Burden Hours: 4,500.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): $1,000.

Description: Information collected on this form is used to evaluate the financial profile of Office of Workers' Compensation Program beneficiaries who have been overpaid benefits, and their ability to repay. OWCP beneficiaries are typically retired coal miners disabled by black lung disease, and Federal employees disabled due to work-related injury, or their survivors.

Agency: Employment Standards Administration.

Title: Claim for Continuance of Compensation.

OMB Number: 1215–0154.

Agency Number: CA–12.

Frequency: Annually.

Affected Public: Individuals or households.

Number of Respondents: 6,537.

Estimated Time Per Respondent: 5 minutes.

Total Burden Hours: 545.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): $2,000.

Description: This collection is used to obtain information on marital status of beneficiaries in death cases, in order to determine continued entitlement to benefits under the provisions of the Federal Employees' Compensation Act.

Agency: Bureau of Labor Statistics.

Title: Business Birth Pilot Study.

Agency Number: BLS790BBPS.

Frequency: Monthly.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 12,000.

Estimated Time Per Respondent: 5 minutes per new response; 2 minutes per on-going response.

Total Burden Hours: 2,320.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): 0.

Description: The Bureau of Labor Statistics (BLS) is initiating a major redesign of the Current Employment Statistics (CES) monthly payroll survey. An on-going sample of business births is maintained under this request. This information is used to develop birth sampling methods, procedures to estimate birth employment, and to track activities of new business overtime. This will directly benefit the CES survey in its total employment estimates.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 96–4471 Filed 2–27–96; 8:45 am]

BILLING CODE 4510–27–M

Employment and Training Administration

[TA–W–31,511 and NAFTA–00616]

Montana Power Company; Colstrip, Montana; Notice of Negative Determination Regarding Application for Reconsideration

By an application dated December 6, 1995, the petitioners requested administrative reconsideration of the subject determinations regarding the negative determinations regarding Eligibility to Apply for Worker Adjustment Assistance and for NAFTA-Transitional Adjustment Assistance, issued on October 31, 1995. The notices were published in the Federal Register on November 24, 1995 (60 FR 58103–58104).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Investigation findings show that the workers produce electrical power.

The Department's denial for TAA for workers of the subject firm was based on the fact that the ''contributed importantly'' test of the Group Eligibility Requirements of the Trade Act was not met. There were no declines in sales or production at Montana Power during the time period relevant to the investigation. Additionally, U.S. imports of electricity declined absolutely and relative to domestic supply during the same time period.

The Department's denial for NAFTA–TAA for workers of the subject firm was based on the fact that there was no decline in sales or production during the relevant period. There was no shift in production from the workers' firm to Mexico or Canada. U.S. imports of electricity declined absolutely and relative to domestic supply during the same time period.

Another finding in both the TAA and NAFTA–TAA investigations, is that the U.S. Department of Energy estimates that a negligible amount, approximately one percent, of all electricity supplied domestically is imported.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed in Washington, DC, this 13th day of February, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–4465 Filed 2–27–96; 8:45 am]

BILLING CODE 4510–30–M

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of February 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–31,727; Owens-Illinois, Owens-Brockway Glass Container Div., Zanesville, OH

TA–W–31,545; Circle Jewelry Products, Inc., New York, NY

TA–W–31,734; American Insulated Wire Corp., Pawtucket, RI

TA–W–31,651; Brookside Group, Inc., McCordsville, IN

TA–W–31,587; Master Package Corp., Owen, WI

TA–W–31,702; Onan Corp—Power Generation Group—Americas, Fridley, MN

TA–W–31,664; A E Clevite, Wauseon, OH

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–31,709; AT&T Pheonix Works, Phoenix, AZ

TA–W–31,766; Rockwell Int'l Corp., Semiconductor System Div., El Paso, TX

TA–W–31,721; ERC Barton Wood, Shawnee, OK

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–31,782; Synergy Service, Inc., dba Synergy Maintenance Service, El Paso, TX

TA–W–31,746; Smith's Home Furnishings, Bellingham, WA

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–31,642; Teledyne Wah Chang, Teledyne, Inc., Albany, OR

The investigations revealed that criterion (2) and (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

TA–W–31,715; Avison Lumber Co., Molalla, OR

TA–W–31,716; Avison Wood Specialities, Inc., Molalla, OR

The investigation revealed that criterion (1) and criterion (2) have not been met. A significant number or proportion of the workers did not become totally or partially separated as required for certification. Sales or production did not decline during the relevant period as required for certification.

Affirmative Determinations for Workers Adjustment Assistance

The following certifications have been issued; the date following the company name and location for each determination references the impact date for all workers for such determination.

TA–W–31,742 & A; Quantum Corp., High Capacity Storage Group, Shrewsbury, MA: December 4, 1994 & Milpitas, CA: February 1, 1995

TA–W–31,752; D & D Manufacturers, Inc., Watertown, TN: September 22, 1994

TA–W–31,807; The Apparel Group, Louisville, KY: January 5, 1995

TA–W–31,860; USAR Carbon Co., Inc., Columbia, TN: January 15, 1995

TA–W–31,912; Bausch & Lomb, Personal Products Div., Tucker, GA: January 19, 1995

TA–W–31,846; Maybelle Manufacturing Co., Inc., Gulfport, MS: January 8, 1995

TA–W–31,680; Indian Creek Apparel, Okalona, MS: November 16, 1994

TA–W–31,719; Cleburne Manufacturing Corp., Heflin, AL: November 20, 1994

TA–W–31,850; Crown Cork & Seal Co., Inc., Aerosol & Sanitary Can Mfg Plant, Philadelphia, PA: January 4, 1995

TA–W–31,726; Missoula White Pine Sash Co., Missoula, MT: November 30, 1994

TA–W–31,744; Rome Manufacturing Co., Rome, GA: November 20, 1994

TA–W–31,769; James River Corp., Packaging Div., Portland, OR: December 20, 1994

TA–W–31,706; Covington Needlework, Mt. Olive, MS: November 20, 1994

TA–W–31,753; Turner & Seymour Manufacturing Co., Bonners Ferry, ID: December 7, 1994

TA–W–31,713; Ellingson Lumber Co., Baker City, OR: November 29, 1994

TA–W–31,733 & A, B, C; Boise Cascade Corp., Emmett, ID & Cascade, ID, Council, ID & Horseshoe, ID: December 7, 1994

TA–W–31,613; American White Cross, Inc., Dayville, CT: October 26, 1994

TA–W–31,830; Rhone-Poulenc, Inc., Newark, NJ: December 1, 1994

TA–W–31,741; Motion Control Industries, Inc., Div. of Carlisle Corp., Ridgeway, PA: December 4, 1994

TA–W–31,740; Paxar Corp., Hillsville, VA: November 2, 1994

TA–W–31,747; Thomson Consumer Electronics, Inc., Bloomington, IN: November 24, 1994

TA–W–31,710; P & K Dress Corp., Little Falls, NY: November 29, 1994

TA–W–31,825; McCulloch Corp., Lake Havaso Operation, Lake Havaso City, AZ: January 4, 1995

TA–W–31,625; Ms. Interpret, Carlstadt, NJ: October 26, 1994

TA–W–31,640, Knapp Shoe, Lewiston, ME: November 3, 1994

TA–W–31,836 & A,B,C; Energy Fuels Nuclear, Inc., White Mesa Mill, Blanding, UT, Denver, Dove Creek & G Jct, Co, Fredonia, AZ, Gillette, WY: January 12, 1995

TA–W–31,639; J & H Mfg Co., Inc., New York, NY: November 8, 1994

TA–W–31,829; Movie Star of Sumrall, Sumrall, MS: December 19, 1994

Also, pursuant to Title V of the North American Free Trade Agreement Imnplementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determination regarding eligibility to apply for NAFTA–TAA issued during the month of February, 1996.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–00751; Milliken & Co., Barnwell, SC

NAFTA–TAA–00689; Brookside Group, Inc., McCordsville, IN

NAFTA–TAA–00734; Amistad Beef Co L.D., Eagle Pass, TX

NAFTA–TAA–00731; Rockwell International, Semiconductor Systems Div., El Paso, TX

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–00768; National Supermarkets, Inc., St. Louis, MO

The investigation revealed that the workers of the subject firm do not produce an article within the meaning of Section 250(a) of the Trade Act, as amended.

Affirmative Determinations NAFTA–TAA

The following certifications have been issued; the date following the company name & location for each determination references the impact date for all workers for such determination.

NAFTA–TAA–00723; Turner & Seymour Manufacturing Co., Bonners Ferry, ID: December 6, 1994

NAFTA–TAA–00710; Rome Manufacturing Co., Rome, GA: December 5, 1994

NAFTA–TAA–00766; James River Corp., Packaging Div., Portland, OR: December 20, 1994

NAFTA–TAA–00709; Ellingson Lumber Co., Baker City, OR: December 4, 1994

NAFTA–TAA–00798; Proform Products USA, Inc., Everson, WA: January 9, 1995

NAFTA–TAA–00714; Allied Signal Aerospace, Aerospace Equipment Systems, Eatontown, NJ: September 26, 1994

NAFTA–TAA–00767 & A, B, C; Energy Fuels Nuclear, Inc., White Mesa Mill, Blanding, UT, Denver, Dove Creek & G Jct, CO., Fredonia, AZ, Gillette, WY: January 12, 1995

NAFTA–TAA–00738; Thomas Industries, Inc., (aka Capri Lighting), Accent Div., Los Angeles CA: December 15, 1994

NAFTA–TAA–00760; General Mills, Inc., Westview Coupon Processing Facility, Golden Valley, MN: January 8, 1995

NAFTA–TAA–00747; Shaneco Manufacturing, Inc., El Paso, TX: December 28, 1994

I hereby certify that the aforementioned determinations were issued during the month of February 1996. Copies of these determinations are available for inspection in Room C–4318, U.S. Deparetment of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: February 16, 1996.

Russell Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–4466 Filed 2–27–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,393]

Notice of Negative Determination Regarding Application for Reconsideration

In the matter of Bethlehem Steel Corporation, including the following divisions: Bethlehem Structural Products Corporation Bethforge, Inc., Bethlehem Roll Corp., PB & NE Subsidiary Railroad Co., Bethlehem, Pennsylvania.

By an application dated December 4, 1995, the United Steelworkers of America, Local 2599, with Congressional support requested administrative reconsideration of the subject petition for trade adjustment assistance, TAA. The denial notice was issued on November 3, 1995, and published in the Federal Register on November 24, 1995 (60 FR 58103).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Investigation findings show that the workers were engaged in employment related to the production of structural steel products.

The Department's denial was based on the fact that the ''contributed importantly'' test of the Group Eligibility Requirements of the Trade Act was not met. A Corporate decision was made to transfer the production of structural steel products to another company facility in the United States. Further, the findings show that sales and production of structural steel products at the subject firm increased in January through June 1995 compared to the same time period of 1994. The Department conducted a survey of major customers of the subject firm which revealed that none of the respondents reported imports of structural steel during the time period relevant to the investigation.

Other findings show that the subject firm reported no imports of structural steel products in the relevant time periods.

Conclusion

After review of the application and investigative findings, I conclude that there has been nor error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 12th day of February, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–4463 Filed 2–27–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,268]

Maxus Energy Corporation, a/k/a Maxus Corporate, a/k/a Maxus International, Dallas, Texas; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on August 8, 1995, applicable to workers of Maxus Energy Corporation located in Dallas, Texas. The notice was published in the Federal Register on August 24, 1995 (60 FR 44079). The certification was amended October 24, 1995 to include workers of the subject firm whose wages were being reported to the Maxus Corporate unemployment insurance (UI) tax account. The notice was published in the Federal Register on November 7, 1995 (60 FR 56172).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. New information provided by Maxus Energy Company shows that some of the workers of the subject firm had their UI taxes paid to Maxus International. Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Maxus who were affected by increased imports of crude oil and natural gas.

The amended notice applicable to TA–W–31,268 is hereby issued as follows:

''All workers of Maxus Energy Corporation, a/k/a Maxus Corporate, a/k/a Maxus International, Dallas, Texas who became totally or partially separated from employment on or after June 30, 1994, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 13th day of February 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–4462 Filed 2–27–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,519]

National Fiber Technology (Formerly National Hair Technology), Lawrence, Massachusetts; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Program Manager of the Office of Trade Adjustment Assistance for workers at National Fiber Technology, Lawrence, Massachusetts. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–31,519; National Fiber Technology, Lawrence, Massachusetts (February 13, 1996)

Signed at Washington, D.C. this 16th day of February, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–4467 Filed 2–27–96; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–31,630B]

Vanity Fair Mills, Incorporated, Knitting Plant, Jackson, AL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 18, 1996, applicable to all workers of Vanity Fair Mills, Incorporated located in Jackson, Alabama. The notice will soon be published in the Federal Register.

At the request of the company and the State Agency, the Department reviewed the certification for workers of the subject firm. Findings show that the

certification incorrectly reported that the Jackson, Alabama location of Vanity Fair closed December 15, 1995, at which time workers were permanently laid off. The certification should have reported that some worker separations were scheduled to take place at that time.

Company officials report that there are two Vanity Fair production facilities in Jackson. The Department is amending the certification to limit the coverage to workers at the knitting plant. No worker separations have occurred at the other Vanity Fair production facility in Jackson, Alabama.

''All workers of Vanity Fair Mills, Incorporated, Knitting Plant, Jackson, Alabama who become totally or partially separated from employment on or after November 1, 1994 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

Signed at Washington, D.C. this 14th day of February 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–4468 Filed 2–27–96; 8:45 am]

BILLING CODE 4510–30–M

[NAFTA–00563]

Thompson Steel Pipe Company, Thompson Tanks Division, Princeton, Kentucky; Notice of Revised Determination on Reconsideration

On September 22, 1995, The Department issued a negative determination to workers of Thompson Steel Pipe Company, Thompson Tanks Division, located in Princeton, Kentucky, to apply for NAFTA–Transitional Adjustment Assistance (NAFTA–TAA). The notice was published in the Federal Register on October 5, 1995 (FR 60 52213).

By letter of January 16, 1996, the petitioners requested administrative reconsideration of the Department's findings.

Investigation findings revealed that production and employment declined during the time period of the investigation.

Further findings on reconsideration show that the subject firm entered an agreement to begin importing propane tanks from Mexico.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with propane tanks contributed importantly to the declines in sales or production and to the total or partial separation of workers from Thompson Steel Pipe Company, Thompson Tanks Division, Princeton, Kentucky. In accordance with the provisions of the Act, I make the following certification:

''All workers of Thompson Steel Pipe Company, Thompson Tanks Division, Princeton, Kentucky, who became totally or partially separated from employment on or after August 9, 1994 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.''

Signed at Washington, DC this 12th day of February 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96–4464 Filed 2–27–96; 8:45am]

BILLING CODE 4510–30–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8943]

Crow Butte Resources Inc.; Final Finding of No Significant Impact Notice of Opportunity for Hearing

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) proposes to amend NRC Source Material License SUA–1534 to allow the licensee, Crow Butte Resources, Inc. to increase the maximum processing flow rate at its in-situ leach uranium mining facility in Dawes County, Nebraska, from 3500 gallons per minute to 5000 gallons per minute. An Environmental Assessment was performed by the NRC staff in accordance with the requirements of 10 CFR Part 51. The conclusion of the Environmental Assessment is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Park, Uranium Recovery Branch, Mail Stop TWFN 7–J9, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone 301/415–6699.

SUPPLEMENTARY INFORMATION:

Background

During April 1991, Crow Butte Resources, Inc. (Crow Butte) commenced uranium recovery operations at its Crow Butte in-situ leach (ISL) uranium mining facility in Dawes County, Nebraska. These activities are authorized by NRC Source Material License SUA–1534. The NRC prepared an Environmental Assessment (EA) based on its review of Crow Butte's license application and environmental report (ER); a Final Finding of No Significant Impact (FONSI) concerning the issuance of SUA–1534 was issued on December 27, 1989 (54 FR 53200). A supplemental EA was prepared based on the NRC's review of Crow Butte's amendment request to increase its maximum processing flow rate from 2500 gallons per minute (gpm) to the currently approved level of 3500 gpm. The NRC issued a Final FONSI (58 FR 13561; March 12, 1993) concerning this licensing action.

Summary of the Environmental Assessment

Identification of the Proposed Action

The proposed action is an amendment to SUA–1534 to allow Crow Butte to increase the processing plant's maximum flow rate at its ISL facility from 3500 gpm to 5000 gpm. The NRC staff's review was conducted in accordance with the requirements of 10 CFR 40.32 and 10 CFR 40.45.

Need for the Proposed Action

Crow Butte requested NRC approval of this flow rate increase to allow it to expand uranium production within its permitted area of operation to the northwest and southeast of the current production wellfields. In accordance with 10 CFR 51.60, Crow Butte prepared and submitted a supplemental ER in support of its amendment request.

Environmental Impacts of the Proposed Action

An increase in processing flow rate will require the construction of four to six ion exchange columns, which will be housed in the existing warehouse area of the ISL facility or in an adjacent building extension. Lands disturbed by new wellfield construction will be reclaimed and returned to pre-mining use as part of Crow Butte's reclamation activities, previously reviewed by the NRC and documented in its original EA, issued December 12, 1989.

The increased processing flow rate will also result in a significant increase in the volume of liquid and solid effluents (i.e., wastes) over current levels. Crow Butte currently has available to it three NRC-approved waste disposal options for liquid effluents: (1) Solar evaporation ponds, (2) land application, or (3) deep well disposal. Under a maximum flow rate of 5000 gpm, Crow Butte's estimated rates of disposal and concentrations of effluents to be disposed by these options fall within the ranges previously found acceptable by the NRC. Crow Butte is required by license condition in SUA–1534 to dispose of solid waste

byproduct material generated at its ISL facility at an NRC-approved byproduct disposal facility.

Offsite environmental impacts are related to: (1) Effects on the regional groundwater system, and (2) the potential for increased radiological doses to the general public. Because the issues associated with impacts on the regional groundwater system concern consumptive water use, the NRC has referred further assessment of these impacts to the State of Nebraska. The NRC anticipates that these issues would be addressed by the State at such time as Crow Butte applies for a modification to its Underground Injection Control permit with the State, for a corresponding increase in processing flow rate.

Although the estimated radon release associated with a processing flow rate of 5000 gpm is slightly higher than previously approved, the NRC staff concluded that the modeling satisfactorily shows that the potential impacts to offsite individuals remain well below the 100 mrem/yr (1 mSv/yr) public dose limit of 10 CFR 20.1301. The largest dose estimate was 20.3 mrem/yr (0.203 mSv/yr) for the receptor located approximately 1.0 kilometer from the processing plant vent location.

Conclusion

The NRC staff concludes that approval of Crow Butte's amendment request to increase the processing flow rate at its ISL facility from 3500 gpm to 5000 gpm will not cause significant environmental impacts.

Alternatives to the Proposed Action

Since the NRC staff has concluded that there are no significant environmental impacts associated with the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated. The principal alternative to the proposed action would be to deny the requested action. Since the environmental impacts of the proposed action and this no-action alternative are similar, there is no need to further evaluate alternatives to the proposed action.

Agencies and Persons Consulted

The NRC staff consulted with the State of Nebraska, Department of Environmental Quality (NDEQ), in the development of the Environmental Assessment. A facsimile copy of the final Environmental Assessment was transmitted to Mr. Frank Mills of the NDEQ on January 3, 1996. In a telephone conversation on January 11, 1996, Mr. Mills indicated that the NDEQ had no comments on the Environmental Assessment.

Finding of No Significant Impact

The NRC staff has prepared an Environmental Assessment for the proposed amendment of NRC Source Material License SUA–1534. On the basis of this assessment, the NRC staff has concluded that the environmental impacts that may result from the proposed action would not be significant, and therefore, preparation of an Environmental Impact Statement is not warranted.

The Environmental Assessment and other documents related to this proposed action are available for public inspection and copying at the NRC Public Document Room, in the Gelman Building, 2120 L Street NW., Washington, DC 20555.

Notice of Opportunity for Hearing

The Commission hereby provides notice that this is a proceeding on an application for a licensing action falling within the scope of Subpart L, ''Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings, of the Commission's Rules of Practice for Domestic Licensing Proceedings in 10 CFR Part 2'' (54 FR 8269). Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for a hearing must be filed within thirty (30) days from the date of publication of this Federal Register notice. The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The applicant, Crow Butte Resources Inc., 216 Sixteenth Street Mall, Suite 810, Denver, CO 80202;

(2) The NRC staff, by delivery to the Executive Director of Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

Any hearing that is requested and granted will be held in accordance with the Commission's Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings in 10 CFR Part 2, Subpart L.

Dated at Rockville, Maryland, this 21st day of February 1996.

For the Nuclear Regulatory Commission.

Daniel M. Gillen,

Acting Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 96–4483 Filed 2–27–96; 8:45 am]

BILLING CODE 7590–01–P

Biweekly Notice, Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from February 5, 1996, through February 15, 1996. The last biweekly notice was published on February 14, 1996 (61 FR 5809).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By March 29, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public

Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to *(Project Director)*: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units Nos. 1, 2, and 3, Maricopa County, Arizona

Date of amendments request: December 20, 1995.

Description of amendments request: The proposed amendment would change the instrumentation setpoint for the reactor trip and main steam isolation signal (MSIS) actuation on low steam generator pressure from greater than or equal to 919 psia with an allowable value of greater than or equal to 911 psia to greater than or equal to 895 psia with an allowable value of greater than or equal to 890 psia.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not involve any change to the method of operation of any plant equipment that is used to mitigate the consequences of an accident. The proposed change only affects the instrument setpoint for steam generator low pressure reactor trip and MSIS actuation. The proposed setpoint meets the requirement of ensuring a reactor trip and MSIS actuation prior to steam generator pressure reaching the analytical limits even under worst-case accident conditions. Thus, the proposed change does not involve a significant increase in the probability of an accident previously evaluated.

The proposed amendment does not alter any of the assumptions or bounding conditions currently in the UFSAR [updated final safety analysis report] and meets the requirement of ensuring a reactor trip and MSIS actuation prior to steam generator pressure reaching the analytical setpoint under worst-case accident conditions. As a result, the proposed amendment does not involve a significant increase in the consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not involve any change to the method of operation of any plant equipment that is used to mitigate the consequences of an accident. Accordingly, no new failure modes have been defined for any plant system or component important to safety nor has any new limiting failure been identified as a result of the proposed change. The intent of the proposed change is to increase the margin between normal operating parameters and trip setpoints. This minimizes the possibility of unnecessary challenges to safety systems improving the safety of operation. The method of protecting the facility for an excess steam demand event remains unchanged and therefore, the amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change is the implementation of a setpoint value which was derived using methodologies endorsed by Revision 2 of NRC Regulatory Guide 1.105, ''Instrument Setpoints.'' The new setpoint ensures that sufficient margin exists below the full load operating value for steam pressure so as not to interfere with normal plant operation, but still high enough to provide the required protection (reactor trip and main steam line isolation) in the event of an excessive steam demand event. The new setpoint ensures that safety margins are maintained within the results of existing calculations. The margin of safety between the analyzed trip value and the point at which safety analysis results become unacceptable remain unchanged since the analytical setpoints are not affected by the amendment. The new setpoint resulted from the reduced instrument uncertainty and will ensure that the reactor trip and MSIS actuation on low steam generator pressure will occur before the analyzed value and hence, this change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involve no significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999.

NRC Project Director: William H. Bateman.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units Nos. 1, 2, and 3, Maricopa County, Arizona

Date of amendments request: January 5, 1996.

Description of amendments request: The proposed amendment would revise paragraph 2.C.(1) of the operating licenses and Section 1.26 of the TS for each of the three PVNGS Units to increase the authorized 100 percent reactor core power (rated thermal power) from 3800 megawatts thermal (Mwt) to 3876 Mwt, an increase of 2 percent. The proposed amendment would also revise TS 4.1.1.4, TS 3.1.3.4, and TS 3.2.6 (Figure 3.2–1) to lower the allowable reactor coolant system cold leg temperature limits for each of the three PVNGS Units, and revise TS 3.4.2.1 and TS 3.4.2.2 to lower the pressurizer safety valve setpoints for Units 1 and 3 to support the increased power operation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not change the method of operation or modify the plant configuration other than minor changes in equipment setpoints. Thus no increase in the probability of an accident is created by this amendment. System and programmatic reviews have been performed on the nuclear

steam supply system controls, reactor coolant system mechanical, steam generator mechanical, balance of plant systems, and fire protection, equipment qualification, and probabilistic risk assessment programs. The conclusion of these reviews was that operation in accordance with the changes proposed in this amendment was acceptable and posed no significant risk to the health and safety of the public. The analyses supporting this amendment demonstrate that the consequences of events using the changes specified in the amendment are within the criteria which are the current licensing basis for the PVNGS Units. Therefore the amendment, as proposed, does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment does not modify the configuration of the units except for minor equipment setpoints. No equipment changes and no new methods of plant operation are being proposed, therefore, no new failure modes are introduced by the proposed amendment. The setpoint changes proposed have been evaluated and shown to be acceptable in providing their design function. The increased rated thermal power and associated changes have been incorporated into the safety analysis performed in support of this amendment request and the results have been shown to be similar to those previously obtained. No possibility of a new or different kind of accident from any accident previously evaluated will be created as a result of the proposed amendment.

3. The proposed change does not involve a significant reduction in a margin of safety.

The changes proposed were evaluated in the safety analysis performed to justify the amendment request. Although the consequences of some events increased slightly, the results continue to meet the criteria which form the PVNGS licensing basis. The programmatic and system reviews provide further assurance of the capability of the units to continue to operate safely with the changes proposed in this amendment. Therefore the amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involve no significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999.

NRC Project Director: William H. Bateman.

Carolina Power & Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: January 29, 1996.

Description of amendment request: The proposed change would revise the technical specifications (TS) table 4.1–3, item 4 to change the frequency of main steam safety valve (MSSV) testing to that specified in NUREG–1431, the improved ''Standard Technical Specifications, Westinghouse Plants'' (one third of the MSSVs each refueling outage). In addition, the licensee proposed adding the MSSV test acceptance requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Neither the valves' nor the system's configuration or functions are being altered. The valves' setpoints and their ''as-left'' range, +/−1%, will not be changed. The changes are to the testing frequency and the ''as found'' tolerance of the MSSV setpoint.

The proposed changes in testing frequency and the higher tolerance are in the less conservative direction, but are not significant for several reasons. First, the new standards are based on the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. The new standards have been accepted by the nuclear industry and the NRC, and are referenced in the improved Standard Technical Specifications. Based on a discussion with the H. B. Robinson Steam Electric Plant (HBRSEP), Unit No. 2 MSSV manufacturer (i.e., Crosby), HBRSEP, Unit No. 2 has not experienced more problems with the Crosby MSSVs than the nuclear industry in general, thus, the new level of safety will be equivalent to that of the nuclear industry. Second, if a MSSV does fail the surveillance test, the proposed TS will require additional MSSVs to be tested. This requirement provides assurance that testing will reveal possible generic problems. The impact of the tolerance on the Chapter 15 accidents was analyzed and found to be within acceptable limits.

Since no Updated Final Safety Analysis Report (UFSAR) Chapter 15 accident analysis is significantly impacted by the proposed changes, there would be no increase in the consequences of an accident previously evaluated. The testing in accordance with the ASME Boiler and Pressure Vessel Code will provide an adequate level of assurance that the MSSVs will be able to perform their intended function; therefore the probability of a previously evaluated accident is not increased.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

No new systems or equipment are involved with the proposed changes; and the plant's configuration and operational procedures are unaffected. Since the proposed changes do not impact the plant's operation, it can not create a new or different kind of accident.

3. The proposed changes do not involve a significant reduction in the margin of safety.

The change in testing frequency is in a less conservative direction, but it is based on the ASME Code and the improved Standard Technical Specifications. Since HBRSEP, Unit No. 2 has not experienced a greater number of failures associated with these MSSVs than the nuclear industry in general, the decrease in the MSSV testing frequency will not significantly impact the margin of safety. Also, analyses have been performed that demonstrate that the impact of the setpoint tolerance change on the UFSAR Chapter 15 accident analysis results is not significant. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: 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: David B. Matthews.

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 31, 1996.

Description of amendment request: The proposed change would revise the Technical Specifications section 4.4 to allow the use of 10 CFR Part 50, Appendix J, Option B, Performance-Based Containment Leakage Rate Testing. A new TS section 6.12 is proposed to describe the containment leakage rate testing program, committing to meet 10 CFR 50.54(o) and 10 CFR Part 50, Appendix J, Option B for type A tests; and to meet 10 CFR part 50, Appendix J, Option A, for types B and C tests. The bases would be changed to reflect the proposed changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change does not involve a significant hazards consideration for the following reasons.

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The HBRSEP [H. B. Robinson Steam Electric Plant], Unit No. 2 Type A testing history provides substantial justification for the proposed test schedule change to one test in a 10 year period. Three Structural Integrity Tests (SITs) and seven Integrated Leak Rate Tests (ILRTs) have been performed with acceptable results. Previous testing has affirmed the acceptable reliability of the containment structure to minimize leakage as designed, and provides assurance that its performance to continuously function as designed is not challenged due to this test schedule extension to once in 10 years.

Therefore, this proposed change to the TS that revises the Type A testing frequency does not involve an increase in the probability of an accident previously evaluated.

This proposed change to revise the test schedule frequency does not impact nor alter the design of any system, structure or component. The limit on allowable leakage is not increased. Type A testing provides periodic verification of the leak tight integrity of the containment and the systems and components that penetrate the containment structure.

NUREG–1493, ''Performance-Based Containment Leak-Test Program,'' provides the technical basis for the NRC's rulemaking to revise containment leakage testing requirements for nuclear power reactors in 10 CFR 50, Appendix J. Section 10.1.2 of NUREG–1493, ''Summary of Technical Findings, Leakage-Testing Intervals,'' states the following.

1. Reducing the frequency of Type A tests (ILRTs) from the current three per 10 years to one per 20 years was found to lead to an imperceptible increase in risk. The estimated increase in risk is very small because ILRTs identify only a few potential containment leakage paths that cannot be identified by Type B and C testing, and the leaks found by Type A tests have been only marginally above existing requirements.

2. Given the insensitivity of risk to containment leakage rate and the small fraction of leakage paths detected solely by Type A testing, increasing the interval between ILRTs is possible with minimal impact on public risk.

Therefore, based on the previous Type A test results, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change only incorporates the performance based testing approach authorized in 10 CFR 50, Appendix J, Option B, and is justified based on previous plant-specific Type A test results. Plant structures, systems, and components will not be operated in a different manner as a result of this proposed change and no physical modifications to equipment are involved. The interval extensions allowed by Option B of 10 CFR 50, Appendix J, do not have the potential for creating the possibility of new or different type of accidents from those previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

The proposed change does not change the allowable leak rate from the containment, it only allows an extension of the interval between the performance of Type A leak rate testing. NUREG–1493, which provides the technical basis for the NRC's rulemaking to revise containment leakage testing requirements for nuclear power reactors in 10 CFR 50, Appendix J. Section 10.1.2 of NUREG–1493, ''Summary of Technical Findings, Leakage-Testing Intervals,'' states the following.

''1. Reducing the frequency of Type A tests (ILRTs) from the current three per 10 years to one per 20 years was found to lead to an imperceptible increase in risk. The estimated increase in risk is very small because ILRTs identify only a few potential containment leakage paths that cannot be identified by Type B and C testing, and the leaks found by Type A tests have been only marginally above existing requirements.

2. Given the insensitivity of risk to containment leakage rate and the small fraction of leakage paths detected solely by Type A testing, increasing the interval between ILRTs is possible with minimal impact on public risk.''

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: David B. Matthews.

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 29, 1996.

Description of amendment request: The proposed change would revise the technical specifications (TS) to: (1) add TS 4.6.1.5 to provide criteria for 24-hour full-load testing of the emergency diesel generators (EDGs) to be performed during each refueling outage; (2) revise TS 4.6.1.2 to allow testing of the EDG protective bypasses listed in TS 3.7.1.d to be done independent of the safety injection or loss of offsite power testing; and (3) revise TS 4.6.1.3 to include the EDG protective bypass inspection and a requirement to inspect the EDGs at least once every refueling outage.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant hazards consideration for the following reasons.

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not involve a significant increase in the probability of an accident previously evaluated. The proposed changes require additional testing of the EDGs and will change the requirement for when the protective bypasses are tested. The function of the EDGs remains unchanged. Since the additional testing involves the EDGs, which are required to mitigate an accident and are not involved in the initiation of an accident, the proposed changes will not increase the probability of an accident.

The proposed changes do not involve a significant increase in the consequences of an accident previously evaluated. The proposed changes require additional testing to verify the reliability of the EDGs and to show the EDGs can withstand maximum accident loading conditions. The proposed changes will also require the testing of the EDG protective bypasses to be accomplished during EDG outages and not during the SI/LOOP testing during a refueling outage. The ability of the EDGs to perform their accident mitigation function remains unchanged. Therefore, the proposed changes will not increase the consequences of an accident.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not create the possibility of a new kind of accident from any previously evaluated. The proposed changes are an enhancement to the EDG testing requirements. The most significant change will require additional testing of the EDGs to demonstrate adequate reliability and to determine if the EDGs can withstand maximum accident loading conditions. The remaining changes will augment the TS to allow on-line EDG inspections and testing. Since the function of the EDGs remains unchanged and they are not the initiator of an accident, the proposed changes will not

create the possibility of a new kind of accident from any previously evaluated.

The proposed changes do not create the possibility of a different kind of accident from any accident previously evaluated. The proposed changes require additional testing of the EDGs (i.e., the 24 hour full-load test) and revise the requirement for testing the EDG protective bypasses during the SI/LOOP testing. The additional testing of the EDGs will demonstrate sufficient reliability and determine if the EDGs can withstand maximum accident loading conditions. The EDG protective bypasses will be statically tested during an EDG outage thus preventing possible damage to equipment from a transient if the protective bypass fails. The function of the EDGs remains unchanged by these proposed changes. Since the EDGs are required to mitigate an accident and are not the initiators of an accident, the proposed changes will not create a different kind of accident from any kind of accident previously evaluated.

3. The proposed changes do not involve a significant reduction in the margin of safety.

The proposed changes do not reduce the margin of safety as defined in the TS. The proposed changes are being submitted as an enhancement to the testing requirements outlined in the TS. The changes include additional testing, revising the requirement to test the engine protective bypasses during the SI/LOOP testing and clarification of the periodicity of inspecting the EDGs. The additional testing demonstrates increased reliability and determines that the EDGs can cope with maximum accident loading. The remaining proposed changes provide clarification as to when the EDG inspections and testing are required. The ability of the EDGs to perform their function will not be reduced. Therefore, the margin of safety will not be reduced by the proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: 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: David B. Matthews.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois; Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of amendment request: December 6, 1995.

Description of amendment request: The proposed amendment would change the technical specifications of these plants to incorporate 10 CFR Part 50, Appendix J, ''Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors'', Option B.

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:

ComEd proposes to revise Byron Nuclear Power Station, Units 1 and 2 (Byron), and Braidwood Nuclear Power Station, Units 1 and 2 (Braidwood) Technical Specification (TS) Section 3/4.6.1, ''Primary Containment,'' and the associated Bases to reflect recent changes to Appendix J to 10 CFR 50, ''Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors.'' The proposed revisions include:

1. Adding TS Definitions 1.15.a for the maximum allowable primary containment leakage rate (L_a) and 1.20.a for the maximum calculated primary containment pressure (P_a). The redundant definitions throughout TS Section 3/4.6.1 are deleted,

2. Adding numerous statements throughout TS Section 3/4.6.1 that leak rate testing is performed in accordance with Regulatory Guide (RG) 1.163, Revision 0, ''Performance-Based Containment Leak-Test Program,'' and its referenced documents,

3. Deleting TS requirements that are taken verbatim from 10 CFR 50, Appendix J. The specific requirements will be placed in the containment leakage rate test program in accordance with RG 1.163, and its referenced documents, and

4. Clarifying Technical Specification Surveillance Requirement (TSSR) 4.6.1.1.a for consistency with NUREG–1431, Revision 1, ''Standard Technical Specifications for Westinghouse Plants.''

A. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

10 CFR 50, Appendix J, has been amended to include provisions regarding performance-based leakage testing requirements (Option B). Option B allows plants with satisfactory Integrated Leak Rate Testing (ILRT) performance history to reduce the Type A testing frequency from three tests in ten years to one test in ten years. For Type B and Type C tests, Option B allows plants to reduce testing frequency based on the leak rate test history of each component. In addition, Option B establishes controls to ensure continued satisfactory performance of the affected penetrations during the extended testing interval. To be consistent with the requirements of Option B to 10 CFR 50, Appendix J, ComEd proposes to include appropriate changes to the TSs that incorporate the necessary revisions.

Some of the proposed changes represent minor curtailments to current TS requirements, but are based on the requirements specified by Option B to 10 CFR 50, Appendix J. Any such changes are consistent with the current plant safety analyses and have been determined to represent sufficient requirements for the assurance of the reliability of equipment assumed to operate in the safety analyses, or provide continued assurance that specified parameters associated with containment integrity remain within their acceptance limits. The other proposed changes maintain consistency with those requirements specified by Option B to 10 CFR 50, Appendix J and are consistent with the current plant safety analyses. Implementation of these changes will provide continued assurance that specified parameters associated with containment integrity will remain within their acceptance limits, and as such, will not significantly increase the probability or consequences of a previously evaluated accident.

The associated systems affecting the leak rate integrity are not assumed in any safety analyses to initiate any accident sequence; therefore, the probability of occurrence of any accident previously evaluated is not increased. In addition, the proposed changes to the limiting conditions for operation and surveillance requirements for such systems are consistent with the current 10 CFR 50, Appendix J, requirements. The proposed changes maintain an equivalent level of reliability and availability for all affected systems.

Maintaining allowable leakage within the analyzed limit assumed for the accident analyses does not adversely affect either the onsite or offsite dose consequences. Furthermore, containment leakage is not an accident initiator. As such, there is no adverse impact on the probability of accident initiators. Thus, there is no significant increase in the probability or occurrence of any previously analyzed accident, or increase the consequences of any previously analyzed accident.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Option B of 10 CFR 50, Appendix J, specifies, in part, that a Type A test may be conducted at a periodic interval based on the performance of the overall containment system. Type A tests measure both the containment system overall integrated leakage rate at the containment pressure boundary and system alignments assumed during a large break loss-of-coolant accident (LOCA), and demonstrate the capability of the primary containment to withstand an internal pressure load. The acceptable leakage rates are specified in the TSs. For Type B and C tests, intervals are proposed for establishment based on the performance history of each component. Acceptance criteria for each component are based upon demonstration that the leakage rates at design basis pressure conditions for applicable penetrations are within the limits specified in the TSs.

The proposed changes reflect the requirements specified in the amended 10 CFR 50, Appendix J, and are consistent with the current plant safety analyses. Some minor curtailments of current TS requirements are

based on generic guidance or similarly approved provisions for other plants. These changes do not involve revisions to the design of the plant. Some of the changes may involve revision in the testing of components at the plant; however, these are in accordance with the current plant safety analyses and provide for appropriate testing or surveillance that is consistent with Option B to 10 CFR 50, Appendix J. The proposed changes will not introduce new failure mechanisms beyond those already considered in the current plant safety analyses.

No new modes of operation are introduced by the proposed changes. Surveillance requirements are changed to reflect corresponding changes associated with Option B to 10 CFR 50, Appendix J. The proposed changes maintain at least the present level of operability of any such system that affects plant containment integrity. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated. The associated systems that affect plant leak rate integrity related to the proposed amendment are not assumed to initiate any accident sequence. In addition, the proposed surveillance requirements for any such affected systems are consistent with the current requirements specified within the TSs and are consistent with the requirements of Option B to 10 CFR 50, Appendix J. The proposed surveillance requirements maintain an equivalent level of reliability and availability of all affected systems and, therefore, do not affect the consequences of any previously evaluated accident. As such, the probability of systems associated with leak rate test integrity failing to perform their intended function is unaffected by the proposed limiting conditions for operation and surveillance requirements.

C. The proposed changes do not involve a significant reduction in a margin of safety.

The provisions specified in Option B to 10 CFR 50 Appendix J, allows changes to Type A, B, and C test intervals based upon the performance of past leak rate tests. The effect of extending containment leak rate test intervals is a corresponding increase in the likelihood of containment leakage. The degree to which intervals can be extended has a direct impact on the potential effect on existing plant safety margins and the public health and safety that can occur due to an increased likelihood of containment leakage.

Changing Type A, B, and C test intervals from those currently provided in the TS to those provided for in 10 CFR 50, Appendix J, Option B, slightly increases the risk associated with Type A, B, and C specific accident sequences. Historical data suggest that increasing the Type C test interval can slightly increase the associated risk; however, this is compensated by the corresponding risk reduction benefits associated with reduction in component cycling, stress, and wear associated with increased test intervals. In addition, when considering the total integrated risk, which includes all analyzed accident sequences, the additional risk associated with increasing test intervals is negligible.

The proposed changes are consistent with those provisions specified in Option B of 10 CFR 50, Appendix J, and are consistent with current plant safety analyses. In addition, these proposed changes do not involve revisions to the design of the plant. As such, the proposed individual changes will maintain the same level of reliability of the equipment associated with containment integrity, assumed to operate in the plant safety analysis, or provide continued assurance that specified parameters affecting plant leak rate integrity, will remain within their acceptance limits. Therefore, the proposed changes provide continued assurance of the leakage integrity of the containment without adversely affecting the public health and safety and, as such, will not significantly reduce existing plant safety margins.

The proposed changes are based on United States Nuclear Regulatory Commission (USNRC) accepted provisions and maintain necessary levels of system or component reliability affecting plant containment integrity. The performance-based approach to leakage rate testing concludes that the impact on public health and safety due to revised testing intervals is negligible. The proposed changes will not reduce the availability of systems associated with containment integrity when they are required to mitigate accident conditions; therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Robert A. Capra.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment requests: December 4, 19, 19, 20, 20, and 20, 1995.

Description of amendment request: Each proposed amendment would change the surveillance requirement frequency from the current once per 18-month interval to once per 24-month which is the proposed length of a Haddam Neck refueling cycle. The changes pertain to the following equipment:

December 4, 1995, Reactivity control systems flow paths, rod position indication system, and Rod drop time.

December 19, 1995, Containment Air Recirculation System.

December 19, 1995, Main steam line (MSL) Code Safety Valves self actuation, auxiliary feedwater system, service water system, snubber testing, feedwater isolation valve actuation, and primary auxiliary building cleanup system.

December 20, 1995, reactor coolant system (RCS) interlock, containment sump, High Pressure Safety Injection Pump and Low Pressure Safety Injection autostart and alignment, containment spray, and PH control.

December 20, 1995, Trip actuating devices and channel trips, reactor trip system, reactor trip system instrumentation, and accident monitoring instrumentation.

December 20, 1995, RCS flow indicators, Loop stop valve interlock, Pressurizer code safety valves, Emergency power supply for the pressurizer heaters, Containment main sump and volume control tank (VCT) level monitoring system, RCS pressure boundary valves, Low temperature overpressure protection (LTOP) system, and RCS vent path.

Basis for proposed no significant hazards consideration determination: The Commission has made a proposed determination that the amendment request involves 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. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below:

1. The changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to surveillance requirements of the Haddam Neck Plant Technical Specifications extend the frequency for checking the operability of the affected components/equipment. The proposal would extend the frequency from at least once per 18 months to at least once each refueling interval (i.e., nominal 24-months).

Changing the frequency of surveillance requirements from at least once per 18 months to at least once each refueling interval does not change the basis for the frequency. The frequency was chosen because of the need to perform this verification under the conditions that apply during a plant outage, and to avoid the potential of an unplanned transient if the surveillance were conducted with the plant at power.

The proposed changes do not alter the intent or method by which the surveillance are conducted, do not involve any physical changes to the plant, do not alter the way any structure, system, or component functions, and do not modify the manner in which the plant is operated. As such, the proposed changes in the frequency of surveillance requirements will not degrade the ability of the equipment/components to perform its safety function.

Additional assurance of the operability of the components/equipment is provided by additional surveillance requirements (e.g., monthly or quarterly surveillance).

Equipment performance over the last four operating cycles was evaluated to determine the impact of extending the frequency of surveillance requirements. This evaluation included a review of surveillance results, preventive maintenance records, and the frequency and type of corrective maintenance. It concluded that there is no indication that the proposed extension could cause deterioration in the condition or performance of any of the subject components.

In addition to the substantive changes, there are format changes which are merely editorial and because format changes produce no physical change they do not influence the probability or consequences of accidents.

Since the proposed changes only affect the surveillance frequency for safety systems that are used to mitigate accidents, the changes cannot affect the probability of any previously analyzed accident. While the proposed changes can lengthen the intervals between surveillance, the increases in intervals has been evaluated and it is concluded that there is no significant impact on the reliability or availability of the safety system and consequently, there is no impact on the consequences on any analyzed accident.

2. The changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to surveillance requirements of the Haddam Neck Plant Technical Specifications extend the frequency for verifying the operability of the affected components/equipment. The proposal would extend the frequency from at least once per 18 months to at least once each refueling interval (nominal 24 months).

Changing the frequency of surveillance requirements from at least once per 18 months to at least once each refueling interval does not change the basis for the frequency. The frequency was chosen because of the need to perform this verification under the conditions that apply during a plant outage, and to avoid the potential of an unplanned transient if the surveillance were conducted with the plant at power.

In addition to the substantive changes, there are format changes which are merely editorial and because format changes produce no physical change they do not influence the probability of new or different types of accidents.

The proposed changes do not alter the intent or method by which the surveillance are conducted, do not involve any physical changes to the plant, do not alter the way any structure, system, or component functions, and do not modify the manner in which the plant is operated. As such, the proposed changes cannot create the possibility of a new or different kind of accident from any previously evaluated.

3. The changes do not involve a significant reduction in a margin of safety.

The proposed changes to surveillance requirements of the Haddam Neck Plant Technical Specifications extend the frequency for verifying the operability of the components/equipment. The proposal would extend the frequency from at least once per 18-months to at least once each refueling interval (24-months).

In addition to the substantive changes, there are format changes which are merely editorial and because format changes produce no physical change they do not influence the margin of safety.

The proposed changes to surveillance frequency are still consistent with the basis for the frequency, and the intent or method of performing the surveillance is unchanged. Further, the current inservice testing requirements and the previous history of reliability of the system provides assurance that the changes will not affect the reliability of the auxiliary feedwater system. Thus, it is concluded that there is no impact on the margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, CT 06457.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County and Northeast Nuclear Energy Company, et al., Docket Nos. 50–245, 50–336, and 50–423, Millstone Nuclear Power Station, Units 1, 2, and 3, New London County, Connecticut

Date of amendment request: June 6, 1995 (published August 2, 1995, 60 FR 39434), as supplemented November 22, 1995.

Description of amendment request: The proposed amendments will modify the size of the Plant Operations Review Committee (PORC) which will collectively have the experience and expertise in various areas of plant operation, and will clarify the composition of the Site Operations Review Committee (SORC).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (SHC), which is presented below:

. . . These proposed changes do not involve an SHC because the changes do not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The plant operations review committee (PORC) is an oversight group and helps to ensure that the units are operated in a safe manner. To accomplish this the PORCs provide their recommendations on the safety related activities to the Vice President—Haddam Neck Plant for Haddam Neck and to the respective Nuclear Unit Directors for Millstone. Each Millstone Unit has its own PORC. It is proposed that the members of the Millstone PORCs be selected by the respective Nuclear Unit Director based on their knowledge and expertise in specific key plant functions. The Millstone Station has one site operations review committee (SORC). The SORC is also an oversight group whose charter is to advise the Senior Vice President—Millstone Station on all matters related to nuclear safety at the Millstone site. The Haddam Neck Plant, being a single unit site, has one PORC, which advises the Vice President—Haddam Neck Plant. The members of the Haddam Neck Plant PORC will be selected by the Vice President—Haddam Neck Plant based on their knowledge and expertise in specific key

plant functions. The PORC and SORC add to the defense-in-depth concept provided by the design, operation, maintenance, and quality oversight by promoting excellence through the conduct of their affairs and by maintaining a diligent watch over their responsibilities.

These administrative changes will revise the composition section of the technical specifications for the PORC members. Millstone Unit individuals will be appointed by the Nuclear Unit Directors if the individual meets one or more of the following areas of expertise: Plant Operations, Engineering, Reactor Engineering, Maintenance, Instrumentation and Controls, Health Physics, Chemistry, Work Planning and Control, and Quality Services. The Haddam Neck Plant, due to its broader scope of review also include an individual experienced in Security and specific expertise in Electrical Maintenance and Mechanical Maintenance. The individuals who will serve on PORC shall continue to meet the criteria of ANSI N18.1–1971 along with the qualification requirements contained in the technical specifications. This approach is consistent with the standard technical specifications and NUREG 0800, Section 13.4. For SORC at the Millstone Station, the method of identifying who shall serve as Vice Chairperson has been modified for clarity. Finally, the individual who shall represent Quality and Assessment Services shall be modified to allow a qualified member of Quality and Assessment Services to serve on SORC.

The remaining portions of the technical specifications related to PORC and SORC are not being revised.

These modifications broaden the unit committee participation and reflect current organizational positions and will not increase the probability of occurrence or the consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed administrative enhancements to the composition of the PORC and Millstone Station SORC will not affect the way in which the units are physically operated. These administrative changes to PORC and SORC continue to meet the guidelines of ANSI N18.7–1976. The modifications to PORC and SORC continue to allow these groups to provide a thorough review of activities at the units.

The proposed modification does not impact any initiating events, and therefore, cannot create the possibility of any new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

These proposed administrative changes will not impact the margin of safety provided by PORC and SORC. The PORC and SORC will continue to be staffed by qualified individuals experienced in the operation of the plants. These administrative changes will modify how the composition of the PORC and SORC members are presented in the technical specifications, but will not adversely impact their ability to review and comment on operations at the units.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street Middletown, Connecticut 06457, for the Haddam Neck Plant, and the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360, for Millstone 1, 2, and 3.

Attorney for licensee: Ms. L. M. Cuoco, Senior Nuclear Counsel, Northeast Utilities Service Company, Post Office Box 270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee.

Detroit Edison Company, Docket No. 50–341, Fermi-2, Monroe County, Michigan

Date of amendment request: November 22, 1995 (NRC–95–0124).

Description of amendment request: The proposed amendment would modify the allowed out-of-service time for one onsite alternating current (ac) electrical power division from 72 hours to 7 days. The proposed amendment would also eliminate accelerated testing and special reports as a result of diesel generator surveillance failures in accordance with Generic Letter 94–01, ''Removal of Accelerated Testing and Special Reporting Requirements for Emergency Diesel Generators,'' dated May 31, 1994.

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. Changing the out-of-service time, surveillance frequency and reporting requirements for emergency diesel generators (EDGs) will not affect the initiation of an accident, since EDGs are not associated with any accident initiation mechanism. The proposed changes will not impact the plant design or method of EDG operation. The increased out-of-service time has been evaluated to have only a small impact on plant risk. Performing the EDG inspections during plant operations will decrease plant risk during plant outages. Deleting the accelerated testing provisions will not affect the consequences of an accident since the implementation of a maintenance and monitoring program for EDGs consistent with the provisions of the maintenance rule will assure EDG performance as discussed in Generic Letter 94–01. Deleting reporting requirements has no impact on consequences of an accident since reporting has no accident effect. Based on the amount of electrical system redundancy, the small increase in plant risk during operations and the decrease in plant risk during outages, this change will not result in a significant increase in the probability or consequences of an accident.

2. The proposed changes do not create the possibility of a new or different accident from any previously evaluated. The proposed changes do not modify the plant design or method of diesel operation. Therefore, no new accident initiator is introduced, nor is a new type of failure created. For these reasons, no new or different type of accident is created by these changes.

3. The proposed changes do not involve a significant reduction in a margin of safety. Since implementation of a maintenance program for the EDGs consistent with the Maintenance Rule will ensure that high EDG performance standards are maintained, the accelerated testing schedule is not needed to maintain the margin of safety. Deleting reporting requirements has no impact on safety or margin of safety. Increasing the allowed out-of-service time for one division of onsite AC power will slightly increase EDG unavailability during plant operation. However, this change does not impact the redundancy of offsite power supplies, the allowed out-of-service time if both divisions are inoperable, or the ability to cope with a station blackout event. This request also does not change the Action statement for AC electrical power systems required when the plant is shutdown. The increase in core damage frequency was assessed to be small by an evaluation using the plant PSA [probabilistic safety assessment] for the operating condition. Enabling the diesel generator inspections to be performed on-line will improve safety while shutdown by reducing EDG out-of-service time during outages. For these reasons, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: John N. Hannon.

Detroit Edison Company, Docket No. 50–341, Fermi-2, Monroe County, Michigan

Date of amendment request: December 21, 1995 (NRC–95–0133).

Description of amendment request: The proposed amendment would implement Option B of the recently revised 10 CFR Part 50 Appendix J in a manner consistent with Regulatory Guide 1.163, ''Performance-Based Containment Leak Test Program,'' and industry guidance contained in NEI 94–01, Revision 0, ''Industry Guideline for Implementing Performance-Based Option of 10 CFR 50, Appendix J,'' with the exception of previously approved exemptions which the licensee wishes to remain in effect. The previously approved exemptions are for reduced pressure for testing MSIVs [main steam isolation valves] and testing of LPCI [low pressure coolant injection] isolation valves in accordance with Technical Specification (TS) 4.4.3.2.2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. This request does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change implements the new Option B of 10 CFR Part 50 Appendix J on performance-based containment leakage testing. The proposed change does not involve a change to the plant design or operation. As a result, the proposed change does not affect any parameters or conditions that contribute to the initiation of any accidents previously evaluated. Thus, the proposed change cannot increase the probability of any accident previously evaluated.

The proposed change potentially affects the leak-tight integrity of the containment structure designed to mitigate the consequences of a loss-of-coolant accident (LOCA). The function of the containment is to maintain functional integrity during and following the peak transient pressures and temperatures which result from any loss-of-coolant accident (LOCA). The containment is designed to limit fission product leakage following the design basis LOCA. Because the proposed change does not alter the plant design, only the frequency of measuring Type A, B, and C leakage, the proposed change does not directly result in an increase in containment leakage. However, decreasing the test frequency can increase the probability that an increase in containment leakage could go undetected for an extended period of time. Test intervals will be established based on the performance history of components being tested. The risk resulting from the proposed changes is characterized as follows, based primarily on the results contained in NUREG–1493 [''Performance-Based Containment Leakage Test Program''], the principal Technical Support Document used by the NRC as the basis for the Appendix J final rule (Reference 9 [of application]) and the NRC's Final Regulatory Impact Analysis as contained in SECY–95–181 [Final Regulatory Impact Analysis, Performance-Based Containment Leakage-Test Program (Attachment 2 to NRC Rulemaking Issue Affirmation, SECY–95–181 dated July 17, 1995, Final Amendment to 10 CFR 50, Appendix J, ''Containment Leakage Testing,'' to Adopt Performance-Oriented and Risk-Based Approaches)] (Reference 10 [of application]):

Type A Testing

NUREG–1493 found that the effect of containment leakage on overall accident risk is minimal since risk is dominated by accident sequences that result in failure or bypass of the containment.

Industry wide, ILRTs [integrated leak rate tests] have only found a small fraction of the leaks that exceed current acceptance criteria. Only three percent of all leaks are detectable only by ILRTs, and therefore, by extending the Type A testing intervals, only three percent of all leaks have a potential for remaining undetected for longer periods of time. In addition, when leakage has been detected by ILRTs, the leakage rate has been only marginally above existing requirements. The Fermi Type A testing confirms the industry-wide experience that a majority of the leakage experienced during Type A testing is through components tested by Type B and C tests.

NUREG–1493 found that these observations, together with the insensitivity of reactor accident risk to the containment leakage rate, show that increasing the Type A leakage test intervals would have a minimal impact on public risk.

Type B and C Testing

NUREG–1493 found that while Type B and C tests can identify the vast majority (greater than 95 percent) of all potential leakage paths, performance-based alternatives to current local leakage-testing requirements are feasible without significant risk impacts. The risk model used in NUREG–1493 suggests that the number of components tested would be reduced by about 60 percent with less than a three-fold increase in the incremental risk due to containment leakage. Since, under existing requirements, leakage contributes less than 0.1 percent of overall accident risk, the overall impact is very small. In addition, the NRC's Final Regulatory Impact Analysis concluded that while the extended testing intervals for Type B and C tests led to minor increases in potential offsite dose consequences, the beneficial expected decrease in onsite (LLRT [local leak rate testing] & ILRT worker) dose exceeds (by at least an order of magnitude) the potential off-site dose consequences.

The editorial change to the bases has no impact on the probability or consequence of an accident since it is strictly a correction to achieve consistency between the bases and the specifications.

Based on the above, DECO [the licensee] has concluded that the proposed change will not result in a significant increase in the probability or consequences of any accident previously evaluated.

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 change does not involve a change to the plant design or operation. As a result, the proposed change does not affect any of the parameters or conditions that could contribute to initiation of any accidents. This change involves the reduction of Type A, B, and C test frequency. Except for the method of defining the test frequency, the methods for performing the actual tests are not changed. No new accident modes are created by extending the testing intervals. No safety-related equipment or safety functions are altered as a result of this change. Extending the test frequency has no influence on, nor does it contribute to, the possibility of a new or different kind of accident or malfunction from those previously analyzed.

The editorial change to the bases has no effect on any kind of accident since it is strictly a correction to achieve consistency between the bases and the specifications.

Based on the above, DECO has concluded that the proposed change will not create the possibility [of] a new or different kind of accident previously evaluated.

3. The request does not involve a significant reduction in a margin to safety.

The proposed change only affects the frequency of Type A, B, and C testing. Except for the method of defining the test frequency, the methods for performing the actual tests are not changed. However, the proposed change can increase the probability that an increase in leakage could go undetected for an extended period of time. NUREG–1493 has determined that, under several different accident scenarios, the increased risk of radioactivity release from containment is negligible with the implementation of these proposed changes.

The margin of safety that has the potential of being impacted by the proposed change involves the offsite dose consequences of postulated accidents which are directly related to containment leakage rate. The containment isolation system is designed to limit leakage to L_a, which is defined by the Fermi 2 Technical Specifications to be 0.5 percent by weight of the containment air per 24 hours at 56.5 psig (P_a). The limitation on containment leakage rate is designed to ensure that total leakage volume will not exceed the value assumed in the accident analyses at the peak accident pressure (P_a). The margin to safety for the offsite dose consequences of postulated accidents directly related to the containment leakage rate is maintained by meeting the 1.0 L_a acceptance criteria. The L_a value is not being modified by this proposed Technical Specification change.

Except for the method of defining the test frequency, no change in the method of testing is being proposed. The Type B and C tests will continue to be done at full pressure (P_a) or greater with the exception of the Main Steam Isolation Valves, which have an approved exemption. Other programs are in

place to ensure that proper maintenance and repairs are performed during the service life of the primary containment and systems and components penetrating the primary containment.

The editorial change to the bases has no effect on the margin of safety since it is strictly an editorial change to achieve consistency between the bases and the specifications.

As a result, DECO has concluded that the proposed change will 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: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Attorney for licensee: John Flynn, Esq., Detroit Edison Company, 2000 Second Avenue, Detroit, Michigan 48226.

NRC Project Director: John N. Hannon.

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket No. 50–498, South Texas Project, Unit 1, Matagorda County, Texas

Date of amendment request: January 22, 1996.

Description of amendment request: The proposed amendment would modify the steam generator tube plugging criteria in Technical Specification 3/4.4.5, Steam Generators, and the allowable leakage in Technical Specification 3/4.4.6.2, Operational Leakage, and the associated Bases. The amendment would allow the implementation of alternate steam generator tube plugging criteria for the tube support plate (TSP)/tube intersections for Unit 1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

Structural Considerations

Industry testing of model boiler and operating plant tube specimens for free span tubing at room temperature conditions show typical burst pressures in excess of 5000 psi for indications of outer diameter stress corrosion cracking with voltage measurements at or below the structural limit of 4.0 volts. One model boiler specimen with a voltage amplitude of 19 volts also exhibited a burst pressure greater than 5000 psi. Burst testing performed on one intersection pulled from STP Unit 1 in 1993 with a 0.51 volt indication yielded a measured burst pressure of 8900 psi at room temperature. Burst testing performed on another intersection pulled from STP Unit 1 in 1995 with a 0.48 volt indication yielded a measured burst pressure of 9950 psi at room temperature.

The projected end-of-cycle (EOC) voltage compares favorably with the 4.7 volt structural limit considering the EPRI [Electric Power Research Institute] voltage growth rate for indications at STP. Using the methodology of the NRC Generic Letter 95–05, the structural limit is reduced by allowances for uncertainty and growth to develop a beginning-of-cycle (BOC) repair limit which should preclude EOC indications from growing in excess of the structural limit. The non-destructive examination (NDE) uncertainty to be applied per EPRI is approximately 20 percent. The EPRI recommended growth allowance of 30 percent/EFPY [effective full power year] is also to be applied. This growth value is conservative for STP Unit 1 based on previous inspection history. By adding NDE uncertainty allowances and a crack growth allowance to the repair limit, the structural limit can be validated. Therefore, the maximum allowable BOC repair limit (RL) based on the structural limit of 4.7 volts can be represented as:

$$RL + (0.20 \times RL) + (0.45^{*} \times RL) = 4.7 \text{ volts, which yields RL of 2.85 volts.}$$

* The 30% growth rate for 1 EFPY was scaled up to the cycle length used at South Texas.

This repair limit (2.85 volts) reasonably could be applied for APC [alternate plugging criteria] implementation to repair bobbin indications greater than the 1.0 volt criterion specified by NRC Generic Letter 95–05 and is independent of RPC [rotating pancake coil-probe] confirmation of the indications. STP has chosen to use a steam generator tube upper repair limit of 2.85 volts to assess tube integrity for those bobbin indications which are above 1.0 volt but do not have confirming RPC calls. This 2.85 volt upper limit for non-confirmed RPC calls is consistent with the NRC Generic Letter 95–05. Since the upper bound for repair of non-confirmed RPC is limited to a value far less than the structural limit associated with a full alternate criteria, the establishment of the repair limits are determined to be reasonable and conservative with respect to the industry pulled tube data base used.

Leakage Considerations

As part of the implementation of APC, the distribution of EOC cracking indications at the TSP intersections has been used to calculate the primary-to-secondary leakage which is bounded by the maximum leakage required to remain within applicable dose limits. This limit was calculated using the Technical Specification RCS [reactor coolant system] Iodine-131 transient spiking values consistent with NUREG–0800. Application of the APC criteria requires the projection of postulated MSLB [main steam line break] leakage based on the projected EOC voltage distribution for the beginning of cycle. Projected EOC voltage distribution is developed using the most recent EOC eddy current results and a voltage measurement uncertainty. Draft NUREG–1477 requires that all indications to which APC is applied must be included in the leakage projection.

The projected MSLB leakage rate calculation methodology prescribed in EPRI TR–100407 will be used to calculate the EOC leakage. A Monte Carlo approach will be used to determine the EOC leakage, accounting for all of the ECT [eddy current testing] uncertainties, voltage growth, and an assumed probability of detection (POD) of 0.6 for a 1.0 volt repair limit. The fitted logarithmic function probability of leakage correlation will be used to establish the STP MSLB leak rate used for comparison with a bounding allowable leak rate in the faulted loop which would result in radiological consequences which are within applicable dose limits. Due to the relatively low voltage levels of indications at STP and low voltage growth rates, it is expected that the actual calculated leakage values will be far less than this limit.

Therefore, implementation of APC does not adversely affect steam generator tube integrity and implementation will be shown to result in acceptable dose consequences. The proposed amendment does not result in 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?

Implementation of the proposed steam generator tube alternate plugging criteria for ODSCC [outer diameter stress corrosion cracking] at the TSP intersections does not introduce any significant changes to the plant design basis. Use of the criteria does not provide a mechanism which could result in an accident outside of the region of the TSP elevations since no ODSCC has been identified outside the thickness of the TSPs. It is therefore expected that for all plant conditions, neither a single or multiple tube rupture event would occur in a steam generator where APC has been applied.

Specifically, STP will implement, for Unit 1, a maximum leakage rate of 150 gpd [gallons per day] per steam generator (SG) to help preclude the potential for excessive leakage during all plant conditions. The current technical specification limits on primary-to-secondary leakage at operating conditions are 1 gpm [gallon per minute] for all steam generators or 500 gpd for any one SG. The RG [Regulatory Guide] 1.121 criterion for establishing operational leakage rate limits governing plant shutdown is based upon leak-before-break (LBB) considerations to detect a free span crack before potential tube rupture as a result of faulted plant conditions. The 150 gpd limit is intended to provide for leakage detection and plant shutdown in the event of an unexpected crack propagation resulting in excessive leakage. RG 1.121 acceptance criteria for establishing operating leakage limits are

based on LBB considerations such that plant shutdown is initiated if the permissible crack is exceeded.

The predicted EOC leakage for STP is based on the calculated growth rate and does not take credit for the TSP proximity during normal operation. Thus, the 150 gpd limit provides for plant shutdown prior to reaching critical crack lengths. Additionally, this leak-before-break evaluation assumes that the entire crevice area is uncovered during the secondary side blowdown of a MSLB. Typically, it is expected for the vast majority of intersections that only partial uncovery will occur. Thus, the proximity of the TSP will enhance the burst capacity of the tube.

Steam generator tube integrity is continually maintained through inservice inspection and primary-to-secondary leakage monitoring. Any tubes falling outside the APC repair limits are removed from service. Therefore, the possibility of a new or different kind of accident from any accident previously developed is not created.

3. Does the change involve a significant reduction in a margin of safety?

The use of the voltage based bobbin probe for dispositioning ODSCC degraded tubes within TSP intersections by APC is demonstrated to maintain steam generator tube integrity in accordance with the requirements of RG 1.121. RG 1.121 describes a method acceptable to the NRC staff for meeting GDCs [General Design Criterion] 14, 15, 31, and 32 by reducing the probability or the consequences of steam generator tube rupture. This is accomplished by determining the limiting conditions of degradation of steam generator tubing, as established by inservice inspection, for which tubes with unacceptable cracking are removed from service. Upon implementation of the criteria, even under the worst case conditions, the occurrence of ODSCC at the TSP elevation is not expected to lead to a steam generator tube rupture event during normal or faulted plant conditions. The EOC distribution of crack indications at the TSP elevations will be confirmed to result in acceptable primary-to-secondary leakage during all plant conditions and that radiological consequences are not adversely impacted.

In addressing the combined effects of loss of coolant accident (LOCA) and safe shutdown earthquake (SSE) on the steam generator component (as required by GDC 2), it has been determined that tube collapse may occur in the steam generators at some plants. This is the case at STP as the TSP may become deformed as a result of lateral loads at the wedge supports at the periphery of the plate due to the combined effects of the LOCA rarefaction wave and SSE loadings. The resulting secondary-to-primary pressure differential on the deformed tubes may cause some of the tube to collapse.

There are two concerns associated with steam generator tube collapse. First, the collapse of steam generator tubing reduces the RCS flow area through the tubes. The reduction in flow area increases the resistance to flow of steam from the core during a LOCA which, in turn, may potentially increase peak clad temperature (PCT). Second, there is a potential that through wall cracks in tubes could sufficiently enlarge during tube deformation or collapse, causing sufficient in-leakage of secondary water back to the core which dilutes the poisoning effect of boron injection from the emergency cooling system. Again, an increase in core PCT may result.

Consequently, since the LBB methodology is applicable to the STP reactor coolant loop piping, the probability of breaks in the primary loop piping is sufficiently low that they need not be considered in the structural design of the plant. The analysis identified tubes located adjacent to wedge regions that are subject to potential collapse during combined LOCA and SSE. These tubes will be excluded from application of APC. Thus, existing tube integrity requirements apply to these tubes and the margin of safety is not reduced.

Implementation practices using the bobbin probe voltage based tube plugging criteria bounds RG 1.83 considerations by:

(1) Using enhanced eddy current inspection guidelines consistent with those used by EPRI in developing the correlations. This provides consistency in voltage normalization,

(2) Performing a 100 percent bobbin coil inspection for all hot leg tube support plate intersections and all cold leg intersections down to the lowest cold leg tube support plate with outer diameter stress corrosion cracking (ODSCC) indications. The determination of the tube support plate intersections having ODSCC indications shall be based on the performance of at least a 20% random sampling of tubes inspected over their full length, and

(3) Incorporating RPC inspection for all tubes with larger indications left in service. This further establishes the principal degradation morphology as ODSCC.

Implementation of APC at TSP intersections will decrease the number of tubes which must be repaired. Since the installation of tube plugs (to remove ODSCC degraded tubes from service) reduces the RCS flow margin, APC implementation will help preserve the margin of flow that would otherwise be reduced.

For each cycle the projected EOC primary-to-secondary leak rate allowed is bounded by a leak rate which limits the radiological consequences of a EOC MSLB to within applicable dose limits. Therefore, this change does not involve a significant reduction in the margin to safety.

It is therefore concluded that the proposed license amendment request does not result in a significant reduction in the margin of safety as defined in the plant Final Safety Analysis Report or Technical Specifications.

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: William D. Beckner.

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket No. 50–498, South Texas Project, Unit 1, Matagorda County, Texas

Date of amendment request: January 22, 1996.

Description of amendment request: The proposed amendment would modify the steam generator tube plugging criteria in Technical Specification 3/4.4.5, Steam Generators, and the associated Bases, to allow the implementation of alternate steam generator tube plugging criteria for the tube-to-tubesheet joints (known in the industry as F*) for Unit 1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to the Steam Generator section of Technical Specifications 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. The requirements approved by the NRC will not be reduced by this request. Since F* utilizes the ''as rolled'' tube configuration that exists as part of the original steam generator design, all of the design and operating characteristics of the steam generator and connected systems are preserved. The F* joint has been analyzed and tested for design, operating and faulted condition loadings in accordance with Regulatory Guide 1.121 safety factors. At worst case, a tube leak would occur with the result being a primary to secondary leak.

Should a tube leak occur, the impact is bounded by the ruptured tube evaluation submitted by STP for the Unit 1 operating license. No new or unreviewed accident conditions are created by the use of F* criteria. The potential for a tube rupture is not increased from the original submittal, thus there is no impact on accidents evaluated as the design basis. Therefore use of the F* criteria will not increase the probability of occurrence 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 use of the proposed F* alternate plugging criteria will not introduce significant or adverse changes to the plant design basis. The failure of a tube which remained unplugged in accordance with the F* criteria would result in a tube leak, which is a previously analyzed condition. Since this leak would occur below the secondary face of the tubesheet, its leak rate would be limited by the tube-to-tubesheet interface. Qualification testing and previous experience indicates that normal and faulted leakage would be well below the technical specification limits creating no threat associated with tube rupture type leakages. This conclusion is consistent with previous F* programs approved and used at other operating plants.

However, in the unlikely event the failed tube severed completely at a point below the F* region, the remaining F* joint would retain engagement in the tubesheet due to its length of expanded contact within the tubesheet bore, preventing any interaction with neighboring tubes. If the tube severs at a point above the F* region, then it is covered by the tube rupture event as a part of the UFSAR [Updated Final Safety Analysis Report]. Thus, the possibility of a new or different type 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.

Based on previous responses (above), the protective boundaries of the steam generator are preserved. A tube with degradation can be kept in service through F* criteria which provided an un-degraded expanded interface with the tubesheet and which satisfies all of the necessary structural and leakage requirements in accordance with Regulatory Guide 1.121 and the Technical Specifications. Since the joint is constrained within the tubesheet bore there is no additional risk associated with tube rupture. Since the UFSAR analyzed accident scenarios remain bounding, the use of an F* criteria does not reduce the margin of safety.

Thus, these changes do not involve a significant reduction in the margin of safety. Therefore, based on the above evaluation, STP has concluded that these changes do not involve any significant hazards considerations.

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: William D. Beckner.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment requests: January 12, 1996 (AEP:NRC:1233).

Description of amendment requests: The proposed amendments would modify technical specification section 4.4.11 to eliminate the surveillance requirement (SR) demonstrating operability of the emergency power supply for the pressurizer power-operated relief valves (PORVs) and block valves.

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:

Per 10 CFR 50.92, a proposed change does not involve significant hazards consideration if the change does not:

1. involve a significant increase in the probability or consequence of an accident previously evaluated,

2. create the possibility of a new or different kind of accident from any accident previously evaluated, or

3. involve a significant reduction in a margin of safety.

Criterion 1

The proposed change is consistent with NUREG–1431 [Standard Technical Specifications Westinghouse Plants]. Due to the high reliability and continued testing of the Class 1E power supply, we conclude that the elimination of the SR will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2

The proposed change does not involve the addition of any new plant operation or procedures, and the elimination of the SR is consistent with NUREG–1431. For these reasons, we believe that the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3

The proposed change is consistent with NUREG–1431, and it does not affect the acceptance criteria of any of the other PORV and block valve tests currently performed. For these reasons, we believe that the proposed amendment will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and the applicable Bases of the Standard Technical Specifications Westinghouse Plants. The Bases for the applicable surveillance, 3.4.11.4, states ''This Surveillance is not required for plants with permanent 1E power supplies to the valves.'' 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 requests involve no significant hazards consideration.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: John N. Hannon.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London, Connecticut

Date of amendment request: January 22, 1996.

Description of amendment request: The proposed change relocates the containment isolation valve (CIV) list, Table 3.6–2, from the Technical Specifications to the Technical Requirements Manual (TRM). This change affects Technical Specifications Sections 1.8.1a, 4.6.1.1a, 3.6.3.1, 4.6.3.1.1 and 4.6.3.1.2, and the Basis Section 3/4.6.3. A note at the bottom of Table 3.6–2 regarding the CIVs that are subject to administrative control is retained in the Technical Specifications by relocating it to Sections 1.8.1a and 4.6.1.1a. This change is being performed in accordance with Generic Letter 91–08, which provides guidance for removal of component lists from the Technical Specifications.

Additionally, a change to provide relief in the surveillance requirement in Section 4.6.1.1a is included. The change allows valves, blind flanges, and deactivated automatic valves located inside the containment and are locked, sealed, or otherwise secured in the closed position to be verified closed during each cold shutdown but not more often than once per 92 days. The current requirements check the valve position once per 31 days.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration (SHC), which is presented below:

Pursuant to 10CFR50.92, Northeast Nuclear Energy Company (NNECO) has reviewed the proposed changes. NNECO concludes that these changes do not involve a significant hazards consideration (SHC) since the proposed changes satisfy the criteria in 10CFR50.92(c). That is, the proposed changes do not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to remove the Containment Isolation Valve (CIV) list from the Technical Specifications will not result in any hardware or operating changes. The proposed change is based upon NRC Generic Letter (GL) 91–08 and merely removes the CIV table and all references to the table from the technical specifications without affecting the operability requirements of any of the listed valves. The technical specifications will continue to require the CIVs to be operable. Limiting Condition for Operation and surveillance requirements for the valves will also remain in the technical specifications. The CIV table will be relocated to the Millstone Unit No. 2 Technical Requirements Manual (TRM) which is controlled in accordance with 10CFR50.59.

This change is administrative in nature and does not involve an increase in the probability or consequence of an accident previously evaluated. Furthermore, the proposed change does not alter the design, function, or operation of the valves involved, and therefore does not affect the probability or consequences of any previously evaluated accident.

The change to Section 4.6.1.1a that reduces the surveillance requirement for valves, blind flanges, and deactivated automatic valves located inside the containment provides consistency with NUREG–1432, ''Standard Technical Specifications for Combustion Engineering Plants'' as well as the Technical Specifications of Millstone Unit No. 3, Haddam Neck Plant, and Seabrook. The probability or consequences of any previously evaluated accidents are not affected.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The change to relocate the CIV list from the technical specifications to the TRM will not impose any different operational or surveillance requirements, nor will the change remove any such requirements. Adequate control of information will be maintained. Furthermore, as stated above, the proposed change does not alter the design, function, or operation of the valves involved, and therefore no new accident scenarios are created.

The change to Section 4.6.1.1a that reduces the surveillance requirement for valves, blind flanges, and deactivated automatic valves located inside the containment does not alter the design, function, or operation of the valves involved, and therefore no new accident scenarios are created.

3. Involve a significant reduction in a margin of safety.

The proposed changes will not reduce the margin of safety since it has no impact on any safety analysis assumption. The proposed changes do not decrease the scope of equipment currently required to be operable or subject to surveillance testing, nor does the proposed change affect any instrument setpoints or equipment safety functions.

The relocation of the valve list is consistent with the guidance provided in GL 91–08. The change to the surveillance interval is consistent with NUREG–1432, ''Standard Technical Specifications for Combustion Engineering Plants'' as well as the Technical Specifications of Millstone Unit No. 3, Haddam Neck Plant, and Seabrook. The intent of the technical specification will be met since the change will not alter function or operability requirements for any CIV.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270.

NRC Project Director: Phillip F. McKee.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: January 17, 1996.

Description of amendment request: The amendment request would delete a license requirement to submit responses to and to implement requirements of Generic Letter 83–28, because the requirement has been completed. Generic Letter 83–28 pertains to the Salem anticipated transient without scram (ATWS) event.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

. . . The proposed change does not involve an SHC because the change would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

NNECO's proposal to delete License Condition 2.C(4) is an administrative change. The NRC Staff has accepted Millstone Unit No. 3's responses regarding the actions required by GL 83–28, thus, the license condition has been met and is no longer necessary. The proposed change does not affect the configuration, operation, or performance of any system, structure, or component. Additionally, the limiting conditions for operation, limiting safety system settings, and safety limits specified in the Millstone Unit No. 3 Technical Specifications are unchanged. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The NRC Staff has accepted Millstone Unit No. 3's responses regarding the actions required by GL 83–28, thus, the license condition has been met and is no longer necessary. The proposed change to delete License Condition 2.C(4) does not affect the configuration, operation, or performance of any system, structure, or component. Additionally, the limiting conditions for operation, limiting safety system settings, and safety limits specified in the Millstone Unit No. 3 Technical Specifications are unchanged. Therefore, this proposed change cannot create the possibility of a new or different kind of accident from any previously analyzed.

3. Involve a significant reduction in the margin of safety.

The NRC Staff has accepted Millstone Unit No. 3's responses regarding the actions required by GL 83–28, thus, the license condition has been met and is no longer necessary. The proposed change to delete License Condition 2.C(4) does not affect the configuration, operation, or performance of any system, structure, or component. Additionally, the limiting conditions for operation, limiting safety system settings, and safety limits specified in the Millstone Unit No. 3 Technical Specifications are unchanged. Therefore, this proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360.

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: December 22, 1995.

Description of amendment request: The proposed changes will revise Limerick Generating Station, Units 1 and 2, Technical Specification 3.6.1.8 ''Drywell and Suppression Chamber Purge System,'' increasing the Drywell and Suppression Chamber Purge System operating time limit from 90 hours each 365 days to 180 hours each 365 days.

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 Specification [TS] changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

These TS changes do not increase the probability of occurrence of an accident previously evaluated in the SAR [Safety Analysis Report]. This activity involves changing the allowable operating limit for the Drywell and Suppression Chamber Purge System from 90 hours each 365 days to 180 hours each 365 days. This change increases the probability that this system will be in service should a LOCA [loss of coolant accident] occur, but does not increase the probability that a LOCA will occur.

Increasing the operating limit for the Drywell and Suppression Chamber Purge System from 90 hours to 180 hours each 365 days does not increase the consequences of a LOCA as previously evaluated in the SAR. These proposed TS changes increase the probability of a LOCA occurring during the time the Drywell and Suppression Chamber Purge System is in operation, and therefore, increase the probability of the failure of the operating SGTS [Standby Gas Treatment System] filter bank. However, the risk to containment integrity was previously evaluated and found to be acceptable (UFSAR [Updated Final Safety Analysis Report] Section 9.4.5.1.2.2 and WASH—1400 ''Reactor Safety Study'').

Increasing the duration that the vent/purge line isolation valves may be open does not increase the probability that these valves will not perform as designed (i.e., close upon receipt of an isolation signal) in response to a LOCA. However, the changes will increase the likelihood that the vent and purge valves will be called on to close. As discussed in UFSAR Section 6.2.4.2, the containment purge valves have undergone extensive testing and analyses to demonstrate the operability of these valves following a LOCA.

In addition to the existing Safety Analysis Report (SAR) evaluations, a Level 2 PSA [Probabilistic Safety Assessment] Analysis (containment failure) was performed to determine the additional risk associated with changing the operating limit from 90 to 180 hours each 365 days. The PSA evaluation conservatively assumed a 200 hour vent/purge duration per a 365 day period. The figure of merit evaluated is the large early release frequency (LERF) which represents the likelihood of containment failure following core damage that could significantly affect the public (e.g., release of a large amount of radioactive material early enough in the accident that evacuation of the public has not occurred). The 200 hour vent/purge duration increased the LERF approximately 3% from the base value of 2.57E–8 for all PSA initiators. This analysis concluded that the increase in risk of containment failure is well within the bounds of the EPRI [Electrical Power Research Institute] PSA Applications Guideline for permanent changes. The same relative increase applies to the large Design Basis Accident LOCA LERF.

These changes do not directly or indirectly degrade the performance of any other safety systems (assumed to function in the accident analysis) below their design basis. The potential for other equipment failures in the reactor enclosure due to duct-work impact, impingement, and the resulting environmental conditions was evaluated. It was concluded that the environmental qualifications for the LGS equipment are sufficient to ensure operability under the predicted environmental conditions, and there is no impact or impingement-related damage to essential equipment. Although the probability of occurrence of a malfunction of equipment important to safety is increased, the existing SAR analysis and Level 2 PSA Analysis demonstrate the increased risk and radiological consequences are not significant.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

This activity does not change the function of the Drywell and Suppression Chamber Purge System, the containment isolation system, or SGTS as previously evaluated in the SAR. Changing the duration of operation of the vent and purge system does not create an accident initiator not considered in the SAR. Therefore, the possibility of an accident of a different type is not created.

This activity does not create a failure mode not considered in the SAR. All possible equipment failures that could occur as a result of a LOCA during high volume purging have previously been identified and evaluated in the SAR. Therefore, this activity does not create the possibility of a different type of malfunction of equipment important to safety.

Therefore, the proposed TS changes will not create the possibility of a new or different type of accident from any accident previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

The Bases of Technical Specification 3.6.1.8 states that the intent of the 90 hour per 365 day operating limit for the Drywell and Suppression Chamber Purge System is to protect the integrity of the SGTS filters. As discussed above, the requirements specified in ODCM paragraph 3.3.6 assure the availability of the backup SGTS filter train during operation of the vent and purge system. Furthermore, as discussed above, revising the operating limit from 90 hours to 180 hours each 365 days does not involve a significant increase in risk. The margin of safety as defined in the Bases of Technical Specification 3.6.1.8 is maintained.

Therefore, the implementation of the proposed TS changes 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: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101.

NRC Project Director: John F. Stolz.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: February 6, 1996.

Description of amendment request: The amendments would change the Technical Specifications to lower the 125 Volt Battery Charger surveillance amperage from at least 200 amps to at least 170 amps.

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 not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment will permit replacement of aging battery chargers while ensuring these replacement battery chargers will restore the battery from the design minimum charge to its fully charged state while supplying normal steady-state loads. This meets the design basis for the 125V DC system and is consistent with Salem Unit 1 and 2 commitment to IEEE 308–1971 in UFSAR Section 3A.

The 125V DC battery chargers are not addressed as a contributor to any accident analyzed in the UFSAR, therefore, changes to the battery charger output current will not increase the probability of an accident occurring.

The limiting analyzed accident considered in this proposed TS amendment is the Loss of Offsite Power coincident with a Loss of Coolant Accident. This is currently the limiting design duty cycle for the batteries. The 125V batteries are sized to maintain all emergency loads for a period of 2 hours without battery chargers. This is demonstrated by performing the surveillance specified in TS 4.8.2.3.2.f, which is not being changed. Since the chargers are not required to be available during this 2 hour period, and since the proposed charging rate will supply the necessary loads following restoration of AC power, the proposed amendment will have no effect on the consequences of this accident.

The current limiter is calculated to extend the recharging time from 20 hours to 30 hours, but this is not considered significant since two, sequential battery discharge events are not considered plausible.

PSE&G calculation substantiates the capability of the chargers to restore the battery from the design minimum charge to its fully charged state while supplying

normal steady-state loads following a Station Blackout (SBO) Event which exceeds the current design duty cycle.

In addition, a review of 125V DC Battery System load profiles indicated that the battery chargers are capable of supplying expected loads when restoring the battery from a design minimum charge state to a fully charged state irrespective of the status of the plant.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Will not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed amendment does not result in any design or physical configuration changes to the 125V DC system. This change supports the installation of the replacement chargers and ensures the chargers are surveilled within the bounds of limiting input amperage. No changes are being made to the function, design basis, or operation of the 125V DC system by this proposed change. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Will not involve a significant reduction in a margin of safety.

The proposed amendment to TS 4.8.2.3.2.e ensures that the replacement battery chargers have sufficient capacity to restore each 125V battery from the design minimum charge to its fully charged state while supplying normal steady-state loads. A margin of safety is maintained on both the AC input and DC output of the chargers since the specified current is above that required to support the 125V DC system and will result in AC current below the ampacity rating of the battery charger input cables.

Testing to a charger output current of at least 170 amps will maintain a margin of safety to the current required during actual worst case normal loading on the 125V DC buses.

Therefore, 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: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW, Washington, DC 20005–3502.

NRC Project Director: John F. Stolz.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: February 9, 1996.

Description of amendment request: The proposed amendment would allow an installed overhead door assembly, to be used in lieu of the equipment hatch closure, to isolate the hatch opening to the containment building during fuel movement and core alterations.

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 Ginna Station in accordance with the proposed changes does not involve a significant increase in the probability or consequences of an accident previously evaluated. Containment closure is used with respect to the mitigation of fuel handling accidents, and as such, any change to these requirements will not affect the probability of an accident. The proposed changes will also not result in a significant increase in the consequences of an accident previously analyzed since the technical specification requirements remain bounded by the fuel handling accident assumption of no containment closure.

2. Operation of Ginna Station in accordance with the proposed changes does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or changes in the methods governing normal plant operation. The proposed changes will not impose any new or different requirements. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Operation of Ginna Station in accordance with the proposed changes does not involve a significant reduction in a margin of safety. Containment closure is not assumed in the accident analyses for Ginna Station. Also, the proposed change remains acceptable with respect to SRP [NUREG–800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, July 1981''] 15.7.4 and GDC [General Design Criterion] 19 requirements. Therefore, no question of safety is involved, and the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Attorney for licensee: Nicholas S. Reynolds, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005.

NRC Project Director: Ledyard B. Marsh.

Rochester Gas and Electric Corporation, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: February 9, 1996.

Description of amendment request: The proposed amendment would incorporate the methodology for determining the Low Temperature Overpressure Protection (LTOP) limits into the Administrative Controls Section 5.6.6 of the Ginna Technical Specifications (TS). The proposed amendment will allow the licensee to perform future LTOP evaluations, using NRC-approved methodology, without requiring changes to the TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of Ginna Station in accordance with the proposed changes does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes only require that future LTOP limits be developed using NRC approved methodology as specified within the Administrative Controls section and do not involve any technical changes. As such, these changes are administrative in nature and do not impact initiators or analyzed events or assumed mitigation of accident or transient events. Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. Operation of Ginna Station in accordance with the proposed changes does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or changes in the methods governing normal plant operation. The proposed changes will not impose any new or different requirements. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Operation of Ginna Station in accordance with the proposed changes does not involve a significant reduction in a margin of safety. The proposed changes will not reduce a margin of plant safety because

the changes do not impact any safety analysis assumptions other than requiring future evaluations of LTOP limits to be performed in accordance with NRC approved methodology. These changes are administrative in nature. As such, no question of safety is involved, and the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Attorney for licensee: Nicholas S. Reynolds, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005.

NRC Project Director: Ledyard B. Marsh.

Rochester Gas and Electric Corporation, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: February 9, 1996.

Description of amendment request: The proposed amendment would revise the Technical Specifications setpoints for steam generator (SG) water level-high feedwater isolation function. It would take advantage of a greater allowable operating band for SG water level afforded by replacement SGs.

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 Ginna Station in accordance with the proposed changes does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed setpoint change does not degrade the performance of any plant equipment. Therefore, the probability of an accident is not increased. Since the revised trip setpoint and allowable value remain bounded by the accident analysis value of 100% steam generator narrow range level, the consequences of any accident are not adversely affected.

2. Operation of Ginna Station in accordance with the proposed changes does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not involve a physical alteration to the plant (i.e., no new or different types of equipment will be installed) or changes in the methods governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Operation of Ginna Station in accordance with the proposed changes does not involve a significant reduction in a margin of safety. The revised setpoint and allowable value remain bounded by the accident analysis assumptions. The existing values are based on design considerations and not accident analysis parameters. The replacement steam generators are not restricted by the same design considerations with respect to the ESFAS [engineered safety features actuation system] Steam Generator Water Level—High function. Therefore, this change does not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Attorney for licensee: Nicholas S. Reynolds, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005.

NRC Project Director: Ledyard B. Marsh.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: February 9, 1996.

Description of amendment request: The proposed amendment would change Technical Specification 5.3.1 to allow the use of Zirlo fuel cladding material.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The methodologies used in the accident analysis remain unchanged. The proposed changes do not change or alter the design assumptions for the systems or components used to mitigate the consequences of an accident. Use of ZIRLO fuel cladding does not adversely affect fuel performance or impact nuclear design methodology. Therefore accident analyses are not impacted.

The operating limits will not be changed and the analysis methods to demonstrate operation within the limits will remain in accordance with NRC approved methodologies. Other than the changes to the fuel assemblies, there are no physical changes to the plant associated with this technical specification change. A safety analysis will continue to be performed for each cycle to demonstrate compliance with all fuel safety design bases.

VANTAGE 5 fuel assemblies with ZIRLO clad fuel rods meet the same fuel assembly and fuel rod design bases as other VANTAGE 5 fuel assemblies. In addition, the 10 CFR 50.46 criteria are applied to the ZIRLO clad rods. The use of these fuel assemblies will not result in a change to the reload design and safety analysis limits. Since the original design criteria are met, the ZIRLO clad fuel rods will not be an initiator for any new accident. The clad material is similar in chemical composition and has similar physical and mechanical properties as Zircaloy-4. Thus, the cladding integrity is maintained and the structural integrity of the fuel assembly is not affected. ZIRLO cladding improves corrosion performance and dimensional stability. No concerns have been identified with respect to the use of an assembly containing a combination of Zircaloy-4 and ZIRLO clad fuel rods. Since the dose predictions in the safety analyses are not sensitive to fuel rod cladding material, the radiological consequences of accidents previously evaluated in the safety analysis remain valid.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

VANTAGE 5 fuel assemblies with ZIRLO clad fuel rods satisfy the same design bases as those used for other VANTAGE 5 fuel assemblies. All design and performance criteria continue to be met and no new failure mechanisms have been identified. The ZIRLO cladding material offers improved corrosion resistance and structural integrity.

The proposed changes do not affect the design or operation of any system or component in the plant. The safety functions of the related structures, systems or components are not changed in any manner, nor is the reliability of any structure, system or component reduced. The changes do not affect the manner by which the facility is operated and do not change any facility design feature, structure or system. No new or different type of equipment will be installed. Since there is no change to the facility or operating procedures, and the safety functions and reliability of structures, systems or components are not affected, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

Use of ZIRLO cladding material does not change the VANTAGE 5 reload design and safety limits. The use of these fuel assemblies will take into consideration the normal core operating conditions allowed in the Technical Specifications. For each cycle reload core, the fuel assemblies will be

evaluated using NRC-approved reload design methods, including consideration of the core physics analysis peaking factors and core average linear heat rate effects.

The use of Zircaloy-4, ZIRLO or stainless steel filler rods in fuel assemblies will not involve a significant reduction in the margin of safety because analyses using NRC-approved methodologies will be performed for each configuration to demonstrate continued operation within the limits that assure acceptable plant response to accidents and transients. These analyses will be performed using NRC-approved methods that have been approved for application to the fuel configuration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 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: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street NW., Washington, D.C. 20037.

NRC Project Director: William H. Bateman.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: January 30, 1996.

Description of amendment request: The proposed amendments would modify the Technical Specifications to increase the minimum allowable reactor coolant system total flow rate from 284,000 gpm (for Unit 1) and 275,300 gpm (for Unit 2) to 295,000 gpm for both units. Through the 1980's and into the 1990's the North Anna Unit 1 and 2 steam generators experienced increasing levels of steam generator tube plugging. There was a corresponding decrease in the reactor coolant flow rate. As a result, the Commission issued several amendments in the 1989 to 1992 time frame to reduce the minimum reactor coolant flow rate. Subsequently, the licensee replaced the steam generators in both units, with steam generators having an increased number of tubes compared to the replaced steam generators. With the increased number of tubes and less flow resistance, a greater reactor coolant flow rate is attainable. When the amendments were issued decreasing the minimum required reactor coolant flow rate, the transmittal letters stated the revision was temporary and would be increased when the steam generators were replaced.

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 probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated in the safety analysis report would not increase. The proposed Technical Specifications change only increases the minimum allowable RCS total flow rate in the applicable Limiting Condition of Operation. No other changes are being made to allowable operating conditions defined by Technical Specifications, procedures, or to any plant design feature by the implementation of this change. There is no impact on the actual plant performance. Changes in the assumed initial conditions for the accident have no bearing on the probability of occurrence of the assumed accident or malfunction. The RCS flow rate is an assumption in applicable safety analyses. Existing analyses of record have assumed RCS flow rates which are bounding with respect to expected actual plant behavior. Therefore, the implementation of the proposed Technical Specifications change does not affect the probability nor increase the consequences of an accident previously evaluated.

2. The possibility for an accident or malfunction of a different type than any evaluated previously in the safety analysis report would not be created. The proposed change to North Anna Units 1 and 2 Technical Specifications Table 3.2–1 does not involve any alterations to the physical plant which would introduce any new or unique operational modes or accident precursors. Only the allowable value for measured Reactor Coolant System Total Flow Rate will be changed.

3. The margin of safety as defined in the basis for any technical specifications is not reduced. The proposed Technical Specifications change only increases the minimum allowable RCS total flow rate in the applicable Limiting Condition of Operation. The RCS flow rate is an assumption in applicable safety analyses. Existing analyses of record have assumed RCS flow rates which are bounding with respect to expected actual plant behavior. Therefore, the margin of safety is not reduced by the proposed increase in the allowable RCS Total Flow Rate.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: David B. Matthews.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: January 31, 1996.

Description of amendment request: The amendments would revise the Technical Specifications to reduce the minimum volume of fuel that must be maintained in the diesel generator day tanks from 750 to 450 gallons. The amendments would also revise the surveillance requirements for the diesel generators to permit some surveillances to be performed while the reactor units are at power where the licensee considers it safe to do so without compromising the availability of the diesel generators to perform their intended function.

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 an increase in the probability of occurrence of an accident previously evaluated.

The proposed changes do not result in any physical modifications to any plant systems or components nor change the operation of any plant equipment. The EDG [emergency diesel generator] fuel oil supply system will continue to provide adequate fuel supply to the EDGs in a manner consistent with applicable accident analyses. Performing surveillance tests or portions of surveillance tests at power that do not jeopardize stable plant operations does not increase the probability of occurrence of previously analyzed accidents.

Therefore, there is no increase in the probability of occurrence of any accident.

2. Increase the consequences of an accident previously evaluated.

The proposed changes do not result in any physical modifications to any plant systems or components nor change the operation of any plant equipment. The EDG fuel oil system remains capable of supplying the EDGs with sufficient quantities of fuel oil to provide power for long term loss of offsite power. The EDG surveillances will continue to be performed in a manner that will ensure that the EDGs will be capable of performing their intended safety functions. The proposed changes to the electrical distribution system surveillances will continue to ensure that the electrical distribution system remains

operable to power the required safety systems.

Therefore, these proposed changes will not result in an increase in the consequences of any evaluated accidents.

3. Create the possibility for an accident of a different type than was previously evaluated.

The proposed changes do not result in any physical modifications to any plant systems or components nor change the operation of any plant equipment. Only those surveillance tests or portions of surveillance tests that do not jeopardize stable plant operation will be performed at power. Overlap testing to fully test the electrical distribution system protection functions does not introduce any unique accident precursors. The EDG fuel oil system remains capable of supplying the EDGs with sufficient quantities of fuel oil to provide power for long term loss of offsite power. The EDG surveillances will continue to be performed in a manner that will ensure that the EDGs will be capable of performing their intended safety functions.

Therefore, there are no new precursors generated that would result in the possibility of a different type of an accident than was previously evaluated in the SAR [Safety Analysis Report].

4. Decrease the margin of safety as described in the bases section of Technical Specifications.

The EDG fuel oil system will continue to provide adequate fuel supply in a manner consistent with applicable accident analyses. The EDG surveillances will continue to be performed in a manner that will ensure that the EDGs are capable of performing their intended safety functions. The proposed changes to the electrical distribution system surveillances will continue to ensure that the electrical distribution system remains operable to power the required safety systems.

Therefore, the margin of safety as described in the 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 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: David B. Matthews

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

IES Utilities Inc., Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: July 21, 1995, August 8, 1995, and December 15, 1995.

Brief description of amendment request: The proposed amendment would modify the requirements for testing an emergency diesel generator (EDG) when the other is inoperable. The amendment would correct an editorial error in the Duane Arnold Energy Center Operating License and would correct an erroneous reference in the Technical Specification.

Date of publication of individual notice in Federal Register: February 2, 1996 (61 FR 3953).

Expiration date of individual notice: March 4, 1996.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Pacific Gas and Electric Company, Docket No. 50–275, Diablo Canyon Nuclear Power Plant, Unit No. 1, San Luis Obispo County, California

Date of amendment request: January 18, 1995.

Description of amendment request: The proposed amendment would revise the combined Technical Specifications (TS) for the Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, to allow operation of Unit 1 in Mode 3 (Hot Standby) during replacement of nonvital auxiliary transformer 1–1. Specifically, TS 3/4.8.1.1, ''Electrical Power Systems—A.C. Sources—Operating,'' Action Statement (a), would be revised to permit a one-time extension of the allowed outage time (AOT) from 72 hours to 120 hours.

Date of individual notice in Federal Register: February 1, 1996 (61 FR 3737).

Expiration of individual notice: March 4, 1996.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: February 5, 1996, as supplemented by letter dated February 14, 1996.

Brief description of amendment request: The amendment changes Technical Specifications 4.6.2.3.b, ''Suppression Pool Cooling'', and TS 4.6.2.2.b, ''Suppression Pool Spray'', to include flow through the RHR heat exchanger bypass line (in addition to the RHR heat exchanger) in the Suppression Pool Cooling and Suppression Pool Spray flow path used during RHR pump testing.

Date of publication of individual notice in Federal Register: February 9, 1996 (61 FR 5040).

Expiration date of individual notice: March 11, 1996.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: January 16, 1996.

Brief description of amendment request: The proposed amendment would change the Technical Specification surveillance frequency for the drywell bypass leakage rate test from 18 months to 120 months (10 years) with a more frequent testing requirement if performance degrades. Additionally, specific leakage limits would be deleted for the air lock seal and barrel tests. Also, surveillance frequencies for the air lock interlock test and seal pneumatic system leak test would be changed from 18 months to 24 months. Finally, the surveillance frequencies for the air lock barrel test would be changed from ''each COLD SHUTDOWN if not performed within

the previous 6 months'' to ''at least once per 24 months'' and from 18 months to 24 months. The licensee requested that this amendment be approved for use during the current refueling outage which began on January 27, 1996.

Date of publication of individual notice in Federal Register: February 2, 1996 (61 FR 3951).

Expiration date of individual notice: March 4, 1996.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

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.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit No. 1, Calvert County, Maryland

Date of application for amendments: December 7, 1995.

Brief description of amendments: The amendments add the convolution analytical technique for the analysis of the pre-trip main steam line break event to the list of approved core operating limits analytical methods listed in Technical Specification 6.9.1.9, ''Core Operating Limits Report.'' The convolution analytical technique was previously reviewed and approved by the NRC staff and the supporting safety evaluation was provided to Baltimore Gas and Electric Company by letter dated May 11, 1995.

Date of issuance: February 5, 1996.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: 210 and 188.

Facility Operating License No. DPR–53 and DPR–69: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: January 3, 1996 (61 FR 177)

The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated February 5, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: November 2, 1994, as supplemented by letters dated November 16 and December 14, 1995.

Brief description of amendments: The amendments delete the content of the Appendix B, ''Environmental Protection Plan'' (Non-radiological) Technical Specifications and modify License Condition 2.C.(2) so as to delete that portion which refers to the Environmental Protection Plan.

Date of issuance: February 5, 1996.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: Unit 1–164—Unit 2–146.

Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Technical Specifications and License Conditions.

Date of initial notice in Federal Register: March 1, 1995 (60 FR 11131).

The November 16 and December 14, 1995, letters provided clarifying information that did not change the scope of the November 2, 1994, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 5, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: January 13, 1995, as supplemented by letter dated August 30, 1995.

Brief description of amendments: The amendments revise the Technical Specifications to increase the surveillance test intervals and allowed outage times for the Reactor Trip System and Engineered Safety Features Actuation System. The NRC staff has reviewed the proposed changes and finds that, with one exception as noted in the enclosed Safety Evaluation, the amendments conform to WCAP–10271, ''Evaluation of Surveillance Frequencies and Out of Service Times for the Reactor Protection Instrumentation Systems,'' with its revisions and supplements, provides appropriate limiting conditions for operation and action statements, and is, therefore acceptable.

Date of issuance: February 16, 1996.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: Unit 1–165—Unit 2–147.

Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 15, 1995 (60 FR 14019).

The August 30, 1995, letter provided clarifying information that did not change the scope of the January 13, 1995, 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 16, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Duquesne Light Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of application for amendments: July 10, 1995.

Brief description of amendments: These amendments modify the Technical Specifications to minimize the potential for boron dilution of the reactor coolant system (RCS) during startup of an isolated RCS loop. The changes permit RCS loop isolation only during Modes 5 and 6 and require the RCS loop isolation valves be open with power removed from their valve operators during Modes 1, 2, 3, and 4. The changes also require isolation of primary grade water from the RCS during Modes 4, 5, and 6, except during planned boron dilution or makeup activities.

Date of issuance: February 12, 1996.

Effective date: As of date of issuance, to be implemented within 60 days.

Amendment Nos.: 195 and 78.

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 16, 1995 (60 FR 42602).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 12, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Duquesne Light Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of application for amendments: July 20, 1995, as supplemented December 4, 1995.

Brief description of amendments: These amendments revise Technical Specification 3/4.8.1.1, ''A.C. Sources-Operating,'' to incorporate guidance provided in NRC Generic Letter (GL) 84–15, ''Proposed Staff Actions to Improve and Maintain Diesel Generator Reliability,'' and GL 93–05, ''Line-Item Technical Specification Improvements to Reduce Surveillance Requirements for Testing During Power Operation,'' which includes (1) revised requirements for testing the operable emergency diesel generators (EDGs) for various combinations of inoperable offsite circuits and EDGs and (2) revised surveillance requirements for the EDGs. The revised surveillance requirements include specifying generator voltage, frequency limits, and diesel starting time. The amendments also make several editorial changes to TS 3/4.8.1.1 to make TS 3/4 8.1.1 consistent with the guidance provided in the NRC's Improved Standard Technical Specifications (NUREG–1431).

Date of issuance: February 12, 1996.

Effective date: As of date of issuance, to be implemented within 60 days.

Amendment Nos.: 196 and 79.

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 16, 1995 (60 FR 42603).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 12, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: November 22, 1995.

Brief description of amendments: The amendments consist of changes relating to removal of the TS Bases from the TS index.

Date of issuance: February 13, 1996.

Effective date: February 13, 1996.

Amendment Nos.: 182 and 176.

Facility Operating Licenses Nos. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 20, 1995 (60 FR 65678).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 13, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: May 31, 1995, as supplemented November 28, 1995, and December 21, 1995. The supplementary submittals did not affect the staff's proposed finding of no significant hazards consideration.

Brief description of amendment: This amendment increases the surveillance interval on various instruments from 18 to 24 months.

Date of issuance: February 13, 1996.

Effective date: February 13, 1996.

Amendment No.: 152.

Facility Operating License No. DPR–72. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 5, 1995 (60 FR 35070).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 13, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: October 16, 1995, as supplemented by letter dated December 22, 1995.

Brief description of amendments: The amendments add a footnote to Technical Specification 4.6.1.2.d stating the Type B and C tests scheduled for Unit 1's refueling outage, cycle 6 (1R6) will be conducted in accordance with Option B of 10 CFR Part 50, Appendix J (hereafter referred to as Option B) using the guidance of Regulatory Guide 1.163, September 1995. This change only applies to Unit 1's refueling outage 1R6 because implementation of Option B for Type A, B, and C testing for both units is being incorporated into the Improved TS that are scheduled to become effective after refueling outage 1R6.

Date of issuance: February 2, 1996.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: Unit 1–93—Unit 2–71.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 6, 1995 (60 FR 62490).

The December 22, 1995, letter provided clarifying information that did not change the scope of the October 16, 1995, 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 2, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830.

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: June 9, 1995, as supplemented November 9, 1995.

Brief description of amendment: The amendment relocates Surveillance Requirement 4.6.6.1.d.3 to TS 3.6.6.2 and revises the Action Statement of Section 3.6.6.1 to decouple it from Section 3.6.6.2. In addition, Definition 1.12, ''Secondary Containment Boundary'' is deleted and included in the Bases Section 3/4.6.6, Secondary Containment. Bases Section 3/4.6.6.2, Secondary Containment is expanded using the guidance of the improved standard technical specifications (STS) for Westinghouse plants (NUREG–1431).

Date of issuance: February 5, 1996.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 126.

Facility Operating License No. NPF–49. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 2, 1995 (60 FR 39445).

The November 9, 1995, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 5, 1996.

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, CT 06360.

Northern States Power Company, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota.

Date of application for amendments: July 17, 1995, as supplemented October 16, 1995, and November 28, 1995.

Brief description of amendments: The amendments revise the Prairie Island Radiological Effluent Technical Specifications and other sections relating to radiological controls to conform to NUREG–1431, ''Standard Technical Specifications, Westinghouse Plants,'' Revision 1, and Generic Letter 89–01, ''Implementation of Programmatic Controls for Radiological Effluent Technical Specifications in the Administrative Controls Section of the Technical Specifications and the Relocation of Procedural Details of RETS to the Offsite Dose Calculation Manual or to the Process Control Program.''

Date of issuance: January 24, 1996.

Effective date: January 24, 1996, with full implementation within 120 days.

Amendment Nos.: Unit 1–122; Unit 2–115.

Facility Operating License Nos. DPR–42 and DPR–60. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: October 11, 1995 (60 FR 52933).

By letters of October 16, 1995, and November 28, 1995, NSP forwarded a copy of its revised ODCM to the NRC for use as a reference and provided additional clarifying information. This information did not change the licensee's amendment request, the scope of the original Federal Register notice or the staff's initial proposed no significant hazards considerations determination. Therefore, renoticing was not warranted. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 24, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: July 28, 1995.

Brief description of amendments: The amendment eliminates the Technical Specifications requirements to perform 10 CFR Part 50, Appendix J, Type C hydrostatic tests on certain valves that are assured a water seal following a Design Basis Accident.

Date of issuance: February 8, 1996.

Effective date: As of date of issuance, to be implemented within 30 days.

Amendment Nos.: 110 and 73.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: September 27, 1995 (60 FR 49941).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 8, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Docket No. 50–352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania.

Date of application for amendment: June 19, 1995, as supplemented December 21, 1995.

Brief description of amendment: The amendment revises Technical Specification Section 2.2, ''Safety Limits,'' to change the minimum critical Power ratio safety Limit due to use of General Electric 13 fuel product line.

Date of issuance: February 8, 1996.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No. 111.

Facility Operating License No. NPF–39. This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 11, 1995 (60 FR 52934).

The December 21, 1995, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination nor the Federal Register notice.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 8, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: July 28, 1995.

Brief description of amendments: The amendments delete the operability and surveillance requirements involving secondary containment differential pressure instrumentation.

Date of issuance: As of date of issuance, to be implmented within 30 days.

Effective date: February 14, 1996.

Amendment Nos.: 112 and 74.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: September 27, 1995 (60 FR 49942).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 14, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of application for amendments: July 28, 1995.

Brief description of amendments: These amendmends revise Technical Specifications Table 4.3.1.1–1, ''Reactor Protection System Instrumentation Surveillance Requirements,'' to reflect changes the surveillance test frequency requirements for various Reactor Protection System instrumentation.

Date of issuance: February 14, 1996.

Effective date: As of date of issuance, to be implemented within 30 days.

Amendment Nos.: 113 and 75.

Facility Operating License Nos. NPF–39 and NPF–85. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: September 27, 1995 (60 FR 49944).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 14, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: January 20, 1995, as supplemented by letter dated December 18, 1995.

Brief Description of amendment: The Technical Specification (TS) revision represents changes to TS Section 3/4.11.2.6, ''Explosive Gas Mixture,'' TS Table 3.3.7.11–1, ''Radioactive Gaseous Effluent Monitoring Instrumentation,'' and TS Table 4.3.7.11–1, ''Radioactive Gaseous Effluent Monitoring Instrumentation Surveillance Requirements.'' The revision removes these TS from the Technical Specifications and relocates the Bases to the Hope Creek Updated Final Safety Analysis Report and the Surveillance Requirements to the applicable surveillance procedures. The Limiting Conditions for Operation are eliminated.

Date of issuance: February 6, 1996.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 91.

Facility Operating License No. NPF–57: This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 2, 1995 (60 FR 39452)

The December 18, 1995 supplement did not effect the proposed no significant hazards determination, contained in the January 20, 1995 application or the Federal Register notice (60 FR 39452).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 6, 1996

No significant hazards consideration comments received: No.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Public Service Electric & Gas Company, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: October 7, 1995 as supplemented by letter dated October 27, 1995.

Brief description of amendment: This amendment changes Technical Specification (TS) 4.8.1.1.2, ''A.C. Sources—Operating,'' by replacing the reference to an upper voltage and frequency band for the 10-second, Emergency Diesel Generator (EDG), starting time test with a minimum required voltage and frequency that must be attained within 10 seconds. The change to TS 4.8.1.1.2 also includes several related changes to TS 4.8.1.1.2 as follows: (1) the requirement for an EDG to achieve 514 rpm, within 10 seconds following a start signal during testing is eliminated, (2) the term ''standby'' replaces the term ''ambient'' in describing the EDG test restart condition, and (3) the term ''must'' is replaced with the term ''may'' in describing the use of manufacturers recommendations for EDG loading.

Date of issuance: February 6, 1996.

Effective date: As of date of issuance, to be implemented within 30 days.

Amendment No.: 92.

Facility Operating License No. NPF–57: This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: November 27, 1995 (60 FR 58405)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 6, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: May 26, 1995, as supplemented May 5, 1995, and January 26, 1996.

Brief description of amendment: The proposed change was to allow the storage of fuel with an enrichment not to exceed a nominal 5.0 weight percent (w/o) Uranium-235 (U–235) in the new (fresh) and spent fuel storage racks and change the license to reflect changes related to the nuclear fuel cycle.

Date of issuance: February 6, 1996.

Effective date: February 6, 1996.

Amendment No.: 60.

Facility Operating License No. DPR–18: Amendment revised the Technical Specifications and License.

Date of initial notice in Federal Register: September 26, 1995 (60 FR 49636)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 6, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Rochester Gas and Electric Corporation, Docket No. 50–244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: May 26, 1995, as supplemented by letters dated July 17, August 14, August 31, September 18, October 6, October 18, November 1, November 16, two letters of November 20, November 21, November 22, two letters of November 27, November 30, December 8, and December 28, 1995; and November 27, 1995; and May 23, 1994, as supplemented by letters dated June 15, 1994, July 11, July 15, November 1, and November 16, 1995; and September 15, 1992, as supplemented April 20, 1993, April 26, 1995, and July 27, 1995.

Brief description of amendment: (1) a full conversion from the licensee's current Technical Specifications (TSs) to a set of TSs based on NUREG–1431,

''Standard Technical Specifications, Westinghouse Plants,'' Revision 0, dated September 1992 (including approved travellers used in the issuance of Revision 1, dated April 1995), in response to the licensee's application dated May 26, 1995, as supplemented by letters dated July 17, August 14, August 31, September 18, October 6, October 18, November 1, November 16, two letters of November 20, November 21, November 22, two letters of November 27, November 30, December 8, and December 28, 1995. (2) a revision to the TSs to implement the amended regulation 10 CFR Part 50, Appendix J, Option B (new rule), to provide a performance based option for leakage-rate testing of containment, in response to the licensee's application dated November 27, 1995. (3) a revision to the TSs regarding allowable primary coolant levels of specific activity, in response to the licensee's application dated May 23, 1994, as supplemented by letters dated June 15, 1994, July 11, July 15, November 1, and November 16, 1995. (4) a revision to the TSs adding new requirements that enhance the reliability of power-operated relief valves and block valves (PORV/BV) along with TS changes that provide additional low-temperature overpressure protection, in response to the licensee's application dated September 15, 1992, as supplemented April 20, 1993, and April 26, 1995. By letter dated July 27, 1995, the licensee withdrew this amendment request; however, the licensee rescinded this withdrawal request by letter dated December 28, 1995. Therefore, the proposed changes to the PORV/BV, as requested in the licensee's letter dated May 26, 1995, as supplemented December 28, 1995, are incorporated into this amendment.

Date of issuance: February 13, 1996.

Effective date: February 13, 1996.

Amendment No.: 61.

Facility Operating License No. DPR–18: Amendment revised the Technical Specifications and License.

Date of initial notice in Federal Register: December 8, 1995 (60 FR 63071); September 26, 1995 (60 FR 49636); August 30, 1995 (60 FR 45184); July 6, 1994 (59 FR 34669).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 13, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

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: December 30, 1993, as supplemented by letters dated June 3, 1994, August 25, 1994, January 3, 1995, and January 19, 1995.

Brief description of amendments: The amendments replace, in their entirety, the current technical specifications (TS) with a set of TS based on NUREG–1432, ''Standard Technical Specifications—Combustion Engineering Reactors,'' September 1992.

Date of issuance: February 9, 1996.

Effective date: February 9, 1996, to be implemented by August 9, 1996.

Amendment Nos.: Unit 1—Amendment No. 127; Unit 2—Amendment No. 116.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: September 28, 1994 (59 FR 49434) The January 3, 1995, and January 19, 1995, supplemental letters provided additional clarifying information and did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 9, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: December 8, 1995 (TS 95–24).

Brief description of amendments: The amendments implement the change to 10 CFR Part 50, Appendix J to incorporate Option B, a voluntary performance-based option, for determining the frequency for performing Type A, B, and C Containment Leak Rate Testing.

Date of issuance: February 5, 1996.

Effective date: February 5, 1996.

Amendment Nos.: 217 and 207.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the technical specifications.

Date of initial notice in Federal Register: January 3, 1996 (61 FR 182).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 5, 1996.

No significant hazards consideration comments received: None.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: December 8, 1995 (TS 95–20).

Brief description of amendments: The amendments decrease the frequency for conducting air or smoke tests of the containment spray system headers and Residual Heat Removal System headers from every 5 years to every 10 years to verify each spray nozzle is unobstructed.

Date of issuance: February 7, 1996.

Effective date: February 7, 1996.

Amendment Nos.: 218 and 208.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the technical specifications.

Date of initial notice in Federal Register: January 3, 1996 (61 FR 182).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 7, 1996.

No significant hazards consideration comments received: None.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: November 22, 1993 supplemented May 5 and December 20, 1995.

Brief description of amendment: The amendment revised the Technical Specifications to reflect the replacement of analog temperature instrumentation associated with leak detection with digital equipment.

Date of issuance: January 29, 1996.

Effective date: January 29, 1996, and implemented not later than 120 days following startup from the fifth refueling outage.

Amendment No.: 79.

Facility Operating License No. NPF–58: This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 12, 1994 (59 FR 24752).

The Commission's related evaluation of the amendment is contained in a

Safety Evaluation dated January 29, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of application for amendment: November 2, 1995, supplemented January 26, 1996.

Brief description of amendment: The amendment only revised the containment personnel air lock Technical Specifications and added a license condition to allow the air locks to be open in Modes 4 and 5 during core alterations except for movement of recently irradiated fuel. All other provisions of the request are being deferred for further review.

Date of issuance: February 2, 1996.

Effective date: To be implemented not later than 90 days after issuance.

Amendment No. 80.

Facility Operating License No. NPF–58: This amendment revised the Technical Specifications and added a license condition.

Date of initial notice in Federal Register: December 6, 1995 (60 FR 62497) The supplemental letter provided clarification of administrative controls that will be in place, did not change the initial no significant hazards consideration determination, and was within the scope of the notice issued December 6, 1995.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 2, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: December 30, 1995, as supplemented by letters dated July 28, (TXX–95187), September 14, (TXX–95235), and November 29, 1995 (TXX–95299), and January 2, 1996 (TXX–96–003).

Brief description of amendments: These changes authorized usage of the high density fuel storage racks, to increase the spent fuel storage capacity, and to adopt the wording, content, and format of the Improved Standard Technical Specifications.

Date of issuance: February 9, 1996.

Effective date: February 9, 1996.

Amendment Nos.: Unit 1—Amendment No. 46; Unit 2—Amendment No. 32.

Facility Operating License Nos. NPF–87 and NPF–89. The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 1, 1995 (60 FR 6313).

The additional information contained in the supplemental letters dated July 28, (TXX–95187), September 14, (TXX–95235), and November 29, 1995 (TXX–95299), and January 2, 1996 (TXX–96–003), was clarifying in nature and thus, within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in an Environmental Assessment dated February 9, 1996, and a Safety Evaluation dated February 9, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

Virginia Electric and Power Company, et al., Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: September 19, 1995.

Brief description of amendments: The amendments increase the surveillance test interval for the turbine reheat stop and intercept valves from at least once per 31 days to at least once per 18 months, extend the visual and surface disassembly inspection interval of the turbine reheat stop and intercept valves to 60 months and revise the inspection criteria for the throttle, governor, reheat stop, and reheat intercept valve disassembly inspections.

Date of issuance: February 8, 1996.

Effective date: February 8, 1996.

Amendment Nos.: 195 and 176.

Facility Operating License Nos. NPF–4 and NPF–7. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: October 25, 1995 (60 FR 54725).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 8, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Virginia Electric and Power Company, et al., Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: November 20, 1995, as supplemented January 23, 1996.

Brief description of amendments: The amendments revise the North Anna Units 1 and 2 Technical Specifications to permit the use of 10 CFR Part 50, Appendix J, Option B, Performance-Based Containment Leakage Rate Testing.

Date of issuance: February 9, 1996.

Effective date: February 9, 1996.

Amendment Nos.: 196 and 177.

Facility Operating License Nos. NPF–4 and NPF–7. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 20, 1995 (60 FR 65685). The January 23, 1996 supplement provided clarifying information that was within the scope of the December 20, 1995 notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 9, 1996.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of no Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date

the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a Federal Register notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) The application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By March 29, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the

effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (*Project Director*): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Duke Power Company, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: February 6, 1996.

Brief description of amendments: The amendments revised Technical Specification Section 3.16, ''Containment Hydrogen Control Systems.'' The change adds a footnote to TS 3.16.3.b. to allow a one-time outage duration extension in regard to the Containment Hydrogen Control System flow path. This extension is necessary to install and test plant modifications, which will allow the Containment Hydrogen Control System to perform as designed, without the potential for inoperability due to water accumulation in the flow path.

Date of Issuance: February 7, 1996.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: Unit 1–214–Unit 2–214–Unit 3–211.

Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: The amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendments, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated February 7, 1996.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691.

Attorney for licensee: J. Michael McGarry, III, Winston and Strawn, 1200 17th Street NW., Washington, DC 20036.

NRC Project Director: Herbert N. Berkow.

South Carolina Electric & Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit No. 1, Fairfield County, South Carolina

Date of application for amendment: February 10, 1996.

Brief description of amendment: The amendment revises Technical Specifications (TS) Surveillance Requirements 4.7.6.c.2, 4.7.6.d, 4.9.11.b.2 and 4.9.11.c regarding the testing methodology utilized by Virgil C. Summer Nuclear Station, which determines the operability of the charcoal filters in the engineering safety features air handling units.

Date of issuance: February 10, 1996.

Effective date: February 10, 1996.

Amendment No.: 131.

Facility Operating License No. NPF–12: Amendment revises the TS.

The Commission's related evaluation of the amendments, finding of emergency circumstances, and final determination of no significant hazards consideration, are contained in a Safety Evaluation dated February 10, 1996.

Public comments requested as to proposed no significant hazards consideration: No.

No significant hazards consideration comments received: None.

Local Public Document Room location: Fairfield County Library, 300 Washington Street, Winnsboro, SC 29180.

Dated at Rockville, Maryland, this 21st day of February 1996.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–4342 Filed 2–27–96; 8:45 am]

BILLING CODE 7590–01–P

Availability of Draft Branch Technical Position on the Use of Expert Elicitation in the High-Level Waste Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability.

SUMMARY: The Nuclear Regulatory Commission is announcing the availability of the ''Draft Branch Technical Position (BTP) on the Use of Expert Elicitation in the High-Level Waste (HLW) Program.''

DATES: The comment period expires May 14, 1996.

ADDRESSES: Send comments to Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555–0001. ATTENTION: Docketing and Services Branch. Hand deliver comments to 11545 Rockville Pike, Rockville, Maryland 20852–2738, between 7:45 a.m. and 4:15 p.m., on Federal workdays.

A copy of the draft BTP is available for public inspection and/or copying at the NRC Public Document Room, 2120 L Street (Lower Level), NW., Washington, DC 20555–0001. Copies of the draft BTP may also be obtained by contacting Karen S. Vandervort, Mail Stop T–7F3, U.S. Nuclear Regulatory Commission. Telephone: (301) 415–7252.

FOR FURTHER INFORMATION CONTACT: Michael P. Lee, Performance Assessment and High-Level Waste Integration Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, 11545 Rockville Pike, MD 20852–2738. Telephone: (301) 415–6677.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy (DOE) is conducting a program of site characterization to gather enough information, about the Yucca Mountain (Nevada) site, to be able to evaluate the waste isolation capabilities of a potential geologic repository. Should the site be found suitable, DOE will apply to the NRC for permission to construct and then operate a proposed geologic repository for the disposal of spent nuclear fuel and other high-level radioactive waste at Yucca Mountain. As with other licensing decisions,

NRC's decision to grant or deny a license for a proposed repository will be based on a combination of fact and judgment, as set forth by DOE in any potential license application. The subjective judgments of individual experts and, in some cases, groups of experts, will be used by DOE to interpret data obtained during site characterization and to address the many technical issues and inherent uncertainties associated with predicting the performance of a geologic repository system for thousands of years. NRC has traditionally accepted, for review, expert judgment to evaluate and interpret the factual bases of license applications. Judgment has been used to complement and supplement other sources of scientific and technical information, such as data collection, analyses, and experimentation.

The NRC staff has developed specific technical positions that: (1) Provide general guidelines on those circumstances that may warrant the use of a formal process for obtaining the judgments of more than one expert (*i.e.*, expert elicitation); and (2) describe acceptable procedures for conducting expert elicitation when formally elicited judgments are used to support a demonstration of compliance with NRC's geologic disposal regulation, currently set forth in 10 CFR Part 60.

Current NRC policy is to encourage the use of probabilistic risk assessment (PRA) state-of-the-art technology and methods as a complement to the deterministic approach in nuclear regulatory activities (60 FR 42622). Although routinely used in deterministic analyses that do not involve PRA (or performance assessments, in the case of waste management systems), expert judgment can, and frequently does, provide information essential to the conduct of probabilistic assessments. Consistent with the Commission's policy, the NRC staff has developed this BTP to identify acceptable procedures for the use and formal elicitation of such judgments in the area of HLW.

Although there are several examples of the use of expert elicitation in a nuclear regulatory context, no formal Agency guidance on this subject exists. Thus, in developing this BTP, the Division of Waste Management staff has drawn upon the prior experience of other NRC program offices with the use of expert judgment and has relied on various Agency resource documents to help formulate its position statements. Consequently, the reader will find that this BTP is largely consistent with these other resource documents in substance.

Subsequent to the finalization of this BTP, the staff may elect to develop guidance on the use of expert judgment in other areas of nuclear industry regulation.

Dated at Rockville, Maryland, this 20th day of February 1996.

For the Nuclear Regulatory Commission.

John H. Austin, Chief,

Performance Assessment and High-Level Waste Integration Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 96–4484 Filed 2–27–96; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 36871; File No. SR–CSE–96–03]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Cincinnati Stock Exchange Relating to Exchange Rule 11.10, National Securities Trading System Fees

February 22, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 21, 1996 The Cincinnati Stock Exchange (''CSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange hereby amends Rule 11.10 regarding fees imposed by the Exchange. The text of the proposed rule change is as follows [new text is italicized; deleted text is bracketed]:

Rule 11.10 National Securities Trading System Fees

A. Agency Transactions

As is the case [Except] for Preferenced transactions, members acting as an agent will be charged [$0.0025 per share ($0.25/100 shares)] *the per share incremental rates as noted below* for public agency transactions. [except that there will be no transaction fee charge for public agency limit orders executed from the CSE limit order book.]

Avg. daily share* volume	Charge Per share
1 to 250,000	$0.0020
250,001 to 500,000	0.0015
500,001 to 1,000,000	0.0013
1,000,001 to 1,500,000	0.0009
1,500,001 and higher	0.0007

*Odd-lot shares excluded.

B. through M. No Change

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has determined to amend the fee charged agency limit and market orders executed through the facilities of the Exchange's limit order and automated execution book such that the fee imposed upon agency market and limit orders executed through that facility will be the same as the fee charged members that preference agency orders.

2. Statutory Basis

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[2] in general and furthers the objectives of Section 6(b)(4)[3] particular in that it provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78f(b).

[2] 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act [4] and subparagraph (e) of Rule 19b–4 thereunder.[5]

At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Cincinnati Stock Exchange. All submissions should refer to File No. SR–CSE–96–03 and should be submitted by March 20, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–4494 Filed 2–27–95; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4.

[6] 17 CFR 200.30–3(a)(12).

[Release No. 34–36868; File No. SR–PCC–96–01]

Self-Regulatory Organizations; Pacific Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Amending Certain Provisions of the Pacific Clearing Corporation Rules and Participant Agreement

February 21, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (Act),[1] notice is hereby given that on February 14, 1996, the Pacific Clearing Corporation (''PCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–PCC–96–01) as described in Items I and II below, which Items have been prepared primarily by PCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCC proposes certain amendments to its rules and Participants Agreement to accommodate the securities industry's conversion to same-day funds [2] settlement (''SDFS'') scheduled for February 22, 1996. The proposal also seeks to make technical clarifications to certain of its rules unrelated to the conversion to SDFS.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCC included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PCC has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On February 22, 1996, the securities industry is scheduled to convert money settlement of securities transactions (*i.e.*, corporate and municipal securities) and principal and interest payments from next-day funds [4] settlement (''NDFS'') to SDFS. In the SDFS environment, the daily trade settlement amounts must be paid in same-day funds rather than next-day funds as is currently the standard. The conversion will affect payments for settlements among clearing corporations (*e.g.*, PCC), depositories, and financial intermediaries and between financial intermediaries and their institutional clients. The conversion will not affect payments to and from retail investors.

The amendments to PCC Rules 2.2(d) and 3.4(e) are designed to ensure that PCC can effect daily money settlement with specialist firms and the National Securities Clearing Corporation (''NSCC'') in a timely manner. Specifically, Rule 2.2, governing the financial responsibility and operational capability of PCC members, is being amended to provide that PCC may collect additional deposits from members to assure adequate financial responsibility or operational capability. Rule 3.4, governing settlement of member accounts, is being amended to require that members provide funds to PCC for settlement in a manner and form acceptable to PCC. Rule 7.4 is also being amended to require, at PCC's discretion, that a portion of the funds shall be held in a form directly accessible by PCC. The proposal makes similar changes to PCC's participants agreement.[5] The changes will allow PCC to modify its cash management system to minimize wire transfers between PCC and firm bank accounts.

The amendments to PCC Rule 2.1(b), governing membership, and to Rules 7.4 and 7.5(c)(i), governing the clearing fund, are clarifications of language and do not change the substance of these rules.[6] The changes are not related to the conversion to SDFS.

PCC believes the proposed rule change is consistent with Section

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The term ''same-day funds'' refers to payment in funds that are immediately available and generally are transferred by electronic means.

[3] The Commission has modified the text of the summaries submitted by PCC.

[4] The term ''next-day funds'' refers to payment by means of certified checks passing between the clearing corporation and its members.

[5] The amendments to the Participants agreement are to paragraphs 3.1(c)(ii) and (iii) regarding cashiering services, 3.1(e)(i) and (ii) regarding back office services, and 4.6 regarding obligations of participants.

[6] The specific changes being made to these rules are attached to PCC's proposed rule change as Exhibit A, which is available in the Commission's Public Reference Room or through PCC.

17A(b)(3) because it is designed to promote the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

PCC does not believe the proposed rule changes will impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No comments were received from members.

III. Date on Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act [7] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes PCC's proposed rule change is consistent with PCC's obligations under Section 17A(b)(3)(F) because the proposed rule change should facilitate PCC's conversion entirely to an SDFS system by including provisions in PCC's rules to enable PCC to settle with its participants and NSCC in same day funds. The amended rules and Participants Agreement should provide PCC with prompt receipt of or access to members' funds, which will be necessary to settle in a timely manner in an SDFS environment. The overall conversion to an SDFS system should help reduce systemic risk by, among other things, eliminating overnight credit risk. The SDFS system also should reduce risk by achieving closer conformity with the payment methods used in the derivatives markets, government securities markets, and other markets.

PCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. The Commission finds good cause for so approving the proposed rule change because the proposed rule change modifies PCC's rules in anticipation of PCC's and the securities industry's conversion to an SDFS system on February 22, 1996. Accelerated approval of the proposal will allow PCC to effect the conversion and to implement the safeguards provided under the rules and amended Participants Agreement.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 522, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of PCC. All submissions should refer to SR–PCC–96–01 and should be submitted by March 20, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File Nos. SR–PCC–96–01) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–4450 Filed 2–27–96; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78q–1(b)(3)(F) (1988).

[8] 17 CFR 200.30–3(a)(12) (1995).

DEPARTMENT OF STATE

[Public Notice No. 2341]

U.S. State Department Overseas Security Advisory Council; Notice of Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on Friday, March 15, 1996, at the DoubleTree Guest Suites, Fort Lauderdale, Florida. Pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c) (1) and (4), it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda calls for the discussion of classified and corporate proprietary/security information as well as private sector physical and procedural security policies and protective programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Marsha Thurman, Overseas Security Advisory Council, Department of State, Washington, DC 20522–1003, phone: 202–663–0869.

Dated: February 16, 1996.

William D. Clarke,

Acting Director of the Diplomatic Security Service.

[FR Doc. 96–4530 Filed 2–27–96; 8:45 am]

BILLING CODE 4710–24–M

[Public Notice 2347]

Secretary of State's Advisory Committee on Private International Law; General Meeting on Developments in Private International Law

There will be a general meeting of the Secretary of State's Advisory Committee on Private International Law (ACPIL) on Friday, March 15, 1996 from 9:30 a.m. to 4:30 p.m. at the Department of State in Washington, D.C.

The meeting agenda will include a review of developments in international organizations specializing in this field of work, including the International Institute for Unification of Private Law (UNIDROIT), the Hague Conference on Private International Law, the United Nations Commission on International Trade Law (UNCITRAL), Inter-American Specialized Conferences on Private International Law (CIDIP) sponsored by the Organization of American States (OAS), and other international organizations, as appropriate.

The principal topics for discussion will include a review of two multilateral treaties (conventions) adopted in 1995—the UNIDROIT convention on return of stolen and illegally exported cultural property, completed at Rome in June, 1995, and the United Nations convention on independent financial guarantees (including European law-based direct bank guarantees and American law-based standby letters of credit, as well as commercial letters of credit), approved by the UN General Assembly on December 11, 1995. Both Conventions have been opened for signature and ratification.

Other topics will cover developments in international family law, focussing on recent efforts to provide for more effective international enforcement of

support obligations, as well as issues expected to arise in connection with the final Hague Conference negotiations on a convention on protection of children (jurisdiction and recognition of custody decrees) and other matters concerning children. Finally, with a view to enhancing private law unification in the Americas, the process and resources committed by the OAS to the OAS-sponsored Specialized Conferences on Private International Law will be discussed, and recommendations sought for practical ways in which that process can be improved. Alternatives to the OAS process may also be considered.

Persons interested but unable to attend the meeting are welcome in writing to request documents and to submit comments or proposals to the office indicated below. Additional topics may be considered depending on time available. In order to facilitate planning for the meeting, members of the public are requested to propose in writing to the office below any topics on which they may wish to comment.

Members of the general public may attend up to the capacity of the meeting room and participate subject to the direction of the Chair. The meeting will be held in Conference Room 1107 at the Department of State; entry should be only via the Diplomatic entrance at 22d and ''C'' Streets, N.W. As access to the building is controlled, in order to expedite entry, the office indicated below should be notified by mail or fax not later than Monday, March 11 of the name, address, firm or affiliation if any, social security number and date of birth of persons wishing to attend.

Additional meeting—following the general Advisory Committee meeting, a meeting of the Committee's study Group on cross-border insolvency will meet on Saturday, March 16, from 10 a.m.–3 p.m. That meeting will take place at the International Law Institute, 1615 New Hampshire Avenue, N.W. Persons wishing to attend should notify the office below in advance.

For information on the Department's program in this field or for copies of documents on particular topics, please contact by mail the Office of the Assistant Legal Adviser for Private International Law (L/PIL), attention Harold S. Burman, at 2430 ''E'' Street, N.W., Suite 355 South Building, Washington, D.C. 20037–2800, or notify Ms. Gonzales by fax at (202) 776–8482.

Dated: February 21, 1996.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law, U.S. Department of State.

[FR Doc. 96–4470 Filed 2–27–96; 8:45 am]

BILLING CODE 4710–08–M

[Public Notice No. 2348]

State Department Advisory Committee Study Group Meeting on UNCITRAL Project on Cross-Border Insolvency

The Study Group on Cross-Border Insolvency of the Secretary of State's of State's Advisory Committee on Private International Law (ACPIL) will hold its next meeting on Saturday, March 16 from 10 A.M. to 3 P.M. to review international efforts to harmonize rules on cross-border insolvency cases involving commercial entities.

The meeting will review the recent Report by the United Nations Commission on International Trade Law (UNCITRAL) Working Group on Insolvency Law, which met in November 1995 to consider possible standards for procedural aspects of cross-border insolvency. No decision has been made as to the form any proposed rules should take, i.e. whether to prepare UN guidelines, consensual rules, a model or uniform law, or a multilateral treaty. The Advisory Committee Study Group meeting will facilitate preparation of possible United States positions for the next meeting of the UNCITRAL intergovernmental Working Group in April, 1996, and consider other United States initiatives as well.

UNCITRAL decided at its Plenary session in May, 1995 to work primarily on procedural, rather than substantive, rules. Based on the Report referenced above, this is likely to cover judicial cooperation, jurisdiction, access to proceedings for foreign trustees and other interests, the relationship between primary, ancillary and secondary proceedings, and related matters. Other procedure concerns may be taken up at this stage in the U.N. process, depending on the interests of participating countries. Future issues, such as substantive law involving priorities of claims and distribution could be considered, if at all, at a later stage.

The relationship of the UNCITRAL project generally to U.S. interests, and its impact on facilitation of international trade will be considered. Current projects by other organizations will be referred to where relevant, including the American Law Institute's project on harmonization of bankruptcy law between the NAFTA states, the International Bar Association's Concordat, the recent European Union proposed treaty on cross-border insolvency, as well as work by INSOL, the American Bankruptcy Institute, and others.

Background documents include the Report of the UNCITRAL Working Group, Dec. 1, 1995, UN Doc. A/CN.9/419; and a Report by INSOL (International Association of Insolvency Practitioners) on the Joint Project of UNCITRAL and INSOL, March 1, 1995. Copies of these documents, as well as the IBA and European Union documents referred to, are available from the Legal Adviser's Office at the address indicated below.

The meeting will be held at the International Law Institute, 1615 New Hampshire Avenue, N.W., Washington, DC 20009 and is open to the public up to the capacity of the meeting room and subject to the rulings of the Chair. Since space is limited, persons wishing to attend should advise Ms. Gonzales of the Office of Legal Adviser (L/PIL), Suite 355 South Building, 2430 ''E'' Street, N.W., Washington, DC 20037–2800, fax (202) 776–8482. Persons who cannot attend the meeting are welcome to submit comments to the Legal Adviser's Office. For further information on this project or on UNCITRAL, please contact Harold S. Burman at the above address or at (202) 776–8420. For information on meeting arrangements, please contact Stuart Kerr of the International Law Institute at (202) 483–3036.

Dated: February 21, 1996.

Harold S. Burman,

Executive Director, Secretary of State's Advisory Committee on Private International Law.

[FR Doc. 96–4469 Filed 2–27–96; 8:45 am]

BILLING CODE 4710–08–M

TENNESSEE VALLEY AUTHORITY

Integrated Resource Plan

AGENCY: Tennessee Valley Authority.

ACTION: Issuance of Record of Decision.

SUMMARY: This notice is provided in accordance with TVA's procedures implementing the National Environmental Policy Act. TVA has decided to adopt the preferred alternative identified in its final programmatic environmental impact statement (EIS), ''Energy Vision 2020, Integrated Resource Plan.'' The Final EIS was made available to the public on December 21, 1995. The TVA Board of Directors decided to adopt the preferred alternative at its February 21, 1996, public meeting. Under the preferred alternative, TVA has identified a portfolio of energy resource options that it can deploy to meet future energy demands on the TVA power system over the next 25 years. In addition, a short

term action plan identifies actions that TVA plans to take over the next three years.

FOR FURTHER INFORMATION CONTACT: Lynn Maxwell, Manager, System Integration, Tennessee Valley Authority, 1101 Market Street, MR 3K, Chattanooga, Tennessee 37402, (423) 751–2539.

SUPPLEMENTAL INFORMATION: TVA is a corporate agency of the United States Government. It operates the Nation's largest public power system. This power system provides power to an 80,000 square mile area, in parts of Tennessee, Alabama, Georgia, Mississippi, Kentucky, North Carolina, and Virginia. Through independent power distributors, TVA serves more than 7.5 million people. TVA also directly serves more than 60 large industrial and Federal installations. The power produced by TVA constitutes approximately 4 to 5 percent of all of the electricity generated in the Nation.

Under the 1992 National Energy Policy Act, TVA has been directed to employ a least-cost energy planning process for the addition of new energy resources to its power system. This Act also requires TVA to provide distributors of TVA power an opportunity to participate in the planning process. In response to this directive, TVA began an integrated resource planning (IRP) process in February 1994. Although TVA prepares project-specific environmental reviews for proposed energy resource decisions, TVA committed to employing a public IRP process and decided to use the EIS process to obtain public input on the IRP itself. Energy Vision 2020 is the result of this commitment and process.

An IRP is simply a plan which broadly identifies the actions which a utility anticipates taking to meet demands for electric service and to achieve its long-term goals and objectives. TVA announced at the outset that its long-term objective was to maintain and enhance its competitiveness. ''Competitiveness'' for purposes of Energy Vision 2020 was viewed as not only maintaining low electric rates and reliable service, but also fostering sustainable economic development and protecting environmental quality.

Future Demands on the TVA System

In order to determine future power needs on a utility system, both the utility's existing energy resources and forecasted future demands must be considered. TVA's existing energy resources have a total generating capacity of 25,600 megawatts. (This does not include TVA's Browns Ferry Nuclear Unit 3 and Watts Bar Nuclear Unit 1. These units were only recently restarted and started, respectively (November 1995). Browns Ferry Unit 3 is already returned to commercial operation and Watts Bar Unit 1 is expected to begin commercial operation in Spring 1996. The combined capacity of these two units is 2,235 megawatts.) Under its medium load forecast, TVA expects to need an additional 6,250 megawatts of energy resources by Year 2005 and 16,500 megawatts by Year 2020. Peak loads on the system in Year 2020 are expected to be about 40,300 megawatts.

TVA uses state-of-the-art energy forecasting models to predict future demands on its system. Because of the substantial uncertainty in predicting future demands, TVA develops three load forecasts: a high, medium, and low. The high forecast has a 90 percent probability of not being exceeded. The medium forecast has a 50 percent probability of not being exceeded. The low forecast has a 10 percent probability of not being exceeded. The Year 2020 peak loads under the high and low forecasts are 56,400 megawatts and 24,400 megawatts, respectively. If future demands approach the high forecast, TVA would need up to 36,000 megawatts of additional energy resources to meet that demand. If demands are closer to the low forecast, TVA would need no additional resources.

Alternatives Considered

The energy resource alternatives formulated for Energy Vision 2020 were the result of an extensive public and analytical process. Several different mechanisms were used to obtain public input at the scoping stage, including surveys of local opinion leaders, extensive interaction with members of a stakeholders group for over a year, 12 public meetings, and a nine-month period in which to submit written comments. After release of the draft IRP and EIS, TVA provided more than 80 days for public review and comment. During this period, TVA held nine public meetings throughout the TVA region on the IRP and EIS.

The primary analytical method used for Energy Vision 2020 was the multi-attribute tradeoff method. This approach allowed TVA to quantitatively integrate the identified environmental impacts of proposed energy resource strategies and to formulate alternative strategies to mitigate adverse environmental impacts while retaining other beneficial characteristics of specific strategies.

Energy resource strategies are created from different combinations of energy resource options. Energy resource options are either supply-side options (*e.g.*, new generating resources such as coal-fired or nuclear units, gas-fired combustion turbines, repowering of existing units, integrated gasification, or wind turbines), or customer service options (*e.g.*, demand-side management actions, including energy efficiency improvements and energy conservation, or beneficial electrification). In TVA's Energy Vision 2020 process, these options were first screened for acceptable performance using multiple criteria, including environmental criteria. These criteria were developed from public input and TVA's objectives.

TVA developed 2,000 energy resource strategies from more than 100 supply-side and 60 customer service options. These strategies were then analyzed through the use of computer models to identify combinations of resource options that best met the evaluation criteria and that effectively dealt with various uncertainties (such as increased stringency of environmental regulations, changes in natural gas prices, or changes in forecasted demands).

The multi-attribute tradeoff method allowed potential environmental impacts of each strategy to be compared to all other evaluation criteria (such as debt, electric rates, and economic development) and to all other strategies on an objective basis. This process identified where real tradeoffs existed. One of the most important tradeoffs occurred between better environmental performance and electric rates because achieving better environmental performance typically produces higher costs and higher electric rates. However, the integrated resource planning process used by TVA allowed it to reformulate strategies repeatedly to produce strategies that performed better across all criteria, including environmental criteria. Potential tradeoffs among criteria were reduced or eliminated. This was done by replacing resource options with undesirable or less desirable effects with options which produced more desirable effects. Eventually, this integration process produced seven final alternative strategies that performed well across all of the criteria, including environmental criteria.

As a result of the multi-attribute integration process, the final seven strategies consisted of similar, although not identical, energy resource options and they tended to produce similar environmental impacts. All of the strategies performed reasonably well from an environmental impact

standpoint and all performed better environmentally than the ''no action'' alternative. (TVA defined ''no action'' as the actions that it would likely have taken to meet future demands in the absence of the proposed IRP. Those actions include adding more combustion turbines and coal fired units to the system.)

For almost every air and water quality impact category, the seven final strategies showed improvement. Although coal usage on the TVA system is projected to increase under all of the final alternative strategies, sulfur dioxide emissions are projected to decrease in Year 2020 from 1996 levels by 47 to 51 percent depending on the strategy. System nitrogen oxide emissions are projected to decline in Year 2000 from 1996 levels by 10 to 20 percent, then increase, but still remain 3 to 13 percent below 1996 levels. This indicates that TVA's contribution to ozone, visibility, and acid rain related impacts should be reduced regardless of the final strategy employed. In contrast, greenhouse gas emissions from the TVA system are projected to increase under all strategies by 25 to 38 percent. This increase is still less than that projected for the no-action alternative (it results in a 52 percent increase) and on a per unit of electric energy basis produced 10 to 15 percent less than that produced by the existing system. This means that the efficiency of the TVA system is improved under the final seven alternatives.

Water quality impacts vary little across the final alternatives. EIS analyses indicated that improving the efficiency of TVA's existing hydroelectric units would be environmentally beneficial compared to impacts associated with building new hydroelectric units or other supply-side resources. The only noticeable difference among the final alternatives is that those strategies which employ more repowering options produce less water quality impacts. A similar reduction in potential air quality impacts also occurs when more repowering options are used.

Most potential land-related impacts are site-specific and would result from implementation of specific resource options. These kinds of impacts will be examined in subsequent site specific reviews. Energy Vision 2020 did look at more generic land-related impacts that are associated with the potential ''footprint'' of resource options. The larger the footprint (the size of the site needed for an option) the more likely there will be adverse land-related environmental impacts. Energy Vision 2020 concluded that due to the availability of appropriate sites in the TVA region, potential land impacts do not pose a constraint. It also concluded that wind turbines posed the greatest risk of adverse land impacts because of their footprint (2,000 megawatts of wind turbines would require up to 50,000 acres).

Preferred Alternative

Rather than select a discrete energy resource strategy from among the final seven strategies as its ''preferred'' alternative, TVA identified a ''portfolio'' of energy resource options as its preferred strategy. All of the energy resource options included in the final seven strategies have been included in this portfolio. In addition, the portfolio includes several other resource options that respond particularly well to certain uncertainties. It also includes other options and actions that the TVA Board directed be included to respond to public comments on the draft IRP and EIS that TVA needed to include more renewable energy resources and demand side management programs.

One of the important conclusions that TVA reached in Energy Vision 2020 was that future events (uncertainties) will likely require changes in any discrete energy strategy. The utility industry is entering an era of significant changes as it moves from a regulated to a less regulated environment. This substantially heightens the already large uncertainties associated with long-range utility planning. Consequently, flexibility in resource option selection and implementation is highly valued. Flexibility heightens a utility's ability to respond to events as they unfold.

The portfolio alternative provides more flexibility than any discrete strategy. Much like a portfolio of stocks is chosen to manage risk and accomplish specific objectives, TVA's preferred portfolio alternative better enables TVA to meet customer needs at an acceptable level of risk and still meet the objectives of balancing costs, rates, environmental impacts, debt, and economic development.

Portfolio options include: combustion turbines, the purchase of options for both base load and peaking power, improvements to the existing hydro system, purchases from independent power producers, combined cycle repowering of coal-fired plants, use of landfill and coalbed methane and refuse derived fuel, converting TVA's Bellefonte Nuclear Plant to an integrated combined cycle gasification plant with a chemical coproduct, one additional coal unit at TVA's Shawnee fossil plant, demand-side management programs, beneficial electrification programs, compressed air energy storage, wind turbines, a coal refinery, a biomass energy facility, and cascaded humidified advanced turbines. As events unfold, TVA can decide which of the portfolio options to deploy. Prior to deploying a specific resource option, TVA would conduct an appropriate site- or project-specific environmental review that tiers off of Energy Vision 2020.

The impacts that result from TVA's portfolio alternative depend on the energy resource options eventually deployed. Although these impacts cannot be definitively assessed at this programmatic level, the impacts identified for the final seven strategies are likely to bound those of the portfolio. It is unlikely that implementation of portfolio options will achieve better or worse environmental performance than those identified for the final seven alternative strategies.

The TVA Board decided to adopt the portfolio alternative as TVA's long-range energy resource strategy for the reasons given above. The portfolio provides the TVA Board and future Boards with a flexible energy plan that will help guide the strategic actions necessary for TVA to serve its energy customers efficiently, and to compete and succeed in the electric utility marketplace in the future. Because the Energy Vision 2020 process integrated economic development and environmental goals with other financial goals, TVA's portfolio of energy resources will allow it to use innovative approaches to meet future demands at competitive prices while providing opportunities for economic growth and a quality environment rich in natural resources.

Because the multi-attribute tradeoff integrated process produced final strategies with very similar environmental impacts, there is not an alternative which is clearly environmentally preferable. However, TVA's preferred alternative, the Energy Vision 2020 portfolio, contains all of the resource options that perform best under the environmental criteria and from this perspective, the portfolio can be viewed as environmentally preferable.

Mitigation and Monitoring Measures

As TVA deploys specific energy resource options, it will appropriately mitigate site-specific environmental impacts. However, the most important mitigative measure associated with Energy Vision 2020 is the multi-attribute tradeoff method used to develop and evaluate energy resource strategies. This method allowed TVA to reformulate strategies in order to reduce potential environmental impacts.

Dated: February 22, 1996.

William J. Museler,

Senior Vice President, Transmission/Power Supply Group.

[FR Doc. 96–4497 Filed 2–27–96; 8:45 am]

BILLING CODE 8120–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement, Essex County, New York

AGENCY: Federal Highway Administration (FHWA), New York State Department of Transportation (NYSDOT).

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in the town of Jay, Essex County, New York.

FOR FURTHER INFORMATION CONTACT: Harold J. Brown, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 9th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone: (518) 431–4127, or Richard A. Maitano, Regional Director, New York State Department of Transportation, Region 1, 84 Holland Avenue, Albany, New York 12208, Telephone: (518) 474–6178.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the NYSDOT, will be preparing an Environmental Impact Statement (EIS) on a proposal to replace the County Route (CR) 22 bridge over the east branch of the Ausable River. The proposed improvement will involve the replacement of the existing bridge, and reconstruction of the route for a length sufficient to accommodate the new bridge location.

The bridge replacement would improve Glen Road (CR 22) as a transportation link over the east branch of the Ausable River.

Alternatives under consideration include: (1) No action; (2) rehabilitation of the existing structure; and (3) replacement with a new structure. Variations to horizontal and vertical alignment will also be studied with the various build alternatives.

Based on studies done to date, issues that need to be analyzed in depth include the visual resources, historic and cultural resources, land use, adjacent right-of-way, recreational rivers, and floodplains. The project's effect on features such as the National Register eligible Jay Covered Bridge, the east branch of the Ausable River, and the Adirondack Park will be addressed.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, State and local agencies, public officials, various organizations and citizens who have previously expressed interest in this proposal. No formal scoping meeting is planned at this time. A public information meeting will be held after additional study. After the Draft EIS is prepared, it will be made available for agency and public review and comment. This will be followed by a public hearing for which a public notice will be given of the time and place of the hearing.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or NYSDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities apply to this program.)

Issued on: February 20, 1996.

Harold J. Brown,

Division Administrator, Federal Highway Administration, Albany, New York.

[FR Doc. 96–4538 Filed 2–27–96; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

February 8, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–1076.

Form Number: IRS Form 8807.

Type of Review: Revision.

Title: Certain Manufacturers and Retailers Excise Taxes.

Description: Form 8807 is used to compute the excise tax on fishing equipment, bows and arrows, trucks and trailer chassis and bodies and tractors and the luxury tax on passenger vehicles. (IRC sections 4051, 4161, and 4001).

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents/Recordkeepers: 46,746.

Estimated Burden Hours Per Respondent/Respondent:

	8807 Part I	8807 Part II	Worksheet I
Recordkeeping	3 hr., 21 min.	4 hr., 18 min.	1 hr., 26 min.
Learning about the law or the form	12 min.	0 min.	0 min.
Preparing and sending the form to the IRS	16 min.	4 min.	1 min.

Frequency of Response: Quarterly.

Estimated Total Reporting/Reporting Burden: 148,618.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–4532 Filed 2–27–96; 8:45 am]

BILLING CODE 4830–01–P

Submission to OMB for Review; Comment Request

February 6, 1996.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980,

Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–1479.

Regulation ID Number: IA–41–93 NPRM and Temporary.

Type of Review: Extension.

Title: Automatic Extension of Time for Filing Individual Income Tax Returns.

Description: An application for an automatic 4-month extension of time to file an individual income tax return no longer requires a signature and full remittance of the amount properly estimated as tax that is unpaid as of the due date of the return.

Respondents: Individuals or households.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 96–4531 Filed 2–27–96; 8:45 am]

BILLING CODE 4830–01–P

Customs Service

Proposed Collection; Comment Request, Permit to Transfer Containers to a Container Station

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Permit to Transfer Containers to a Container Station. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before April 29, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: Norman Waits, Room 6216, 1301 Constitution Avenue N.W., Washington, D.C. 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Permit to Transfer Containers to a Container Station.

OMB Number: 1515–0138.

Form Number: N/A.

Abstract: This information collection is needed in order for a container station operator to receive a permit to transfer a container or containers to a container station, he/she must furnish a list of names, addresses, etc., of the persons employed by him/her upon demand by Customs officials.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 1,200.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 400.

Estimated Annualized Cost to the Public: $7,192.

Dated: February 16, 1996.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 96–4301 Filed 2–27–96; 8:45 am]

BILLING CODE 4820–02–P

Proposed Collection; Comment Request, Bonded Warehouses: Alterations, Suspensions, Relocations, and Discontinuance

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Bonded Warehouses: Alterations, Suspensions, Relocations, and Discontinuance. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before April 29, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: Norman Waits, Room 6216, 1301 Constitution Avenue N.W., Washington, D.C. 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this

document Customs is soliciting comments concerning the following information collection:

Title: Bonded Warehouses: Alterations, Suspensions, Relocations, and Discontinuance.

OMB Number: 1515–0134.

Form Number: N/A.

Abstract: This information collection is in the form of a written application, required by Customs from a proprietor of a bonded warehouse in order to alter, relocate, suspend or discontinue a bonded warehouse. This is to the benefit of the proprietor and to protect the revenues of the United States.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 165.

Estimated Time Per Respondent: 70 minutes.

Estimated Total Annual Burden Hours: 193.

Estimated Annualized Cost to the Public: $3,860.

Dated: February 16, 1996.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 96–4300 Filed 2–27–96; 8:45 am]

BILLING CODE 4820–02–P

Proposed Collection; Comment Request, Establishment of a Bonded Warehouse

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Establishment of a Bonded Warehouse. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before April 29, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: Norman Waits, Room 6216, 1301 Constitution Avenue NW., Washington, DC 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Establishment of a Bonded Warehouse.

OMB Number: 1515–0121.

Form Number: N/A.

Abstract: This information collection is in the form of an application required by Customs from owners or lessees desiring to establish a bonded warehouse. The information provided is used by Customs to insure that the legal, regulatory and administrative requirements are met by the respondents. The application is accompanied by other supporting documents which any commercial operation would have in the course of business.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 45.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 135.

Estimated Annualized Cost to the Public: $2,025.

Dated: February 16, 1996.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 96–4299 Filed 2–27–96; 8:45 am]

BILLING CODE 4820–02–P

Proposed Collection: Comment Request; Cargo Declaration and Cargo Declaration (Outward with Commercial Forms)

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Cargo Declaration and Cargo Declaration (Outward With Commercial Forms). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before April 29, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: Norman Waits, Room 6216, 1301 Constitution Avenue N.W., Washington, D.C. 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting

comments concerning the following information collection:

Title: Cargo Declaration.

OMB Number: 1515–0078.

Form Number: CF 1302 and 1302A.

Abstract: This information collection is used by Customs for the control of cargo and pre-selectivity targeting of cargo for enforcement purposes. Customs Forms 1302 and 1302A are used by the master of a vessel to list all inward cargo onboard and for the clearance of all cargo onboard with commerical forms.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 140,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 11,662.

Estimated Annualized Cost to the Public: $171,000*.

Dated: February 21, 1996.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 96–4298 Filed 2–27–96; 8:45 am]

BILLING CODE 4820–02–P

*Specifically, if applicable, compare the cost of presenting the necessary information on the forms themselves, versus submitting the information electronically. Capital costs for implementing electronic capabilities and the continuing costs of electronically transmitting the information should be commented upon.

Proposed Collection; Comment Request; Marking Serially Numbered Substantial Holders or Containers

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Marking Serially Numbered Substantial Holders or Containers. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before April 29, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: Norman Waits, Room 6216, 1301 Constitution Avenue N.W., Washington, D.C. 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Marking Serially Numbered Substantial Holders or Containers.

OMB Number: 1515–0116.

Form Number: N/A.

Abstract: The marking is used to provide for duty-free entry of holders or containers which were manufactured in the United States and exported and returned without having been advanced in value or improved in condition by any process or manufacture. The regulation also provides for duty-free entry of holders or containers of foreign manufacture if duty has been paid before.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 540.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 90.

Estimated Annualized Cost to the Public: $1,080.

Dated: February 16, 1996.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 96–4296 Filed 2–27–96; 8:45 am]

BILLING CODE 4820–02–P

Proposed Collection; Comment Request; Report of Division

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Report of Diversion. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before April 29, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: Norman Waits, Room 6216, 1301 Constitution Avenue N.W., Washington, D.C. 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Report of Diversion.

OMB Number: 1515–0071.

Form Number: CF 26.

Abstract: Customs Form 26 is used by vessel owners, masters or agents when requesting a diversion of a vessel or to petition for relief from penalties incurred as a result of unlawful diversion or both.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 2,800.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 233.

Estimated Total Annualized Cost to the Public: $3,000.

Dated: February 16, 1996.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 96–4295 Filed 2–27–96; 8:45 am]

BILLING CODE 4820–02–P

Proposed Collection; Comment Request Importer Record Number ''Freeze'' Program

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

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Importer Record Number ''Freeze'' Program. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before April 29, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: Norman Waits, Room 6216, 1301 Constitution Avenue N.W., Washington, D.C. 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Importer Record Number ''Freeze'' Program.

OMB Number: 1515–0199.

Form Number: N/A.

Abstract: This information collection is used by Customs to insure participating importers of record that they will receive any Customs transaction notifications by ''freezing'' certain importer identification information. This collection requires importers to designate those individuals authorized to effect name/address changes for purposes of receiving transaction notifications.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 33.

Estimated Annualized Cost to the Public: $660.

Dated: February 16, 1996.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 96–4294 Filed 2–27–96; 8:45 am]

BILLING CODE 4820–02–P

Proposed Collection; Comment Request Cargo Container and Road Vehicle Certification for Transport Under Customs Seal

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Cargo Container and Road Vehicle Certification For Transport Under Customs Seal. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before April 29, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave., N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: Norman Waits, Room 6216, 1301 Constitution Avenue N.W., Washington, D.C. 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Cargo Container and Road Vehicle Certification for Transport Under Customs Seal.

OMB Number: 1515–0145.

Form Number: N/A.

Abstract: This information collection is used in a voluntary program to receive internationally-recognized Customs certification that intermodel container/road vehicles meet construction requirements of international Customs conventions. Such certification facilitates International trade by reducing intermediate international controls.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 880.

Estimated Time Per Respondent: 3.5 hours.

Estimated Total Annual Burden Hours: 3080.

Estimated Annualized Cost to the Public: $37,500.

Dated: February 16, 1996.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 96–4293 Filed 2–27–96; 8:45 am]

BILLING CODE 4820–02–P

Proposed Collection; Comment Request; Use of Air Waybill as In-bond Document

AGENCY: Customs Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Use of Air Waybill as In-Bond Document. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments should be received on or before April 29, 1996, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Printing and Records Services Group, Room 6216, 1301 Constitution Ave. NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to U.S. Customs Service, Attn.: Norman Waits, Room 6216, 1301 Constitution Avenue NW., Washington, DC 20229, Tel. (202) 927–1551.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). The comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Use of Air Waybill as In-Bond Document.

OMB Number: 1515–0186.

Form Number: CF 7512.

Abstract: This information collection is used by Customs to identify the delivering carrier, whether or not it is the initial bonded carrier, to surrender the in-bond document and serve notice of its arrival. The use of this document facilitates the movement of cargo and the delivery of in-bond freight.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit institutions.

Estimated Number of Respondents: 31,200.

Estimated Time Per Respondent: 2 minutes.

Estimated Total Annual Burden Hours: 1030.

Estimated Annualized Cost to the Public: $10,300.

Dated: February 16, 1996.

V. Carol Barr,

Leader, Printing and Records Services Group.

[FR Doc. 96–4290 Filed 2–27–96; 8:45 am]

BILLING CODE 4820–02–P

UNITED STATES INFORMATION AGENCY

Proposed Collection; Comment Request

AGENCY: United States Information Agency.

ACTION: Proposed collection; Comment request.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), federal agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the Agency will make such a submission. The information collection activity involved with this program is conducted pursuant to the mandate given to the United States Information Agency (USIA) under the terms and conditions of the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256. USIA is requesting approval for a revision and three-year extension of an information collection entitled ''Exchange Visitor Program Application'' (IAP–37), and ''Update of Information on Exchange Visitor Program Sponsor'' (IAP–87), under OMB control number 3116–0210 which expires March 31, 1995. To allow for the comment period, USIA will request a 90-day extension for this information collection. Estimated burden hours per response is 60 minutes for the IAP–37 and 20 minutes for the IAP–87. Respondents will be required to respond only one time.

DATES: Comments are due on or before April 29, 1996.

COPIES: Copies of the Request for Clearance (OMB 83–I), supporting statement, and other documents that will be submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Ms. Jeannette Giovetti, United States Information Agency, M/ADD, 301 Fourth Street, S.W., Washington, D.C. 20547, telephone (202) 619–4408; and OMB review: Mr. Jefferson Hill, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 1002, NEOB, Washington, D.C. 20503, Telephone (202) 395–3176.

SUPPLEMENTARY INFORMATION: Public reporting burden for this collection of information (Paper Work Reduction Project: OMB No. 3116–0210) is estimated to average 60 minutes per response for the IAP–37 and 20 minutes for the IAP–87, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. As part of its continuing effort to reduce the paperwork burden, USIA invites the general public and other Federal agencies to comment on the proposed information collection as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of

information is necessary for the proper performance of the agency, including whether the information has practical utility; (b) the accuracy of the Agency's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspect of this collection of information to the United States Information Agency, M/ADD, 301 Fourth Street, S.W., Washington, D.C. 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, D.C. 20503.

Titles: ''Exchange Visitor Program Application'' and ''Update of Information on Exchange Visitor Program Sponsor'.'

Form Numbers: IAP–37, IAP–87.

Abstract: Under the requirements of Public Law 87–256 and the Mutual Educational and Cultural Exchange Act of 1961, USIA has been delegated the authority to designate the Exchange Visitor Program for U.S. Government agencies, public and private educational and cultural exchange. The purpose of the exchange visitor program is intended to promote interchanges of persons engaged in Education, Arts, Sciences and to promote mutual understanding between the people of the U.S. and other countries. The USIA IAP–37 form is used when organizations wishing to sponsor exchange visitors from abroad must apply to USIA for a designation that will permit them to function as sponsors. The USIA IAP–87 form is used by the Exchange Visitor Sponsors to change the name of their institution and/or organization, the names of the personnel involved, address, or telephone numbers. The forms is also used to order supply of other forms, code books, or cancel the program.

Proposed Frequency of Responses:

No. of Respondents—1,550

Recordkeeping Hours—1.20

Total Annual Burden—1,000

Dated: February 22, 1995.

Rose Royal,

Federal Register Liaison.

[FR Doc. 96–4460 Filed 2–27–96; 8:45 am]

BILLING CODE 8230–01–M

Proposed Collection; Comment Request

AGENCY: United States Information Agency.

ACTION: Proposed collection; Comment request.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), federal agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the Agency will make such a submission. USIA is requesting approval for a three-year extension of an information collection entitled ''USIA Travel Survey'' IAP–128, under OMB control number 3116–0211 which expires May 31, 1996. Estimated burden hours per response is 10 minutes. Respondents will be required to respond only one time.

DATES: Comments are due on or before April 29, 1996.

COPIES: Copies of the Request for Clearance (OMB 83–I), supporting statement, and other documents that will be submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Ms. Jeannette Giovetti, United States Information Agency, M/ADD, 301 Fourth Street, SW., Washington, DC 20547, telephone (202) 619–4408; and OMB review: Mr. Jefferson Hill, Office of Information And Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 1002, NEOB, Washington, DC 20503, Telephone (202) 395–3176.

SUPPLEMENTARY INFORMATION: Public reporting burden for this collection of information (Paper Work Reduction Project: OMB No. 3116–0211) is estimated to average ten minutes 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. As part of its continuing effort to reduce the paperwork burden, USIA invites the general public and other Federal agencies to comment on the proposed information collection as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information has practical utility; (b) the accuracy of the Agency's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspect of this collection of information to the United States Information Agency, M/ADD, 301 Fourth Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, DC 20503.

Title: ''USIA Travel Survey''.

Form Numbers: IAP–128.

Abstract: To assess the reliability and performance of the Travel Management Center (TMC) contracted by the General Services Administration (GSA). Respondents are the travelers who use the services of TMC. The travelers include U.S. Government employees, non-profit grantee institutions, individual grant recipients and private citizens.

Proposed Frequency of Responses:

No. of Respondents—1680

Recordkeeping Hours—80

Total Annual Burden—361

Dated: February 21, 1996.

Rose Royal,

Federal Register Liaison.

[FR Doc. 96–4459 Filed 2–27–96; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Proposed Information Collection Activity; Public Comment Request: Application for Education Loan, VA Form 22–8725

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Veterans Benefits Administration (VBA) invites the general public and other Federal agencies to comment on this information collection. This request for

comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before April 29, 1996.

ADDRESSES: Direct all written comments to Nancy J. Kessinger, Veterans Benefits Administration (20M30), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. All comments will become a matter of public record and will be summarized in the VBA request for Office of Management and Budget (OMB) approval. In this document VBA is soliciting comments concerning the following information collection:

OMB Control Number: 2900–0236.

Title and Form Number: Application for Education Loan, VA Form 22–8725.

Type of Review: Extension of a currently approved collection.

Need and Uses: This form requests information needed to determine eligibility for an education loan. A complete report of the applicant's financial resources and education-related expenses is required to compute the amount of an education loan.

Current Actions: To apply for a VA education loan under 38 U.S.C. Chapter 35, a claimant must provide information relating to his or her financial resources and education-related expenses.

This information is collected on VA Form 22–8725, Application for Education Loan. If the claimant is otherwise eligible, the Department of Veterans Affairs (VA) can grant an education loan if the education-related expenses exceed financial resources (38 U.S.C. 3698).

VA uses the information from the current collection to determine whether an eligible claimant's education-related expenses will exceed his or her financial resources during a specified enrollment period.

Affected Public: Individuals or households.

Estimated Annual Burden: 33 hours.

Estimated Average Burden Per Respondent: 40 minutes per application.

Frequency of Response: Annually.

Estimated Number of Respondents: 50.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Jacquie McCray, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 565–8266 or FAX (202) 565–8267.

Dated: February 8, 1996.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 96–4457 Filed 2–27–96; 8:45 am]

BILLING CODE 8320–01–P

Residency Realignment Review Committee, Notice of Meeting

As required by the Federal Advisory Committee Act, Public Law 92–463, the VA hereby gives notice that the Residency Realignment Review Committee has scheduled a meeting on March 4th and 5th, 1996. The meeting on the 4th will start at 10 a.m. and end at 5 p.m. and the meeting on the 5th will start at 8:30 a.m. and end at 12 noon. The meeting will be held in Room 830 at VA Central Office, 810 Vermont Avenue, NW, Washington, DC. The purpose of the committee is to review the present scope and structure of Veterans Health Administration's Residency Program to ensure that the program is effective in future health care setting.

The morning of the first day will be to discuss distribution of VA Residency Positions and patient socio-demographics and service needs. The afternoon will be divided into working groups and will rejoin for working group summaries. The meeting on the second day will be an overview of the first day's discussions and planning work assignments and the agenda for the next meeting. The next meeting will be to finalize a report to the VA Under Secretary for Health with recommendations for restructuring VA residency programs. Future meetings will be announced as their dates are set. VA has determined that the work of this Committee is in the public interest.

The meeting will be open to the public. Due to limited seating capacity of the room, those who plan to attend or who have questions concerning the meeting should contact Sylvia Best, Department of Veterans Affairs at (202) 565–7954 or 7955.

The Designated Federal Official for the Committee is Jan Lamoreaux, Office of Policy, Planning and Performance (phone number: (202) 565–7961).

Dated: February 21, 1996.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 96–4458 Filed 2–27–96; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 61, No. 40
Wednesday, February 28, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

INTER-AMERICAN FOUNDATION

TIME AND DATE: March 18, 1996, 11:30 a.m.–3:00 p.m.

PLACE: 901 N. Stuart Street, Tenth Floor, Arlington, Virginia 22203.

STATUS: Open except for the portion specified as closed session as provided in 22 CFR Part 1004.4(b).

MATTERS TO BE CONSIDERED:

1. Approval of the Minutes of the November 15, 1995, Meeting of the Board of Directors
2. Next steps in selecting a President for the Foundation (closed session)
3. President's Report
   a. Plans for decreasing operational expenses for Fiscal Year 1997
   b. Strategy for the institutional transition towards accessing funds from other appropriate organizations
   c. Program update, report on the status of current pipeline of grants
   d. Congressional strategy for securing funds necessary for transition period
   e. Fiscal Year 1997 Budget

CONTACT PERSON FOR MORE INFORMATION: Adolfo A. Franco, Secretary to the Board of Directors, (703) 841–3894.

Dated: February 23, 1996.

Adolfo A. Franco,

Sunshine Act Officer.

[FR Doc. 96–4610 Filed 2–26–96; 10:21 am]

BILLING CODE 7025–01–M

federal register

Wednesday
February 28, 1996

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 950 and 990

Low-Income Public and Indian Housing—Vacancy Rule; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 950 and 990

[Docket No. FR–3647–F–01]

RIN 2577–AB44

Low-Income Public and Indian Housing—Vacancy Rule

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This final rule establishes new conditions under which a Public Housing Agency (PHA), an Indian Housing Authority (IHA), or Resident Management Corporation may include vacant units in its computation of eligibility under the Performance Funding System (PFS). (The term housing authority (HA) is used throughout this final rule when referring to both PHAs and IHAs.) The final rule gives greater recognition to units that are vacant for reasons beyond the HA's control, makes changes in the current treatment of vacant units that are part of a modernization program, and, under certain circumstances, has HAs exclude long-term vacant units from their inventory of units available for occupancy.

DATES: April 1, 1996. Applicability date: Operating subsidy eligibility will first be determined under the new provisions of this rule by PHAs and IHAs having fiscal years beginning July 1, 1996.

FOR FURTHER INFORMATION CONTACT: MaryAnn Russ, General Deputy Assistant Secretary, Public and Assisted Housing Operations, Room 4210, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1380 [this telephone number is not toll-free]. For hearing- and speech-impaired persons, this number may be accessed via TDD by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in §§ 950.725, 950.760, 990.109, and 990.117 of this rule have been approved by the Office of Management and Budget, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0066. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Background

On July 19, 1995, the Department published a proposed rule (60 FR 37294) that would establish new conditions under which an HA may use a Projected Occupancy Percentage of less than 97 percent in computing its Dwelling Rental Income under the Performance Funding System (PFS). The proposed rule incorporated the recommendations of a regulatory negotiation advisory committee composed of persons who represent the interests affected by the current vacancy rule.

Discussion of Public Comments

The Department received eight public comments in response to the proposed rule, including comments from five PHAs, two national HA associations, and one IHA. One of the PHA commenters was a member of the advisory committee.

The Department received very favorable comments for using a negotiated rulemaking process to develop the proposed rule. This was the first use of negotiated rulemaking by the Department and consideration is being and will be given to using this model for other rulemaking efforts in the future. The IHA commenter expressed regrets that there was no IHA representative on the advisory committee. The Department notes that the National American Indian Housing Council was invited to join the committee, but declined membership.

The IHA commenter recommended that the definition of ''Units vacant due to circumstances and actions beyond the IHA's control'' (§ 950.102) be expanded to include cultural, social, or religious circumstances. The commenter notes that ''[i]n many Indian communities * * * unexpected death, suicide, or violent act'' in a unit may ''affect the re-occupancy of [that] unit.'' The Department appreciates the comment, but does not believe that this type of circumstance seriously affects the ability of a significant number of IHAs to maintain an overall acceptable occupancy level. The Department has found that IHAs generally have high levels of occupancy and, thus, would not be adversely affected by the provisions of the vacancy rule. If such a circumstance did arise that caused the IHA to project an occupancy percentage of less than 97 percent and to have more than 5 vacant units, a waiver request could be made and considered on the merits of the case.

One commenter requested that reduced Comprehensive Grant Program (CGP) funds be added to the list of acceptable ''beyond control'' circumstances. This rule does address the situation of a reduction in CGP funding which occurs as a result of a rescission of appropriated funds, although not as a ''beyond control'' circumstance. If such an action results in an HA not being able to complete all the vacant unit rehabilitation in its approved Annual Statement, the HA may seek a waiver to permit full PFS eligibility for those units approved but not funded. While the advisory committee discussed the need to mitigate the consequences of a rescission, the only procedural process mentioned to obtain relief was through a waiver. The specific waiver provision in the proposed rule is omitted in the final rule, because waiver authority already exists (see 24 CFR 990.101). Since the objective of the commenter is being met, the Department does not feel it necessary to overturn the decision of the committee.

One commenter noted that insufficient funding for otherwise approvable applications for Comprehensive Improvement Assistance Program (CIAP) funds was an acceptable ''beyond control'' circumstance and asked why insufficient CGP funding could not also be an acceptable reason. This rule does provide that the failure of an HA to fund an otherwise approvable Resident Management Corporation (RMC) request for CGP funds from its HA would be treated as an acceptable ''beyond control'' circumstance that the RMC could use to justify using a projected occupancy percentage of less than 97 percent. The advisory committee agreed on this relief because both the HA application to the Department for CIAP funds and a RMC request for CGP funds from its HA could be denied because of insufficient funds. The CGP, however, is not a competition program and the concept of insufficient funds as described above does not apply. Funds are provided to eligible HAs on a formula basis, and the HA knows what its resources are at the time it develops its Annual Statement.

Two commenters addressed that portion of the proposed rule dealing with vacant units undergoing modernization. One commenter stated that the requirement that an HA place its vacant units under construction within two Federal Fiscal Years (FFY) after the FFY in which the funds are approved was very stringent. Another

commenter believed that the 2-year requirement should be extended if HUD approves extensions to the modernization implementation schedule. The committee had addressed this issue and reached a consensus that the 2-year provision would not be extended.

It should be noted that the 2-year time period does not include the FFY in which the funds were received. Depending on when the HA received its modernization funding, it could actually have up to 3 years to place the vacant units under a construction contract. Also, if an HA initially fails to place its vacant units under a construction contract within the 2-year period, the HA would still be able to regain special treatment at the time it did place the units under a construction contract, although not retroactively.

The Department was part of the consensus on this issue and continues to support the committee decision.

The Department received three comments regarding the process for requesting a waiver. One commenter stated that if there were a rescission of appropriated funds for the CGP, the HA should not have to bear the burden of requesting a waiver. The Department appreciates the comment, but because the impact of a rescission will vary widely, the Department needs to know on a case-by-case basis what that impact will be in order to provide relief; that information can only come from the HA. The same commenter asked that procedures for requesting a waiver be provided to HAs before the rule becomes final, and another commenter requested that the rule include the conditions under which a waiver will be approved. The proposed rule provided general guidance in § 990.121 (the PHA would have had to document that it has made best efforts to correct the underlying problems and that it could not correct the problems in a cost-effective manner), but the specific documentation that the HA will have to submit cannot be determined in advance because a waiver by its nature involves a special circumstance. The final rule has omitted the separate waiver language from this part, because of the waiver authority already provided in § 999.101; repetition of this authority is contrary to the Department's ongoing efforts to streamline its regulations.

One commenter requested that the Department provide a 2-year extension to any HA, instead of 1 year, if a rescission of appropriated funds for the CGP occurs that prevents the HA from completing the modernization of all of the vacant units that were in the HA's approved Annual Statement. The committee did recognize that relief should be given to an HA that had to change its approved Annual Statement in order to reflect a rescission of funds. Because the relief provided should relate back to the severity of the rescission and that severity is not known in advance, it was difficult to develop an appropriate measure of relief. The Department was part of the consensus to provide this relief and believes that, until there has been some experience with this type of unusual situation, the 1-year extension is appropriate.

The Department received one comment on the transition provisions of the proposed rule. The commenter believed that the rule would eliminate Comprehensive Occupancy Plans (COPs), even for those HAs that are still under a HUD-approved COP. This is not the case. An HA with a HUD-approved COP at the time the final rule becomes effective may continue to determine its PFS eligibility using the provisions of § 990.118, as that section exists before this final rule becomes effective. The Department will not approve new COPs, however, after the effective date of this rule, and after the time period of the COP has expired, the HA will determine its projected occupancy percentage using the provisions of this rule.

One commenter proposed that a lower standard of occupancy—of between 93 percent to 95 percent, rather than 97 percent—would be more reasonable for HAs. The appropriateness of the 97 percent occupancy standard was discussed at length by the committee, and the members concluded that, given current budget constraints, it was not feasible to redefine the standard. The provisions of the proposed rule developed by the committee, therefore, were based on an assumption that the 97 percent standard would remain in place; this final rule also continues the 97 percent standard.

Other Matters

Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(o) of the HUD regulations, the policies and procedures contained in this rule relate only to operating costs that do not affect a physical structure or property and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule sets out eligibility criteria for low-income public and Indian housing operating subsidies that may impact those HAs with large numbers of long-term vacant units. However, HUD's data incident to establishing the Vacancy Reduction Program indicates that high-vacancy PHAs are relatively few in number (and high-vacancy IHAs virtually nonexistent), and that a preponderance of the program's vacancies are in a very limited number of the larger PHAs. Most HAs will be unaffected by this rule.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order. The rule refines the criteria under which operating subsidies are paid on HUD-assisted housing owned and operated by HAs, but will not interfere with State or local government functions.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. No significant change in existing HUD policies or programs results from promulgation of this rule, as those policies and programs relate to family concerns. The rule merely involves the amount of funding that an HA should receive under a refinement of an existing procedure.

The Catalog of Federal Domestic Assistance Program numbers for this rule are 14.145, 14.146, and 14.147.

List of Subjects

24 CFR Part 950

Aged, Grant programs—housing and community development, Grant programs—Indians, Indians, Individuals with disabilities, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 990

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, parts 950 and 990 of title 24 of the Code of Federal Regulations are amended as follows.

PART 950—INDIAN HOUSING PROGRAMS

1. The authority citation for part 950 continues to read as follows:

Authority: 25 U.S.C. 450e(b); 42 U.S.C. 1437aa–1437ee and 3535(d).

2. Section 950.102 is amended by adding in alphabetical order definitions for ''Long-term vacancy'', ''Units vacant due to circumstances and actions beyond the IHA's control'', and ''Vacant unit undergoing modernization'', and by revising the definition for ''Unit months available'', to read as follows:

§ 950.102 Definitions

* * * * *

Long-term Vacancy. This term means the same as it is used in the definition of ''Unit Months Available'' in this section.

* * * * *

Unit Months Available. Project Units multiplied by the number of months the Project Units are available for occupancy during a given IHA fiscal year. For purposes of this subpart, a unit is considered available for occupancy from the date established as the End of the Initial Operating Period for the Project until the time the unit is approved by HUD for deprogramming and is vacated or is approved for nondwelling use. In the case of an IHA development involving the acquisition of scattered site housing, see also § 950.705(b). A unit will be considered a long-term vacancy and will not be considered available for occupancy in any given IHA Requested Budget Year if the IHA determines that:

(1) The unit has been vacant for more than 12 months at the time the IHA determines its Actual Occupancy Percentage;

(2) The unit is not either: (i) a vacant unit undergoing modernization; or (ii) a unit vacant for circumstances and actions beyond the IHA's control, as these terms are defined in this section; and

(3) The IHA determines that it will have a vacancy percentage of more than 3 percent and will have more than five vacant units, for its Requested Budget Year, even after adjusting for vacant units undergoing modernization and units that are vacant for circumstances and actions beyond the IHA's control, as defined in this section. (Reference in this subpart to ''more than five units'' or ''fewer than five units'' shall refer to a circumstance in which 5 units equals or exceeds 3 percent of the number of units to which the 3 percent threshold is applicable.)

Units Vacant Due to Circumstances and Actions Beyond the IHA's Control. Dwelling units that are vacant due to circumstances and actions that prohibit the IHA from occupying, selling, demolishing, rehabilitating, reconstructing, consolidating or modernizing vacant units and are beyond the IHA's control. For purposes of this definition, circumstances and actions beyond the IHA's control are limited to:

(1) *Litigation.* The effect of court litigation such as a court order or settlement agreement that is legally enforceable. An example would be units that are being held vacant as part of a court-ordered or HUD-approved desegregation plan.

(2) *Laws.* Federal, Tribal, or State laws of general applicability, or their implementing regulations. Units vacant only because they do not meet minimum standards pertaining to construction or habitability under Federal, State, or local laws or regulations will not be considered vacant due to circumstances and actions beyond the IHA's control.

(3) *Changing market conditions.* For example, small IHAs that are located in areas experiencing population loss or economic dislocations may face a lack of demand in the foreseeable future, even after the IHA has taken aggressive marketing and outreach measures.

(4) *Natural disasters.*

(5) *Insufficient funding* for otherwise approvable applications made for Comprehensive Improvement Assistance Program (CIAP) funds.

(6) *Resident Management Corporation funding.* The failure of an IHA to fund an otherwise approvable RMC request for Federal modernization funding;

(7) *Casualty Losses.* Delays in repairing damage to vacant units due to the time needed for settlement of insurance claims.

* * * * *

Vacant Unit Undergoing Modernization. Except as provided in § 950.775(a), a vacant unit in a project not considered to be obsolete (as determined using the indicia in § 970.6 of this chapter), when the project is undergoing modernization that includes work that is necessary to reoccupy the vacant unit, and in which one of the following conditions is met:

(1) The unit is under construction (i.e., the construction contract has been awarded or force account work has started); or

(2) The treatment of the vacant unit is included in a HUD-approved modernization budget (e.g., the Annual Statement for the Comprehensive Grant Program (CGP) (Form HUD–52837 or its successor), or the Comprehensive Improvement Assistance Program (CIAP) Budget (Form HUD–52825 or its successor)), but the time period for placing the vacant unit under construction has not yet expired. The IHA must place the vacant unit under construction within two Federal Fiscal Years (FFYs) after the FFY in which the modernization funds are approved.

* * * * *

§ 950.705 [Amended]

3. Section 950.705(b) is amended by removing the first sentence.

4. Section 950.720 is amended by revising paragraph (b), to read as follows:

§ 950.720 Other costs.

* * * * *

(b) (1) *Costs attributable to units approved for deprogramming and vacant* may be eligible for inclusion, but must be limited to the minimum services and protection necessary to protect and preserve the units until the units are deprogrammed. Costs attributable to units temporarily unavailable for occupancy because the units are utilized for IHA-related activities are not eligible for inclusion. In determining the PFS operating subsidy, these units shall not be included in the calculation of Unit Months Available. Units approved for deprogramming shall be listed by the IHA, and supporting documentation regarding direct costs attributable to such units shall be included as a part of the Performance Funding System calculation in which the IHA requests operating subsidy for these units. If the IHA requires assistance in this matter, the IHA should contact the HUD Field Office.

(2) Units approved for nondwelling use to promote economic self-sufficiency services and anti-drug activities are eligible for operating subsidy under the conditions provided in this paragraph (b)(2), and the costs attributable to these units are to be included in the operating budget. If a unit satisfies the conditions stated below, it will be eligible for subsidy at the rate of the AEL for the number of months the unit is devoted to such use. Approval will be given for a period of no more than 3 years. HUD may renew

the approval to allow payments after that period only if the IHA can demonstrate that no other sources for paying the non-utility operating costs of the unit are available. The conditions the unit must satisfy are:

(i) The unit must be used for either economic self-sufficiency activities directly related to maximizing the number of employed residents or for anti-drug programs directly related to ridding the development of illegal drugs and drug-related crime. The activities must be directed toward and for the benefit of residents of the development.

(ii) The IHA must demonstrate that space for the service or program is not available elsewhere in the locality and that the space used is safe and suitable for its intended use or that the resources are committed to make the space safe and suitable.

(iii) The IHA must demonstrate satisfactorily that other funding is not available to pay for the non-utility operating costs. All rental income generated as a result of the activity must be reported as income in the operating subsidy calculation.

(iv) Operating subsidy may be approved for only one site (involving one or more contiguous units) per public housing development for economic self-sufficiency services or anti-drug programs, and the number of units involved should be the minimum necessary to support the service or program. Operating subsidy for any additional sites per development can only be approved by HUD Headquarters.

(v) The IHA must submit a certification with its Performance Funding System Calculation that the units are being used for the purpose for which they were approved and that any rental income generated as a result of the activity is reported as income in the operating subsidy calculation. The IHA must maintain specific documentation of the units covered. Such documentation should include a listing of the units, the street addresses, and project/management control numbers.

(3) Long-term vacant units that are not included in the calculation of Unit Months Available are eligible for operating subsidy in the Requested Budget Year at the rate of 20 percent of the AEL. Allowable utility costs for long term vacant units will continue to be funded in accordance with § 950.715.

* * * * *

5. In § 950.725, paragraph (b)(3) is revised and the OMB approval number is added at the end of the section, to read as follows:

§ 950.725 Projected operating income level.

(b) * * *

(3) Projected Occupancy Percentage. The IHA shall determine its projected percentage of occupancy for all Project Units (Projected Occupancy Percentage), as follows:

(i) *General.* Using actual occupancy data collected before the start of the budget year as a beginning point, the IHA will develop estimates for its Requested Budget Year (RBY) of: how many units the IHA will have available for occupancy; how many of the available units will be occupied and how many will be vacant, and what the average occupancy percentage will be for the RBY. The conditions under which the RBY occupancy percentage will be used as the projected occupancy percentage for purposes of determining operating subsidy eligibility are described below.

(ii) *High Occupancy IHA—No Adjustments Necessary.* If the IHA's RBY Occupancy Percentage, calculated in accordance with § 950.760, is equal to or greater than 97%, the IHA's Projected Occupancy Percentage is 97%. If the IHA's RBY Occupancy Percentage is less than 97%, but the IHA demonstrates that it will have an average of five or fewer vacant units in the requested budget year, the IHA will use its RBY Occupancy Percentage as its projected occupancy percentage.

(iii) *Adjustments in Determining Occupancy.* If the IHA's RBY Occupancy Percentage is less than 97% and the IHA has more than 5 vacant units, the IHA will adjust its estimate of vacant units to exclude vacant units undergoing modernization and units that are vacant due to circumstances and actions beyond the IHA's control. After making this adjustment, the IHA will recalculate its estimated vacancy percentage for the RBY.

(A) *High Occupancy IHA after adjustment.* If the recalculated vacancy percentage is 3% or less (or the IHA would have five or fewer vacant units), the IHA will use its RBY Occupancy Percentage as its projected occupancy percentage.

(B) *Low Occupancy IHA—adjustment for long-term vacancies.* If the recalculated vacancy percentage is greater than 3% (or more than 5 vacant units), the IHA will then further adjust its RBY Occupancy Percentage by excluding from its calculation of Unit Months Available (UMAs), all units that have been vacant for longer than 12 months that are not vacant units undergoing modernization or are not units vacant due to circumstances and actions beyond the IHA's control.

(iv) *Low Occupancy IHA after all adjustments.* An IHA that has determined its RBY Occupancy Percentage in accordance with paragraph (b)(iii)(B) of this section will be eligible for operating subsidy as follows:

(A) Long-term vacancies removed from the calculation of UMAs will be eligible to receive a reduced operating subsidy calculated at 20% of the IHA's AEL.

(B) If the recalculated RBY Occupancy Percentage is 97% or higher, the IHA will use 97%.

(C) If the recalculated RBY Occupancy Percentage is less than 97%, but the vacancy rate after adjusting for vacant units undergoing modernization and units that are vacant due to circumstances and actions beyond the IHA's control is 3% or less (or the IHA has five or fewer vacant units), the IHA may use its recalculated RBY Occupancy Percentage as its projected occupancy percentage.

(D) If the recalculated RBY Occupancy Percentage is less than 97% and the vacancy percentage is greater than 3% (or the IHA has more than five vacant units) after adjusting for vacant units undergoing modernization and units that are vacant due to circumstances and actions beyond the IHA's control, the IHA will use 97% as its projected occupancy percentage, but will be allowed to adjust the 97% by the number of vacant units undergoing modernization and units that are vacant due to circumstances and actions beyond the IHA's control. For a small IHA using five vacant units as its occupancy objective for the RBY, the IHA will determine what percentage five units represents as a portion of its units available for occupancy and subtract that percentage from 100%. The result will be used as the IHA's projected occupancy percentage, but the IHA will be allowed to adjust the projected occupancy percentage by vacant units undergoing modernization and units that are vacant for circumstances and actions beyond the IHA's control.

* * * * *

(Approved by the Office of Management and Budget under control number 2577–0066.)

6. Section 950.760 is revised to read as follows:

§ 950.760 Determining Actual and Requested Budget Year Occupancy Percentages.

(a) *Actual Occupancy Percentage.* When submitting Performance Funding System Calculations for Requested Budget Years beginning on or after July 1, 1996, the IHA shall determine an

Actual Occupancy Percentage for all Project Units included in the Unit Months Available. The IHA shall have the option of basing this option on either:

(1) The number of units occupied on the last day of the month that ends 6 months before the beginning of the Requested Budget Year; or

(2) The average occupancy during the month ending 6 months before the beginning of the Requested Budget Year. If the IHA elects to use an average occupancy under this paragraph (a)(2), the IHA shall maintain a record of its computation of its Actual Occupancy Percentage.

(b) *Requested Budget Year Occupancy Percentage.* The IHA will develop a Requested Budget Year Occupancy Percentage by taking the Actual Occupancy Percentage and adjusting it to reflect changes up or down in occupancy during the Requested Budget Year due to HUD-approved activities such as units undergoing modernization, new development, demolition, or disposition. If after the submission and approval of the Performance Funding System Calculations for the Requested Budget Year, there are changes up or down in occupancy because of modernization, new development, demolition or disposition that are not reflected in the Requested Budget Year Occupancy Percentage, the IHA may submit a revision to reflect the actual change in occupancy due to these activities.

(c) *Documentation Required to be Maintained.* The IHA must maintain, and upon HUD's request, make available to HUD specific documentation of the occupancy status of all units, including long-term vacancies, vacant units undergoing modernization, and units vacant due to circumstances and actions beyond the IHA's control. This documentation shall include a listing of the units, street addresses, and project/management control numbers.

(Approved by the Office of Management and Budget under control number 2577–0066.)

§ 950.770 [Removed and Reserved]

7. Section 950.770, Comprehensive Occupancy Plan (COP) Requirements, is removed and reserved.

8. A new § 950.775 is added, to read as follows:

§ 950.775 Transition Provisions.

(a) *Treatment of units already under an approved modernization budget* Vacant units to be rehabilitated under modernization budgets approved in FFY 1995 or prior are subject to the modernization implementation schedule, without extension, previously approved by HUD. It is the intent of HUD not to penalize IHAs that have longer construction schedules in an approved modernization budget.

(b) *Treatment of Existing COPs.* (1) An IHA operating under a Comprehensive Occupancy Plan (COP) approved by HUD under § 950.770, as that section existed immediately before April 1, 1996, may, until the expiration of its COP, continue to determine its PFS eligibility under the provisions of part 950 as that part existed immediately before April 1, 1996. If the IHA does not elect to continue to determine its PFS eligibility using its COP, the IHA's PFS eligibility will be calculated in accordance with this part.

(2) HUD will not approve any extensions of COPs.

9. A new § 950.777 is added, to read as follows:

§ 950.777 Effect of rescission.

If there is a rescission of appropriated funds that reduces the level of Comprehensive Grant Program funding in an approved Annual Statement under the CGP, to the extent that the IHA can document that it is not possible to complete all the vacant unit rehabilitation in the IHA's approved Annual Statement, the IHA may seek and HUD may grant a waiver for 1 fiscal year to permit full PFS eligibility for those units approved but not funded.

PART 990—ANNUAL CONTRIBUTIONS FOR OPERATING SUBSIDY

10. The authority citation for part 990 continues to read as follows:

Authority: 42 U.S.C. 1437g and 3535(d).

11. Section 990.102 is amended by adding in alphabetical order definitions for ''Long-term vacancy'', ''Units vacant due to circumstances and actions beyond the PHA's control'', and ''Vacant unit undergoing modernization''; by revising the definition for ''Unit months available''; and by removing the definition for ''Vacant, On-Schedule Modernization Units'', to read as follows:

§ 990.102 Definitions

* * * * *

Long-term vacancy. This term means the same as it is used in the definition of ''Unit Months Available'' in this section.

* * * * *

Unit months available. Project Units multiplied by the number of months the Project Units are available for occupancy during a given PHA fiscal year. For purposes of this part, a unit is considered available for occupancy from the date established as the End of the Initial Operating Period for the Project until the time the unit is approved by HUD for deprogramming and is vacated or is approved for nondwelling use. In the case of a PHA development involving the acquisition of scattered site housing, see also § 990.104(b). A unit will be considered a long-term vacancy and will not be considered available for occupancy in any given PHA Requested Budget Year if the PHA determines that:

(1) The unit has been vacant for more than 12 months at the time the PHA determines its Actual Occupancy Percentage;

(2) The unit is not either: (i) A vacant unit undergoing modernization; or (ii) A unit vacant for circumstances and actions beyond the PHA's control, as these terms are defined in this section; and

(3) The PHA determines that it will have a vacancy percentage of more than 3 percent and will have more than five vacant units, for its Requested Budget Year, even after adjusting for vacant units undergoing modernization and units that are vacant for circumstances and actions beyond the PHA's control, as defined in this section. (Reference in this part to ''more than five units'' or ''fewer than five units'' shall refer to a circumstance in which five units equals or exceeds 3 percent of the number of units to which the 3 percent threshold is applicable.)

Units vacant due to circumstances and actions beyond the PHA's control. Dwelling units that are vacant due to circumstances and actions that prohibit the PHA from occupying, selling, demolishing, rehabilitating, reconstructing, consolidating or modernizing vacant units and are beyond the PHA's control. For purposes of this definition, circumstances and actions beyond the PHA's control are limited to:

(1) *Litigation.* The effect of court litigation such as a court order or settlement agreement that is legally enforceable. An example would be units that are being held vacant as part of a court-ordered or HUD-approved desegregation plan.

(2) *Laws.* Federal or State laws of general applicability, or their implementing regulations. Units vacant only because they do not meet minimum standards pertaining to construction or habitability under Federal, State, or local laws or regulations will not be considered vacant due to circumstances and actions beyond the PHA's control.

(3) *Changing market conditions.* For example, small PHAs that are located in areas experiencing population loss or

economic dislocations may face a lack of demand in the foreseeable future, even after the PHA has taken aggressive marketing and outreach measures.

(4) *Natural disasters.*

(5) *Insufficient funding* for otherwise approvable applications made for Comprehensive Improvement Assistance Program (CIAP) funds.

(6) *RMC Funding.* The failure of a PHA to fund an otherwise approvable RMC request for Federal modernization funding;

(7) *Casualty Losses.* Delays in repairing damage to vacant units due to the time needed for settlement of insurance claims.

* * * * *

Vacant unit undergoing modernization. Except as provided in § 990.119(a), a vacant unit in a project not considered to be obsolete (as determined using the indicia in § 970.6 of this chapter), when the project is undergoing modernization that includes work that is necessary to reoccupy the vacant unit, and in which one of the following conditions is met:

(1) The unit is under construction (i.e., the construction contract has been awarded or force account work has started); or

(2) The treatment of the vacant unit is included in a HUD-approved modernization budget (e.g., the Annual Statement for the Comprehensive Grant Program (CGP) (Form HUD–52837 or its successor), or the Comprehensive Improvement Assistance Program (CIAP) Budget (Form HUD–52825 or its successor)), but the time period for placing the vacant unit under construction has not yet expired. The PHA must place the vacant unit under construction within two Federal Fiscal Years (FFYs) after the FFY in which the modernization funds are approved.

§ 990.104 [Amended]

12. Section 990.104(b) is amended by removing the first sentence.

13. Section 990.108 is amended by revising paragraph (b), to read as follows:

§ 990.108 Other costs.

* * * * *

(b)(1) Costs attributable to units approved for deprogramming and vacant may be eligible for inclusion, but must be limited to the minimum services and protection necessary to protect and preserve the units until the units are deprogrammed. Costs attributable to units temporarily unavailable for occupancy because the units are utilized for PHA-related activities are not eligible for inclusion. In determining the PFS operating subsidy, these units shall not be included in the calculation of Unit Months Available. Units approved for deprogramming shall be listed by the PHA, and supporting documentation regarding direct costs attributable to such units shall be included as a part of the Performance Funding System calculation in which the PHA requests operating subsidy for these units. If the PHA requires assistance in this matter, the PHA should contact the HUD Field Office.

(2) Units approved for nondwelling use to promote economic self-sufficiency services and anti-drug activities are eligible for operating subsidy under the conditions provided in this paragraph (b)(2), and the costs attributable to these units are to be included in the operating budget. If a unit satisfies the conditions stated below, it will be eligible for subsidy at the rate of the AEL for the number of months the unit is devoted to such use. Approval will be given for a period of no more than 3 years. HUD may renew the approval to allow payments after that period only if the PHA can demonstrate that no other sources for paying the non-utility operating costs of the unit are available. The conditions the unit must satisfy are:

(i) The unit must be used for either economic self-sufficiency activities directly related to maximizing the number of employed residents or for anti-drug programs directly related to ridding the development of illegal drugs and drug-related crime. The activities must be directed toward and for the benefit of residents of the development.

(ii) The PHA must demonstrate that space for the service or program is not available elsewhere in the locality and that the space used is safe and suitable for its intended use or that the resources are committed to make the space safe and suitable.

(iii) The PHA must demonstrate satisfactorily that other funding is not available to pay for the non-utility operating costs. All rental income generated as a result of the activity must be reported as income in the operating subsidy calculation.

(iv) Operating subsidy may be approved for only one site (involving one or more contiguous units) per public housing development for economic self-sufficiency services or anti-drug programs, and the number of units involved should be the minimum necessary to support the service or program. Operating subsidy for any additional sites per development can only be approved by HUD Headquarters.

(v) The PHA must submit a certification with its Performance Funding System Calculation that the units are being used for the purpose for which they were approved and that any rental income generated as a result of the activity is reported as income in the operating subsidy calculation. The PHA must maintain specific documentation of the units covered. Such documentation should include a listing of the units, the street addresses, and project/management control numbers.

(3) Long-term vacant units that are not included in the calculation of Unit Months Available are eligible for operating subsidy in the Requested Budget Year at the rate of 20 percent of the AEL. Allowable utility costs for long term vacant units will continue to be funded in accordance with § 990.107.

* * * * *

14. In § 990.109, paragraph (b)(3) and the parenthetical statement containing the OMB approval number at the end of the section are revised to read as follows:

§ 990.109 Projected operating income level.

(b) * * *

(3) *Projected Occupancy Percentage.* The PHA shall determine its projected percentage of occupancy for all Project Units (Projected Occupancy Percentage), as follows:

(i) *General.* Using actual occupancy data collected before the start of the budget year as a beginning point, the PHA will develop estimates for its Requested Budget Year (RBY) of: how many units the PHA will have available for occupancy; how many of the available units will be occupied and how many will be vacant, and what the average occupancy percentage will be for the RBY. The conditions under which the RBY occupancy percentage will be used as the projected occupancy percentage for purposes of determining operating subsidy eligibility are described below.

(ii) *High Occupancy PHA—No Adjustments Necessary.* If the PHA's RBY Occupancy Percentage, calculated in accordance with § 990.117, is equal to or greater than 97%, the PHA's Projected Occupancy Percentage is 97%. If the PHA's RBY Occupancy Percentage is less than 97%, but the PHA demonstrates that it will have an average of five or fewer vacant units in the requested budget year, the PHA will use its RBY Occupancy Percentage as its projected occupancy percentage.

(iii) *Adjustments in Determining Occupancy.* If the PHA's RBY Occupancy Percentage is less than 97% and the PHA has more than 5 vacant units, the PHA will adjust its estimate of vacant units to exclude vacant units

undergoing modernization and units that are vacant due to circumstances and actions beyond the PHA's control. After making this adjustment, the PHA will recalculate its estimated vacancy percentage for the RBY.

(A) *High Occupancy PHA after adjustment.* If the recalculated vacancy percentage is 3% or less (or the PHA would have five or fewer vacant units), the PHA will use its RBY Occupancy Percentage as its projected occupancy percentage.

(B) *Low Occupancy PHA—adjustment for long-term vacancies.* If the recalculated vacancy percentage is greater than 3% (or more than 5 vacant units), the PHA will then further adjust its RBY Occupancy Percentage by excluding from its calculation of Unit Months Available (UMAs), all units that have been vacant for longer than 12 months that are not vacant units undergoing modernization or are not units vacant due to circumstances and actions beyond the PHA's control.

(iv) *Low Occupancy PHA after all adjustments.* A PHA that has determined its RBY Occupancy Percentage in accordance with paragraph (b)(iii)(B) of this section will be eligible for operating subsidy as follows:

(A) Long-term vacancies removed from the calculation of UMAs will be eligible to receive a reduced operating subsidy calculated at 20% of the PHA's AEL.

(B) If the recalculated RBY Occupancy Percentage is 97% or higher, the PHA will use 97%.

(C) If the recalculated RBY Occupancy Percentage is less than 97%, but the vacancy rate after adjusting for vacant units undergoing modernization and units that are vacant due to circumstances and actions beyond the PHA's control is 3% or less (or the PHA has five or fewer vacant units), the PHA may use its recalculated RBY Occupancy Percentage as its projected occupancy percentage.

(D) If the recalculated RBY Occupancy Percentage is less than 97% and the vacancy percentage is greater than 3% (or the PHA has more than five vacant units) after adjusting for vacant units undergoing modernization and units that are vacant due to circumstances and actions beyond the PHA's control, the PHA will use 97% as its projected occupancy percentage, but will be allowed to adjust the 97% by the number of vacant units undergoing modernization and units that are vacant due to circumstances and actions beyond the PHA's control. For a small PHA using five vacant units as its occupancy objective for the RBY, the PHA will determine what percentage five units represents as a portion of its units available for occupancy and subtract that percentage from 100%. The result will be used as the PHA's projected occupancy percentage, but the PHA will be allowed to adjust the projected occupancy percentage by vacant units undergoing modernization and units that are vacant for circumstances and actions beyond the PHA's control.

* * * * *

(Approved by the Office of Management and Budget under control number 2577–0066. Paragraphs (e) and (f) have been approved by the Office of Management and Budget under control number 2577–007.)

15. Section 990.117 is revised to read as follows:

§ 990.117 Determining Actual and Requested Budget Year Occupancy Percentages.

(a) *Actual Occupancy Percentage.* When submitting Performance Funding System Calculations for Requested Budget Years beginning on or after July 1, 1996, the PHA shall determine an Actual Occupancy Percentage for all Project Units included in the Unit Months Available. The PHA shall have the option of basing this option on either:

(1) The number of units occupied on the last day of the month that ends 6 months before the beginning of the Requested Budget Year; or

(2) The average occupancy during the month ending 6 months before the beginning of the Requested Budget Year. If the PHA elects to use an average occupancy under this paragraph (a)(2), the PHA shall maintain a record of its computation of its Actual Occupancy Percentage.

(b) *Requested Budget Year Occupancy Percentage.* The PHA will develop a Requested Budget Year Occupancy Percentage by taking the Actual Occupancy Percentage and adjusting it to reflect changes up or down in occupancy during the Requested Budget Year due to HUD-approved activities such as units undergoing modernization, new development, demolition, or disposition. If after the submission and approval of the Performance Funding System Calculations for the Requested Budget Year, there are changes up or down in occupancy because of modernization, new development, demolition or disposition that are not reflected in the Requested Budget Year Occupancy Percentage, the PHA may submit a revision to reflect the actual change in occupancy due to these activities.

(c) *Documentation Required to be Maintained.* The PHA must maintain, and upon HUD's request, make available to HUD specific documentation of the occupancy status of all units, including long-term vacancies, vacant units undergoing modernization, and units vacant due to circumstances and actions beyond the PHA's control. This documentation shall include a listing of the units, street addresses, and project/management control numbers.

(Approved by the Office of Management and Budget under control number 2577–0066.)

§ 990.118 [Removed and Reserved]

16. Section 990.118, Comprehensive Occupancy Plan Requirements, is removed and reserved.

17. Section 990.119 is revised, to read as follows:

§ 990.119 Transition Provisions.

(a) *Treatment of units already under an approved modernization budget.* Vacant units to be rehabilitated under modernization budgets approved in FY 1995 or prior are subject to the modernization implementation schedule, without extension, previously approved by HUD. It is the intent of HUD not to penalize PHAs that have longer construction schedules in an approved modernization budget.

(b) *Treatment of Existing COPs.* (1) A PHA that is operating under a Comprehensive Occupancy Plan (COP) approved by HUD under § 990.118, as that section existed immediately before April 1, 1996, may, until the expiration of its COP, continue to determine its PFS eligibility under the provisions of part 990 as that part existed immediately before April 1, 1996. If the PHA does not elect to continue to determine its PFS eligibility using its COP, the PHA's PFS eligibility will be calculated in accordance with this part.

(2) HUD will not approve any extensions of COPs.

18. A new § 990.121 is added, to read as follows:

§ 990.121 Effect of rescission.

If there is a rescission of appropriated funds that reduces the level of Comprehensive Grant Program funding in an approved Annual Statement under the CGP, to the extent that the PHA can document that it is not possible to complete all the vacant unit rehabilitation in the PHA's approved Annual Statement, the PHA may seek and HUD may grant a waiver for 1 fiscal year to permit full PFS eligibility for those units approved but not funded.

Dated: February 14, 1996.

Kevin E. Marchman,

Deputy Assistant Secretary for Distressed and Troubled Housing Recovery.

[FR Doc. 96–4169 Filed 2–27–96; 8:45 am]

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federal register

Wednesday
February 28, 1996

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Species, Plant and Animal Taxa; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Review of Plant and Animal Taxa That Are Candidates for Listing as Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: In this notice the Fish and Wildlife Service (Service) presents an updated list of plant and animal taxa native to the United States that are regarded as candidates for possible addition to the List of Endangered and Threatened Wildlife and Plants under the Endangered Species Act of 1973, as amended (Act). Identification of candidate species can assist environmental planning efforts by providing advance notice of potential listings, allowing resource managers to alleviate threats and thereby possibly remove the need to list species as endangered or threatened. Even if a candidate species is subsequently listed, the early notice provided here could result in fewer restrictions on activities by prompting candidate conservation measures to alleviate threats to the species.

Through the publication of this notice, the Service requests additional status information that may be available for the identified candidate species and information indicating that species not presently regarded as candidates should be included in future updates of this list. This information will be considered in preparing listing documents and future revisions or supplements to the notice of review. It will also help the Service monitor changes in the status of candidate species and in candidate conservation activities.

DATES: Comments are requested until the publication of an update of this notice, anticipated in February, 1997.

ADDRESSES: Interested persons or organizations should submit comments regarding particular taxa to the Regional Director of the Region identified as having the lead responsibility for that taxon. Comments of a more general nature may be submitted to the Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 1849 C Street, N.W., Mail Stop 452 ARLSQ, Washington, D.C. 20240 (703–358–2171). Written comments and materials received in response to this notice will be available for public inspection by appointment in the Regional Offices listed below.

Information relating to particular taxa in this notice may be obtained from the Service's Endangered Species Coordinator in the lead Regional Office identified for each taxon and listed below:

Region 1. California, Commonwealth of the Northern Mariana Islands, Hawaii, Idaho, Nevada, Oregon, Pacific Territories of the United States, and Washington.

Regional Director (TE), U.S. Fish and Wildlife Service, Eastside Federal Complex, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (503–231–6131).

Region 2. Arizona, New Mexico, Oklahoma, and Texas.

Regional Director (TE), U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505–766–3972).

Region 3. Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.

Regional Director (TE), U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612–725–3276).

Region 4. Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the U.S. Virgin Islands.

Regional Director (TE), U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, Georgia 30345 (404–679–7096).

Region 5. Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.

Regional Director (TE), U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589. (413–253–8300)

Region 6. Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.

Regional Director (TE), U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225 (303–236–7398).

Region 7. Alaska.

Regional Director (TE), U.S. Fish and Wildlife Service, 1011 East Tudor Street, Anchorage, Alaska 99503 (907–786–3520).

FOR FURTHER INFORMATION CONTACT: Endangered Species Coordinator(s) in the appropriate Regional Office(s) at the above phone numbers or Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (703–358–2171).

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act (Act) of 1973, as amended, (16 U.S.C. 1531 *et seq.*) requires the Service to identify species of wildlife and plants that are endangered or threatened, based on the best available scientific and commercial information. As part of the program to accomplish this, the Service has maintained a list of species regarded as candidates for listing. The Service maintains this list for a variety of reasons, including—to provide advance knowledge of potential listings that could affect decisions of environmental planners and developers; to solicit input from interested parties to identify those candidate species that may not require protection under the Act or additional species that may require the Act's protections; and to solicit information needed to prioritize the order in which species will be proposed for listing. At present, there are 182 taxa included in Table 1 of this notice that are considered by the Service as candidates for possible addition to the List of Endangered and Threatened Plants, as well as 238 U.S. taxa for which proposed rules to list have been issued. The Service encourages their consideration in environmental planning, such as in environmental impact analysis under the National Environmental Policy Act of 1969 (implemented at 40 CFR Parts 1500–1508). Information regarding the range, status, and habitat needs of these species is available from the Service's Headquarters and Regional Offices (see ''ADDRESSES'' above).

Previous Notices of Review

The Act directed the Secretary of the Smithsonian Institution to prepare a report on endangered and threatened plant species, which was published as House Document No. 94–51. The Service published a notice on July 1, 1975 (40 FR 27823), in which it announced that more than 3,000 native plant taxa (plants with formal scientific names) named in the Smithsonian's report and other taxa added by the 1975 notice would be reviewed for possible inclusion in the List of Endangered and Threatened Plants. The 1975 notice was superseded on December 15, 1980 (45 FR 82479), by a new comprehensive notice of review for native plants that took into account the earlier Smithsonian report and other accumulated information. On November 28, 1983 (48 FR 53640), a supplemental plant notice of review noted changes in the status of various taxa. The Service published complete updates of the plant

notice on September 27, 1985 (50 FR 39526), February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144). All previous plant notices of review are superseded by this notice.

Previous animal notices of review included many of the animal taxa in the accompanying Table 1. The Service published earlier comprehensive reviews for vertebrate animals in the Federal Register on December 30, 1982 (47 FR 58454) and on September 18, 1985 (50 FR 37958). An initial comprehensive review for invertebrate animals was published on May 22, 1984 (49 FR 21664). The Service published a combined animal notice of review on January 6, 1989 (54 FR 554) and with minor corrections on August 10, 1989 (54 FR 32833). The Service again published comprehensive notices on November 21, 1991 (56 FR 58804), and November 15, 1994 (59 FR 58982). This revised notice supersedes all previous animal notices of review.

Relation to Prior Notices of Review

Two classes of species are included in Table 1 of this notice—(1) proposed species are those species for which a proposed rule to list as endangered or threatened has been published in the Federal Register (exclusive of species for which the proposed rule has been withdrawn or finalized), and, (2) candidate species are those species for which the Service has on file sufficient information on biological vulnerability and threat(s) to support issuance of a proposed rule to list but issuance of the proposed rule is precluded. In previous notices of review, species described by item (2) were known as Category 1 candidates. They are now referred to simply as candidate species. The Service emphasizes that these candidate taxa are not being proposed for listing by this notice, but development and publication of proposed rules for such candidate taxa is anticipated. The Service will determine the relative listing priority of these candidate species in accordance with listing priority guidelines published in the September 12, 1983 edition of the Federal Register (48 FR 43098-43105). The Service encourages other Federal agencies to give consideration to these taxa in environmental planning.

Previous notices of review provided cross references for taxa that experienced changes in their scientific names by indicating these as synonyms. As needed, the practice is continued in this notice.

In former notices of review, the Service identified Category 2 candidates as taxa for which information in the possession of the Service indicated that proposing to list as endangered or threatened was possibly appropriate, but for which sufficient data on biological vulnerability and threat were not currently available to support proposed rules. The quality of information varied greatly among the former Category 2 species, but they all shared one trait—sufficient information to justify issuance of a proposed rule was lacking. The designation of Category 2 species as candidates resulted in confusion about the conservation status of these taxa. To reduce that confusion, and to clarify that the Service does not regard these species as candidates for listing, the Service is discontinuing the designation of Category 2 species as candidates in this notice. The Service remains concerned about these species, but further biological research and field study are needed to resolve the conservation status of these taxa. Many species of concern will be found not to warrant listing, either because they are not threatened or endangered or because they do not qualify as species under the definition in the Act. Others may be found to be in greater danger of extinction than some present candidate taxa. The Service is working with the States and other private and public interests to assess their need for protection under the Act. Such species are the pool from which future candidates for listing will be drawn.

In previous plant notices of review, single asterisks were used to indicate taxa in categories 1 and 2 that were believed to be possibly gone from the wild, and double asterisks to indicate any such taxa that were also known to be extant in cultivation. Such species do not meet the definition established for candidates. Since the practice does not apply to candidate species, it is discontinued in this notice.

Taxa that once were considered for listing as threatened or endangered but are no longer under such consideration were historically included in Category 3. Such taxa were further divided into three subcategories to indicate the reason(s) for their removal from consideration. The subcategories associated with the former Category 3 status were described as follows:

3A—Taxa for which the Service has persuasive evidence of extinction. If rediscovered, such taxa might acquire high priority for listing. At this time, however, the best available information indicates that the taxa in this subcategory, or the habitats from which they were known, have been lost.

3B—Names that, on the basis of current taxonomic understanding (usually as represented in published revisions and monographs), do not represent distinct taxa meeting the Act's definition of ''species.'' Such supposed taxa could be reevaluated in the future on the basis of new information.

3C—Taxa that have proven to be more abundant or widespread than previously believed as well as taxa that are not subject to any identifiable threat. If further research or changes in habitat indicate a significant decline in any of these taxa, they may be reevaluated for possible inclusion as candidates. The designation of Category 3 is discontinued, but the Service will retain all Category 3 information in case future reviews are conducted on these taxa. Future notices of review will only mention such taxa if they were included in the previous notice of review as candidate species.

Taxa that were placed in Category 3 are not candidates for listing. The Service is aware of some misinterpretations that have been made of Category 3 subcategories in the past. In particular, Category 3A has been interpreted as either a comprehensive compilation of extinct species or as a list of species that became extinct while undergoing status review. Neither interpretation is correct. In fact, status review of the overwhelming majority of species identified in Category 3A revealed that extinction occurred well before passage of the Endangered Species Act of 1973. A common misinterpretation of Category 3C is that a status review indicates those species have special sensitivity or vulnerability to extinction. Although this might be true of some of them, it is not necessarily true of all or even a majority of them.

Current Notice

The Service gathers data on plants and animals native to the United States that appear to merit consideration for addition to the List of Endangered and Threatened Wildlife and Plants. This notice identifies those species (including, by definition, biological subspecies and certain distinct population segments of vertebrate animals) that are presently regarded by the Service as candidates for addition to the List of Endangered and Threatened Wildlife and Plants. In issuing this compilation, the Service relies on information from status surveys conducted for candidate assessment and on information from State Heritage Programs, other State and Federal Agencies (such as the Forest Service and the Bureau of Land Management), knowledgeable scientists, public and private natural resource interests, and

comments received in response to previous notices of review.

Tables 1 and 2 are arranged alphabetically by names of genera, species, and relevant subspecies under the major group headings (class or order as it provides a practical grouping) for animals first, then plants. Useful synonyms and subgeneric scientific names appear in parentheses (the synonyms preceded by an equal sign) and are displaced to the right in some instances to avoid affecting the alphabetical order. Some taxa that have not yet been formally described in the scientific literature have been included. Such taxa are identified by a generic or specific name (in italics) followed by ''sp.'' or ''ssp.'' (not italicized, or alphabetized).

Standardized common names are incorporated in these notices as they become available. The flux in common names, the inclusion of vernacular and composite subspecific names, and the fact that a majority of invertebrates still lack a standardized name combine to make common names relatively useless for organizing the tables. This notice also presents a group name (in parentheses) for many species, notably mollusks and insects, whose standardized common name given alone would have little recognition value to most readers.

Table 1 lists all species proposed for listing and species regarded by the Service as candidates for listing under the Act. Table 2 lists those species that were classified either as proposed for listing or Category 1 candidates in the 1993 plant notice of review or the 1994 animal notice of review, but are no longer classified as candidates or proposed species. Many of the species in Table 2 do not meet the information standards prescribed for candidate species. Some require additional research or status reviews before their conservation status under the Act can be resolved. As such information becomes available, the Service will evaluate whether these species warrant protection under the Act.

Taxa in Table 1 of this notice are assigned to several status categories, noted in the ''Category'' column at the left side of the table.

Codes for the category status column of taxa in Table 1 are explained below:

PE—Taxa proposed to be listed as endangered.

PT—Taxa proposed to be listed as threatened.

Y—Synonyms of taxa that are listed elsewhere in Table 1.

C—Taxa for which the Service has on file sufficient information on biological vulnerability and threat(s) to support proposals to list them as endangered or threatened species. Proposed rules have not yet been issued because this action is precluded at present by other listing activity. Development and publication of proposed rules for these taxa are anticipated. The Service encourages State and other Federal agencies as well as other affected parties to give consideration to these taxa in environmental planning.

The column labeled ''Priority'' indicates the listing priority number for candidate species. This number is assigned on the basis of immediacy and magnitude of threats as well as taxonomic status. A complete description of the Service's listing priority system was published in a September 21, 1983 Federal Register notice (48 FR 43098).

Column 3 identifies the Regional office (numeric code) to which comments or questions should be directed (see ADDRESSES section). Comments received in response to the 1993 plant notice of review and 1994 animal notice of review were provided for review to the Region having lead responsibility for each candidate taxon mentioned in the comment. The Service will likewise consider all information provided in response to this notice of review in deciding whether or not to propose species for listing and when to undertake necessary listing actions. Comments received will become part of the administrative record for the species mentioned.

Following the scientific name of each taxon (fourth column) is the family designation (fifth column) and any common name (sixth column). The seventh column provides the known historical ranges for all included taxa, indicated by postal code abbreviations for States and U.S. possessions (many taxa may no longer occur in all of the areas shown). In the section on birds, the abbreviation ''N'' indicates the nesting range of the species, and the abbreviation ''V'' indicates additional areas in which the species spends other parts of its life cycle.

Taxa in Table 2 of this notice were included either as proposed species or as Category 1 candidates in the 1993 plant notice of review or the 1994 animal notice of review but have since been removed from such status for a variety of reasons. Many of the species listed in the last notices of review as proposed have now been added to the lists of Endangered or Threatened Wildlife and Plants. The first column indicates the present status of the species, using the following codes:

E—Taxa that have been listed as endangered.

T—Taxa that have been listed as threatened.

R—Taxa for which currently available information does not support issuance of a proposed listing.

Y—Synonyms of taxa listed elsewhere in Table 2.

The second column provides a coded explanation of why the species is no longer regarded as a candidate species. Descriptions of the codes are as follows:

A—Taxa that have proven to be more abundant or widespread than previously believed or those that are not subject to any identifiable threat.

F—Taxa removed from candidate status because the range is no longer a U.S. Territory.

I—Taxa for which the Service has insufficient information on biological vulnerability and threat(s) to support issuance of a proposed rule to list.

L—Taxa added to the lists of endangered or threatened wildlife and plants.

M—Taxa mistakenly included as Category 1 in the last plant or animal notice of review.

N—Taxa that on the basis of current taxonomic understanding may not meet the Act's definition of ''species''.

X—Taxa that are believed to be extinct.

The columns describing lead agency and region, scientific name, family, common name, and historic range include information as previously described for Table 1.

Summary

Over the past year, the Service completed an exhaustive review of the candidate species to ensure that they truly warranted issuance of a proposed listing and to reevaluate the relative listing priority of each species. The Service undertook this effort to ensure that it was focusing conservation efforts on those species at greatest risk. As of the date of this publication, there are 159 plants and 34 animals proposed for endangered status; 37 plants and 8 animals proposed for threatened status; and 84 plant and 98 animal candidates awaiting preparation of proposed rules (see Table 1). Including synonyms, there are 303 taxa that were classified as either proposed for listing or Category 1 candidates in the 1993 plant notice of review or 1994 animal notice of review that are no longer classified in those categories (see Table 2).

Request for Information

The Service hereby requests that any further information on the taxa named in this notice be submitted as soon as possible or whenever it becomes available. Especially sought is information:

(1) indicating that a taxon should be removed from this list;

(2) indicating that a taxon not included in the notice should be added to the list of candidate species;

(3) recommending an area as critical habitat for a candidate taxon, or indicating that a proposal of critical habitat would not be prudent for a taxon;

(4) documenting threats to any of the included taxa;

(5) describing the immediacy or magnitude of threats facing candidate taxa;

(6) pointing out taxonomic or nomenclatural changes for any of the taxa;

(7) suggesting appropriate common names; or

(8) noting any mistakes, such as errors in the indicated historical distributions.

The Service will consider all information received in response to this notice. Substantive changes will be announced by periodic supplemental or revised notices in the Federal Register.

Author

This notice was compiled from evaluations by the staff biologists in the Service's Regional Offices and Field Stations. It was compiled and edited by Drs. George Drewry and Richard Sayers, Jr., of the Service's Headquarters Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Authority

This notice is published under the authority of the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: February 16, 1996.

John G. Rogers,

Acting Director, U.S. Fish and Wildlife Service.

Table 1—Proposed and Candidate Animals and Plants

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Priority					
			MAMMALS.			
C	3	R2	*Conepatus leuconotus texensis*	Mustelidae	Skunk, Gulf Coast hog-nosed	U.S.A. (TX), Mexico.
C	3	R1	*Dipodomys merriami parvus*	Heteromyidae	Kangaroo rat, San Bernadino Merriam´s.	U.S.A. (CA).
C	3	R1	*Emballonura semicaudata*	Emballonuridae	Bat, sheath-tailed (Agiguan, American Samoa populations).	U.S.A. (AS, CM (Agiguan)).
C	3	R1	*Neotoma fuscipes riparia*	Muridae	Woodrat, San Joaquin Valley	U.S.A. (CA).
PE		R1	*Ovis canadensis cremnobates*	Bovidae	Bighorn sheep, Peninsular Ranges population.	U.S.A. (CA), Mexico.
PE		R2	*Panthera onca*	Felidae	Jaguar, U.S. population	U.S.A. (AZ, CA, LA, NM, TX).
C	3	R4	*Peromyscus polionotus peninsularis*	Muridae	Mouse, St. Andrews beach	U.S.A. (FL).
C	3	R1	*Pteropus mariannus mariannus*	Pteropodidae	Flying fox, Mariana (Agiguan, Tinian, Saipan pops.).	U.S.A. (MP).
C	6	R1	*Sorex ornatus relictus*	Soricidae	Shrew, Buena Vista Lake ornate	U.S.A. (CA).
C	3	R1	*Spermophilus brunneus brunneus*	Sciuridae	Squirrel, Northern Idaho ground	U.S.A. (ID).
C	3	R1	*Sylvilagus bachmani riparius*	Leporidae	Rabbit, Riparian brush	U.S.A. (CA).
C	12	R4	*Ursus americanus floridanus*	Ursidae	Bear, Florida black	U.S.A. (FL, GA).
C	8	R6	*Vulpes velox*	Canidae	Fox, Swift (U.S. population)	U.S.A. (CO, IA, KS, MN, MT, ND, NE, NM, OK, SD, TX, WY).
			BIRDS.			
C	2	R6	*Charadrius montanus*	Charadriidae	Plover, mountain	N=CO, KS, MT, ND, NE, NM, OK, SD, TX, UT, WY; V=AZ, CA, NV, Mexico.
Y		R1	*Chasiempis sandwichensis gayi*	*** see ***	Chasiempis sandwichensis ibidus	
C	3	R1	*Chasiempis sandwichensis ibidus*	Musicapidae	Elepaio, Oahu	U.S.A. (HI).
C	6	R1	*Gallicolumba stairi*	Columbidae	Dove, Friendly ground	U.S.A. (AS).
PE		R2	*Glaucidium brasilianum cactorum*	Strigidae	Pygmy-owl, cactus ferruginous (AZ population).	U.S.A. (AZ, TX), Mexico.
PT		R2	*Glaucidium brasilianum cactorum*	Strigidae	Pygmy-owl, cactus ferruginous (TX population).	U.S.A. (AZ, TX), Mexico.
C	5	R1	*Oreomystis bairdi*	Fringillidae	Creeper, Kauai	U.S.A. (HI).
PT		R7	*Polysticta stelleri*	Anatidae	Eider, Steller's (AK breeding pop.)	U.S.A. (AK), Russia.
C	6	R1	*Porzana tubuensis*	Rallidae	Crake, spotless	U.S.A. (AS).
C	6	R1	*Ptilinopus perousii perousii*	Columbidae	Dove, many-colored fruit	U.S.A. (AS).
C	6	R1	*Zosterops conspicillatus rotensis*	Zosteropidae	White-eye, Rota bridled	U.S.A. (MP).
			REPTILES.			
PE		R1	*Anniella pulchra nigra*	Anniellidae	Lizard, black legless	U.S.A. (CA).
C	3	R5	*Clemmys muhlenbergii*	Emydidae	Turtle, Bog (northern pop.)	U.S.A. (CT, DE, MA, MD, NY, NJ, PA, RI).
C	5	R2	*Graptemys caglei*	Emydidae	Turtle, Cagle's map	U.S.A. (TX).

Table 1—Proposed and Candidate Animals and Plants—Continued

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Priority					
PE		R1	*Masticophis lateralis euryxanthus*	Colubridae	Whipsnake, (=striped racer) Alameda.	U.S.A. (CA).
PT		R3	*Nerodia erythrogaster neglecta*	Colubridae	Snake, northern copperbelly water	U.S.A. (IL, IN, KY, MI, OH).
PT		R3	*Nerodia sipedon insularum*	Colubridae	Snake, Lake Erie water	U.S.A. (OH), Canada.
PT		R1	*Phrynosoma mcallii*	Iguanidae	Lizard, flat-tailed horned	U.S.A. (AZ, CA), Mexico.
			AMPHIBIANS.			
C	8	R1	*Ambystoma californiense (=A. tigrinum c.).*	Ambystomatidae	Salamander, California tiger	U.S.A. (CA).
PE		R2	*Ambystoma tigrinum stebbinsi*	Ambystomatidae	Sonoran tiger salamander	U.S.A. (AZ), Mexico.
C	3	R6	*Bufo boreas boreas*	Bufonidae	Toad, boreal (Southern Rocky Mountain population).	U.S.A. (CO, NM, WY).
PT		R4	*Eleutherodactylus cooki*	Leptodactylidae	Guajon or rock frog	U.S.A. (PR).
PE		R2	*Eurycea sosorum*	Plethodontidae	Salamander, Barton Springs	U.S.A. (TX).
PE		R1	*Rana aurora draytoni*	Ranidae	Frog , California red-legged	U.S.A. (CA), Mexico.
C	2	R2	*Rana chiricahuensis*	Ranidae	Frog, Chiricahua leopard	U.S.A. (AZ, NM), Mexico.
C	6	R1	*Rana pretiosa*	Ranidae	Spotted frog (Great Basin pop.)	U.S.A. (ID, NV)
C	3	R6	*Rana pretiosa*	Ranidae	Frog, spotted (Wasatch Front pop. UT).	U.S.A. (UT).
C	6	R1	*Rana pretiosa*	Ranidae	Spotted frog (West Coast pop.)	U.S.A. (CA, OR, WA)
C	6	R6	*Rana pretiosa*	Ranidae	Frog, spotted (West Desert pop. UT)	U.S.A. (UT).
C	2	R2	*Rana subaquavocalis*	Ranidae	Frog, Ramsey Canyon leopard	U.S.A. (AZ).
			FISHES.			
C	2	R2	*Cyprinodon pecosensis*	Cyprinodontidae	Pupfish, Pecos	U.S.A. (NM, TX).
C	2	R2	*Dionda diaboli*	Cyprinidae	Minnow, Devils River	U.S.A. (TX), Mexico.
C	5	R6	*Etheostoma cragini*	Percidae	Darter, Arkansas	U.S.A. (AR, CO, KS, MO, OK).
C	3	R1	*Gila bicolor* ssp.	Cyprindidae	High Rock Springs tui chub	U.S.A. (CA).
C	3	R1	*Gila bicolor vaccaceps*	Cyprinidae	Tui chub, Cowhead Lake	U.S.A. (CA).
PE		R6	*Iotichthys phlegethontis*	Cyprinidae	Chub, least	U.S.A. (UT).
C	2	R6	*Macrhybopsis (=Hybopsis) gelida*	Cyprinidae	Chub, sturgeon	U.S.A. (AR, IA, IL, KY, KS, LA, MO, MS, MT, NE, ND, SD, TN, WY).
C	2	R6	*Macrhybopsis (=Hybopsis) meeki*	Cyprinidae	Chub, sicklefin	U.S.A. (AR, IA, IL, KS, KY, LA, MO, MS, NE, ND, SD, TN).
PE		R2	*Notropis girardi*	Cyprinidae	Shiner, Arkansas River (native pop. only).	U.S.A. (AR, KS, NM, OK, TX).
C	2	R6	*Notropis topeka (=tristis)*	Cyprinidae	Shiner, Topeka	U.S.A. (IA, KS, MN, MO, NE, SD).
C	3	R1	*Oncorhynchus (=Salmo) mykiss* ssp.	Salmonidae	Trout, McCloud R. redband	U.S.A. (CA).
PT		R1	*Pogonichthys macrolepidotus*	Cyprinidae	Splittail, Sacramento	U.S.A. (CA).
PT		R5	*Salmo salar*	Salmonidae	Atlantic salmon (distinct pop. in 7 Maine rivers).	U.S.A., Canada, Greenland, western Europe
C	9	R1	*Salvelinus confluentus*	Salmonidae	Trout, bull	U.S.A. (CA, ID, MT, NV, OR, WA).
C	9	R6	*Thymallus arcticus*	Salmonidae	Grayling, Arctic (Upper Missouri R. fluvial pop.).	U.S.A. (MT, WY).
Y		R6	*Thymallus arcticus montanus*	*** see ***	Thymallus arcticus	
			CLAMS.			
PE		R4	*Alasmidonta atropurpurea* (Rafinesque, 1831).	Unionidae	Elktoe, Cumberland	U.S.A. (KY, TN).
PE		R4	*Amblema neislerii* (I.Lea, 1858)	Unionidae	Mussel, fat three-ridge	U.S.A. (FL, GA).
PE		R4	*Elliptio chipolaensis*	Unionidae	Slabshell, Chipola	U.S.A. (AL, FL).
PE		R4	*Elliptoideus sloatianus* (I. Lea, 1840)	Unionidae	Bankclimber, purple	U.S.A. (AL, GA, FL).
PE		R4	*Epioblasma brevidens* (I. Lea, 1831)	Unionidae	Combshell, Cumberlandian	U.S.A. (AL, KY, TN, VA).
PE		R4	*Epioblasma capsaeformis* (I. Lea, 1834).	Unionidae	Mussel, oyster	U.S.A. (AL, KY, TN, VA).
PE		R4	*Lampsilis subangulata* (I.Lea, 1840)	Unionidae	Pocketbook, shiny-rayed	U.S.A. (AL, FL, GA).
PE		R4	*Medionidus penicillatus*	Unionidae	Gulf moccasinshell	U.S.A. (AL, FL, GA).
PE		R4	*Medionidus simpsonianus*	Unionidae	Ochlockonee moccasinshell	U.S.A. (FL, GA).
PE		R4	*Pleurobema pyriforme* (I.Lea, 1857)	Unionidae	Pigtoe, oval	U.S.A. (AL, FL, GA).

Table 1—Proposed and Candidate Animals and Plants—Continued

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Priority					
PE		R4	*Quadrula cylindrica strigillata* (B.H.Wright, 1898).	Unionidae	Rabbitsfoot, rough	U.S.A. (KY, TN, VA).
PE		R4	*Villosa perpurpurea* (I. Lea,1861)	Unionidae	Bean, Purple	U.S.A. (TN, VA).
			SNAILS.			
C	7	R3	*Antrobia culveri* (Hubricht, 1971)	Hydrobiidae	Cavesnail, Tumbling Creek	U.S.A. (MO).
C	11	R2	*Assiminea pecos* Taylor, 1987	Assimineidae	Snail, Pecos assiminea	U.S.A. (NM, TX), Mexico.
C	5	R4	*Elimia crenatella* (I. Lea, 1860)	Pleuroceridae	Elimia (snail), lacy	U.S.A. (AL).
C	7	R1	*Erinna newcombi*	Lymnaeidae	Snail, Newcomb's	U.S.A. (HI).
C	2	R1	*Eua zebrina*	Partulidae	Snail, Tutuila tree	U.S.A. (AS).
C	5	R4	*Leptoxis ampla* (Anthony, 1855)	Pleuroceridae	Rocksnail, round	U.S.A. (AL).
C	5	R4	*Leptoxis plicata* (Conrad, 1834)	Pleuroceridae	Rocksnail, plicate	U.S.A. (AL).
C	5	R4	*Leptoxis taeniata* (Conrad, 1834)	Pleuroceridae	Rocksnail, painted	U.S.A. (AL).
C	5	R4	*Lepyrium showalteri* (I. Lea, 1861)	Hydrobiidae	Pebblesnail, flat	U.S.A. (AL).
C	5	R4	*Lioplax cyclostomaformis* (I. Lea, 1841).	Viviparidae	Lioplax (snail), cylindrical	U.S.A. (AL, GA, LA).
C	9	R6	*Oreohelix peripherica* wasatchensis	Oreohelicidae	Mountainsnail, Ogden Rocky	U.S.A. (UT).
C	2	R1	*Ostodes strigatus*	Potaridae	Snail, (no common name)	U.S.A. (AS).
C	2	R1	*Partula gibba*	Partulidae	Snail, Humped tree	U.S.A. (GU).
C	2	R1	*Partula langfordi*	Partulidae	Snail, Langford's tree	U.S.A. (GU).
C	2	R1	*Partula radiolata*	Partulidae	Snail, Guam tree	U.S.A. (GU).
C	8	R2	*Pyrgulopsis (="Fontelicella") chupadae (=chupaderae)* Taylor, 1987.	Hydrobiidae	Springsnail, Chupadera	U.S.A. (NM).
C	11	R2	*Pyrgulopsis (="Fontelicella") gilae* Taylor, 1987.	Hydrobiidae	Springsnail, Gila	U.S.A. (NM).
C	2	R2	*Pyrgulopsis morrisoni* Hershler, 1988.	Hydrobiidae	Springsnail, Page	U.S.A. (AZ).
C	11	R2	*Pyrgulopsis (="Fontelicella") roswellensis* Taylor, 1987.	Hydrobiidae	Springsnail, Roswell	U.S.A. (NM).
C	11	R2	*Pyrgulopsis (="Fontelicella") thermalis* Taylor, 1987.	Hydrobiidae	Hotspring snail, New Mexico	U.S.A. (NM).
C	5	R2	*Pyrgulopsis thompsoni* Hershler, 1988.	Hydrobiidae	Springsnail, Huachuca	U.S.A. (AZ), Mexico.
C	2	R1	*Samoana fragilis*	Partulidae	Snail, fragile tree	U.S.A. (GU).
PE		R2	*Sonorella eremita* (Pilsbry & Ferris, 1915).	Helminthoglyptida	Talussnail, San Xavier	U.S.A. (AZ).
C	5	R2	*Sonorella macrophallus* Fairbanks & Reeder, 1980.	Helminthoglyptida	Talussnail, Wet Canyon	U.S.A. (AZ).
C	2	R6	*Stagnicola bonnevillensis* (Call, 1884).	Lymnaeidae	Pondsnail, fat-whorled	U.S.A. (UT).
C	5	R2	*Tryonia adamantina* Taylor, 1987	Hydrobiidae	Springsnail, Diamond Y	U.S.A. (TX).
C	11	R2	*Tryonia kosteri* Taylor, 1987	Hydrobiidae	Tryonia (springsnail), Koster's	U.S.A. (NM).
C	5	R2	*Tryonia stocktonensis* Taylor, 1987	Hydrobiidae	Tryonia (springsnail), Gonzales Spring.	U.S.A. (TX).
			INSECTS.			
C	2	R1	*Megalagrion leptodemus*	Coenagrionidae	Damselfly, leptodemas megalagrion	U.S.A. (HI).
C	2	R1	*Megalagrion nesiotes*	Coenagrionidae	Damselfly, nesiotes megalagrion	U.S.A. (HI).
C	2	R1	*Megalagrion nigrohamatum nigrolineatum.*	Coenagrionidae	Damselfly, blackline megalagrion	U.S.A. (HI).
Y		R1	*Megalagrion nigrolineatum*	*** see ***	Megalagrion nigrohamatum nigrolineatum.	
C	2	R1	*Megalagrion oceanicum*	Coenagrionidae	Damselfly, oceanic megalagrion	U.S.A. (HI).
C	2	R1	*Megalagrion pacificum*	Coenagrionidae	Damselfly, Pacific megalagrion	U.S.A. (HI).
C	8	R1	*Megalagrion xanthomelas*	Coenagrionidae	Damselfly, orangeblack megalagrion	U.S.A. (HI).
PE		R1	*Trimerotropis infantilis*	Acrididae	Grasshopper, Zayante band-winged	U.S.A. (CA).
C	3	R6	*Cicindela limbata albissima*	Cicindelidae	Beetle, Coral Pink Sand Dunes tiger	U.S.A. (UT).
PE		R2	*Heterelmis comalensis*	Elmidae	Beetle, Comal Springs riffle	U.S.A. (TX).
PE		R1	*Pleocoma conjugens conjugens*	Scarabaeidae	Beetle, Santa Cruz rain	U.S.A. (CA).
PE		R1	*Polyphylla barbata*	Scarabaeidae	Beetle, Mount Hermon June	U.S.A. (CA).
C	2	R5	*Pseudanophthalmus holsingeri*	Carabidae	Beetle, Holsinger's cave	U.S.A. (VA).
PE		R2	*Stygoparnus comalensis*	Dryopidae	Comal Springs dryopid beetle	U.S.A. (TX).
C	8	R6	*Zaitzevia thermae*	Elmidae	Beetle, warm spring zaitzevian riffle	U.S.A. (MT).
C	2	R1	*Drosophila aglaia*	Drosophilidae	Pomace fly (no common name)	U.S.A. (HI)
C	2	R1	*Drosophila alsophila*	Drosophilidae	Pomace fly (no common name)	U.S.A. (HI)
C	2	R1	*Drosophila attigua*	Drosophilidae	Pomace fly (no common name)	U.S.A. (HI)
C	2	R1	*Drosophila digressa*	Drosophilidae	Pomace fly (no common name)	U.S.A. (HI)
C	2	R1	*Drosophila hemipeza*	Drosophilidae	Pomace fly (no common name)	U.S.A. (HI)

Table 1—Proposed and Candidate Animals and Plants—Continued

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Priority					
C	2	R1	*Drosophila heteroneura*	Drosophilidae	Pomace fly (no common name)	U.S.A. (HI)
C	2	R1	*Drosophila montgomeryi*	Drosophilidae	Pomace fly (no common name)	U.S.A. (HI)
C	2	R1	*Drosophila mulli*	Drosophilidae	Pomace fly (no common name)	U.S.A. (HI)
C	2	R1	*Drosophila musaphila*	Drosophilidae	Pomace fly (no common name)	U.S.A. (HI)
C	2	R1	*Drosophila neoclavisetae*	Drosophilidae	Pomace fly (no common name)	U.S.A. (HI)
C	2	R1	*Drosophila obatai*	Drosophilidae	Pomace fly (no common name)	U.S.A. (HI)
C	2	R1	*Drosophila psilotarsalis*	Drosophilidae	Pomace fly (no common name)	U.S.A. (HI)
C	2	R1	*Drosophila substenoptera*	Drosophilidae	Pomace fly (no common name)	U.S.A. (HI)
C	2	R1	*Drosophila tarphytrichia*	Drosophilidae	Pomace fly (no common name)	U.S.A. (HI)
C	2	R1	*Drosophila toxochaeta*	Drosophilidae	Pomace fly (no common name)	U.S.A. (HI)
C	5	R1	*Phaeogramma* sp.	Tephritidae	Fly, Po'olanui gall	U.S.A. (HI).
PE		R1	*Euphydryas editha quino (=E. e. wrighti).*	Nymphalidae	Butterfly, Quino checkerspot	U.S.A. (CA), Mexico.
C	2	R1	*Euploea eleutho*	Danaidae	Butterfly, Marianas euploea	U.S.A. (MP).
C	3	R1	*Icaricia icarioides fenderi*	Lycaenidae	Butterfly, Fender's blue	U.S.A. (OR).
C	2	R1	*Manduca blackburni*	Sphingidae	Moth, Blackburn's sphinx	U.S.A. (HI).
PE		R1	*Pyrgus ruralis lagunae*	Hesperiidae	Skipper, Laguna Mountains	U.S.A. (CA).
PE		R1	*Speyeria callippe callippe*	Nymphalidae	Butterfly, Callippe silverspot	U.S.A. (CA).
PE		R1	*Speyeria zerene behrensii*	Nymphalidae	Butterfly, Behren's silverspot	U.S.A. (CA).
			ARACHNIDS.			
C	1	R1	*Adelocosa anops*	Lycosidae	Spider, Kauai cave wolf or pe'e pe'e maka 'ole.	U.S.A. (HI).
C	2	R2	*Cicurina wartoni*	Dictynidae	Spider, Warton's cave	U.S.A. (TX).
			CRUSTACEANS.			
PE		R1	*Branchinecta sandiegoensis*	Branchinectidae	Fairy shrimp, San Diego	U.S.A. (CA).
C	2	R3	*Gammarus acherondytes*	Gammaridae	Amphipod, Illinois cave	U.S.A. (IL).
C	1	R1	*Spelaeorchestia koloana*	Talitridae	Amphipod, Kauai cave	U.S.A. (HI).
PE		R2	*Stygobromus (=Stygonectes) pecki*	Crangonyctidae	Peck's cave amphipod	U.S.A. (TX).
			FLOWERING PLANTS.			
Y		R5	*Abama americanum*	*** see ***	Narthecium americanum	
Y		R5	*Abama montana*	*** see ***	Narthecium americanum	
C	8	R1	*Abronia alpina*	Nyctaginaceae	Ramshaw sand-verbena	U.S.A. (CA).
PE		R1	*Acanthomintha ilicifolia*	Lamiaceae	San Diego thornmint	U.S.A. (CA), Mexico (Baja California).
PE		R1	*Achyranthes mutica*	Amaranthaceae	None	U.S.A. (HI)
Y		R1	*Achyranthes nelsonii*	*** see ***	Achyranthes mutica	
Y		R1	*Allium fimbriatum var. munzii*	*** see ***	Allium munzii	
C	8	R2	*Allium gooddingii*	Liliaceae	Goodding's onion	U.S.A. (AZ, NM).
PE		R1	*Allium munzii*	Liliaceae	Munz's onion	U.S.A. (CA).
Y		R1	*Allium sanbornii var. tuolumnense*	*** see ***	Allium tuolumnense	
PT		R1	*Allium tuolumnense*	Liliaceae	Rawhide Hill onion	U.S.A. (CA).
PE		R1	*Alopecurus aequalis var. sonomensis.*	Poaceae	Sonoma alopecurus	U.S.A. (CA).
PE		R1	*Alsinidendron lychnoides*	Caryophyllaceae	Kuawawaenohu	U.S.A. (HI).
PE		R1	*Alsinodendron viscosum*	Caryophyllaceae	None	U.S.A. (HI)
PE		R1	*Amaranthus brownii*	Amaranthaceae	None	U.S.A. (HI).
PE		R1	*Arabis hoffmannii*	Brassicaceae	Hoffmann's Rock-cress	U.S.A. (CA).
PT		R1	*Arabis johnstonii*	Brassicaceae	Johnston's rock-cress	U.S.A. (CA).
C	2	R6	*Arabis pusilla*	Brassicaceae	Small rock-cress	U.S.A. (WY).
Y		R1	*Arctostaphylos andersonii var. pallida.*	*** see ***	Arctostaphylos pallida	
PE		R1	*Arctostaphylos confertiflora*	Ericaceae	Santa Rosa Island manzanita	U.S.A. (CA).
PE		R1	*Arctostaphylos glandulosa* ssp. *crassifolia.*	Ericaceae	Del Mar manzanita	U.S.A. (CA).
PT		R1	*Arctostaphylos imbricata*	Ericaceae	San Bruno Mountain manzanita	U.S.A. (CA).
Y		R1	*Arctostaphylos imbricata ssp. imbricata.*	*** see ***	Arctostaphylos imbricata	
C	8	R1	*Arctostaphylos myrtifolia*	Ericaceae	Lone manzanita	U.S.A. (CA).
PT		R1	*Arctostaphylos pallida*	Ericaceae	Pallid manzanita	U.S.A. (CA).
Y		R1	*Arctostaphylos uva-ursi ssp. myrtifolia.*	*** see ***	Arctostaphylos myrtifolia	
PT		R1	*Arenaria ursina*	Caryophyllaceae	Bear Valley sandwort	U.S.A. (CA).
C	2	R1	*Astelia waialealae*	Liliaceae	Pa'iniu	U.S.A. (HI)
PE		R1	*Astragalus brauntonii*	Fabaceae	Braunton's milk-vetch	U.S.A. (CA).
PE		R1	*Astragalus clarianus*	Fabaceae	Clara Hunt's milk-vetch	U.S.A. (CA).
C	2	R6	*Astragalus desereticus*	Fabaceae	Deseret milk-vetch	U.S.A. (UT).
C	8	R6	*Astragalus equisolensis*	Fabaceae	Horseshoe milk-vetch	U.S.A. (UT).

Table 1—Proposed and Candidate Animals and Plants—Continued

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Priority					
C	3	R6	*Astragalus eremiticus var. ampullariodes.*	Fabaceae	Shem milk-vetch	U.S.A. (UT).
C	2	R6	*Astragalus holmgreniorum*	Fabaceae	Holmgren milk-vetch	U.S.A. (AZ, UT).
PE		R1	*Astragalus jaegerianus*	Fabaceae	Lane Mountain (=Coolgardie) milk-vetch.	U.S.A. (CA).
PE		R1	*Astragalus lentiginosus* var. *coachellae.*	Fabaceae	Coachella Valley milk-vetch	U.S.A. (CA).
PT		R1	*Astragalus lentiginosus* var. *micans*	Fabaceae	Shining (=shiny) milk-vetch	U.S.A. (CA).
PE		R1	*Astragalus lentiginosus* var. *piscinensis.*	Fabaceae	Fish Slough milk-vetch	U.S.A. (CA).
PT		R1	*Astragalus lentiginosus* var. *sesquimetralis.*	Fabaceae	Sodaville milk-vetch	U.S.A. (CA, NV).
PE		R1	*Astragalus magdalenae* var. *peirsonii.*	Fabaceae	Peirson's milk-vetch	U.S.A. (CA).
C	3	R1	*Astragalus oophorus var. clokeyanus.*	Fabaceae	None	U.S.A. (NV).
PE		R1	*Astragalus tener var. titi*	Fabaceae	Coastal dunes milk-vetch	U.S.A. (CA).
C	11	R6	*Astragalus tortipes*	Fabaceae	Sleeping Ute milk-vetch	U.S.A. (CO).
PE		R1	*Astragalus tricarinatus*	Fabaceae	Triple-ribbed milk-vetch	U.S.A. (CA).
PE		R1	*Atriplex coronata* var. *notatior*	Chenopodiaceae	San Jacinto Valley crownscale (=saltbush).	U.S.A. (CA).
PE		R1	*Baccharis vanessae*	Asteraceae	Encinitis baccharis (=Coyote bush),	U.S.A. (CA).
PE		R1	*Berberis nevinii*	Berberidaceae	Nevin's barberry	U.S.A. (CA).
PE		R1	*Berberis pinnata ssp. insularis*	Berberidaceae	Island barberry	U.S.A. (CA).
C	6	R1	*Bidens micrantha* ssp. *ctenophylla*	Asteraceae	Ko'oko'olau	U.S.A. (HI).
PT		R1	*Brodiaea filifolia*	Liliaceae	Thread-leaved brodiaea	U.S.A. (CA).
PE		R1	*Brodiaea pallida*	Liliaceae	Chinese Camp brodiaea	U.S.A. (CA).
C	8	R1	*Calochortus umpquaensis*	Liliaceae	Umpqua Mariposa lily	U.S.A. (OR).
PE		R1	*Calyptridium pulchellum*	Portulacaceae	Mariposa pussy-paws	U.S.A. (CA).
PE		R1	*Calystegia stebbinsii*	Convolvulaceae	Stebbins' morning-glory	U.S.A. (CA).
PE		R1	*Carex albida*	Cyperaceae	White sedge	U.S.A. (CA).
PT		R1	*Carpenteria californica*	Saxifragaceae	Carpenteria	U.S.A. (CA).
C	5	R6	*Castilleja aquariensis*	Scrophulariaceae	Aquarius Indian paintbrush	U.S.A. (UT).
PT		R1	*Castilleja campestris* ssp. *succulenta*	Scrophulariaceae	Fleshy owl's-clover	U.S.A. (CA).
C	11	R1	*Castilleja christii*	Scrophulariaceae	Christ's paintbrush	U.S.A. (ID).
PT		R1	*Castilleja cinerea*	Scrophulariaceae	Ash-gray Indian paintbrush	U.S.A. (CA).
C	2	R2	*Castilleja elongata*	Scrophulariaceae	Tall paintbrush	U.S.A. (TX).
PT		R1	*Castilleja levisecta*	Scrophulariaceae	Golden paintbrush	U.S.A. (OR, WA), Canada (BC).
PE		R1	*Castilleja mollis*	Scrophulariaceae	Soft-leaved paintbrush	U.S.A. (CA).
C	2	R4	*Catesbaea melanocarpa*	Rubiaceae	None	U.S.A. (PR), Antigua, Guadalupe.
Y		R4	*Catesbia melanocarpa*	*** see ***	Catesbaea melanocarpa	
PT		R1	*Ceanothus ophiochilus*	Rhamnaceae	Vail Lake ceanothus	U.S.A. (CA).
PE		R1	*Ceanothus roderickii*	Rhamnaceae	Pine Hill ceanothus	U.S.A. (CA).
PE		R1	*Cenchrus agrimonioides*	Poaceae	Kamanomano (=Sandbur, agrimony)	U.S.A. (HI)
Y		R1	*Cenchrus agrimonioides var. agrimonioides.*	*** see ***	Cenchrus agrimonioides	
Y		R1	*Cenchrus agrimonioides var. laysanensis.*	*** see ***	Cenchrus agrimonioides	
Y		R1	*Cenchrus pendunculatus*	*** see ***	Cenchrus agrimonioides	
PE		R1	*Cercocarpus traskiae*	Rosaceae	Catalina Island mountain-mahogany	U.S.A. (CA).
PE		R1	*Chamaesyce herbstii*	Euphorbiaceae	'Akoko	
PT		R1	*Chamaesyce hooveri*	Euphorbiaceae	Hoover's spurge	U.S.A. (CA).
PE		R1	*Chamaesyce rockii*	Euphorbiaceae	'Akoko	
C	6	R1	*Chlorogalum purpureum var. purpureum.*	Liliaceae	Purple amole	U.S.A. (CA).
C	3	R1	*Chlorogalum purpureum var. reductum.*	Liliaceae	Cammatta Canyon amole	U.S.A. (CA).
PE		R1	*Chorizanthe orcuttiana*	Polygonaceae	Orcutt's spineflower	U.S.A. (CA).
C	5	R2	*Cimicifuga arizonica*	Ranunculaceae	Arizona bugbane	U.S.A. (AZ).
PE		R1	*Cirsium hydrophilum var. hydrophilum.*	Asteraceae	Suisun thistle	U.S.A. (CA).
C	2	R1	*Cirsium loncholepis*	Asteraceae	La Graciosa thistle	U.S.A. (CA).
C	2	R1	*Cirsium rhothophilum*	Asteraceae	Surf thistle	U.S.A. (CA).
PE		R1	*Clarkia imbricata*	Onagraceae	Vine Hill clarkia	U.S.A. (CA).
C	11	R1	*Clarkia lingulata*	Onagraceae	Merced clarkia	U.S.A. (CA).
PT		R1	*Clarkia springvillensis*	Onagraceae	Springville clarkia	U.S.A. (CA).
C	3	R2	*Clematis hirsutissima var. arizonica*	Ranunculaceae	Arizona leather flower	U.S.A. (AZ).

Table 1—Proposed and Candidate Animals and Plants—Continued

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Priority					
PE		R1	*Clermontia drepanomorpha*	Campanulaceae	‘Oha wai	U.S.A. (HI).
PT		R4	*Coccoloba rugosa*	Polygonaceae	None	U.S.A. (PR).
PE		R4	*Cordia bellonis*	Boraginaceae	None	U.S.A. (PR).
PE		R1	*Cordylanthus mollis* ssp. *mollis*	Scrophulariaceae	Soft bird’s-beak	U.S.A. (CA).
PT		R1	*Corethrogyne filaginifolia* var. *linifolia*	Asteraceae	Del Mar sand aster	U.S.A. (CA).
PE		R1	*Cyanea acuminata*	Campanulaceae	Haha	
Y		R1	*Cyanea bryanii*	*** see ***	Cyanea platyphylla	
C	2	R1	*Cyanea copelandii* ssp. *haleakalaensis*.	Campanulaceae	Haha	U.S.A. (HI)
PE		R1	*Cyanea dunbarii*	Campanulaceae	Haha	U.S.A. (HI.)
Y		R1	*Cyanea fernaldii*	*** see ***	Cyanea platyphylla	
C	2	R1	*Cyanea glabra*	Campanulaceae	Haha	U.S.A. (HI)
PE		R1	*Cyanea grimesiana ssp. grimesiana*	Campanulaceae	Haha	U.S.A. (HI).
Y		R1	*Cyanea grimesiana var. lydgatei*	*** see ***	Cyanea grimesiana ssp. grimesiana	
Y		R1	*Cyanea grimesiana var. mauiensis*	*** see ***	Cyanea grimesiana ssp. grimesiana	
Y		R1	*Cyanea grimesiana var. munroi*	*** see ***	Cyanea grimesiana ssp. grimesiana	
C	2	R1	*Cyanea hamatiflora* ssp. *hamatiflora*	Campanulaceae	Haha	U.S.A. (HI)
PE		R1	*Cyanea (=Rollandia) humboldtiana*	Campanulaceae	Haha	U.S.A. (HI)
PE		R1	*Cyanea koolauensis*	Campanulaceae	Haha	U.S.A. (HI)
PE		R1	*Cyanea longiflora*	Campanulaceae	Haha	U.S.A. (HI)
PE		R1	*Cyanea platyphylla*	Campanulaceae	Haha	U.S.A. (HI).
PE		R1	*Cyanea recta*	Campanulaceae	Haha	U.S.A. (HI)
PE		R1	*Cyanea remyi*	Campanulaceae	Haha	U.S.A. (HI)
Y		R1	*Cyanea rollandioides*	*** see ***	Cyanea platyphylla	
PE		R1	*Cyanea (=Rollandia) st-johnii*	Campanulaceae	Haha	U.S.A. (HI).
PE		R1	*Cyperus trachysanthos*	Cyperaceae	Pu‘uka‘a	U.S.A. (HI).
PE		R1	*Cyrtandra cyaneoides*	Gesneriaceae	Mapele	U.S.A. (HI).
PE		R1	*Cyrtandra dentata*	Gesneriaceae	Ha‘iwale	
Y		R1	*Cyrtandra frederickii*	*** see ***	Cyrtandra dentata	
PE		R1	*Cyrtandra subumbellata*	Gesneriaceae	Ha’iwale	U.S.A. (HI).
PE		R1	*Cyrtandra viridiflora*	Gesneriaceae	Ha’iwale	U.S.A. (HI).
C	2	R2	*Dalea tentaculoides*	Fabaceae	Gentry’s indigobush	U.S.A. (AZ).
Y		R1	*Delissea niihauensis*	*** see ***	Delissea undulata	
PE		R1	*Delissea rivularis*	Campanulaceae	Oha	U.S.A. (HI)
PE		R1	*Delissea subcordata*	Campanulaceae	‘Oha	
Y		R1	*Delissea subcordata var. obtusifolia*	*** see ***	Delissea subcordata	
PE		R1	*Delissea undulata*	Campanulaceae	None	U.S.A. (HI).
C	2	R1	*Delphinium bakeri*	Ranunculaceae	Baker’s larkspur	U.S.A. (CA).
C	2	R1	*Delphinium luteum*	Ranunculaceae	Yellow larkspur	U.S.A. (CA).
PE		R1	*Downingia concolor* var. *brevior*	Campanulaceae	Cuyamaca Lake downingia	U.S.A. (CA).
C	6	R1	*Dubautia plantaginea ssp. humilis*	Asteraceae	Na’ena’e	U.S.A. (HI).
PT		R1	*Dudleya abramsii* ssp. *parva*	Crassulaceae	Conejo dudleya	U.S.A. (CA).
PE		R1	*Dudleya blochmaniae* ssp. *brevifolia*	Crassulaceae	Short-leaved dudleya	U.S.A. (CA).
PE		R1	*Dudleya blochmaniae ssp. insularis*	Crassulaceae	Santa Rosa Island dudleya	U.S.A. (CA).
Y		R1	*Dudleya brevifolia*	*** see ***	Dudleya blochmaniae ssp. brevifolia	
PT		R1	*Dudleya cymosa* ssp. *marcescens*	Crassulaceae	Marcescent dudleya	U.S.A. (CA).
PT		R1	*Dudleya cymosa* ssp. *ovatifolia*	Crassulaceae	Santa Monica Mountains dudleya	U.S.A. (CA).
C	11	R1	*Dudleya densiflora*	Crassulaceae	San Gabriel Mountains dudleya	U.S.A. (CA).
PE		R1	*Dudleya nesiotica*	Crassulaceae	Santa Cruz Island dudleya	U.S.A. (CA).
Y		R1	*Dudleya parva*	*** see ***	Dudleya abramsii ssp. parva	
PE		R1	*Dudleya* sp. nov. /ined. ≥East Point≥	Crassulaceae	Munchkin dudleya	U.S.A. (CA)
PE		R1	*Dudleya stolonifera*	Crassulaceae	Laguna Beach liveforever	U.S.A. (CA).
PT		R1	*Dudleya verityi*	Crassulaceae	Verity’s dudleya	U.S.A. (CA).
C	6	R2	*Echinomastus erectocentrus var. acunensis*.	Cactaceae	Acuna cactus	U.S.A. (AZ), Mexico.
PE		R1	*Eragrostis fosbergii*	Poaceae	Fosberg’s love grass	U.S.A. (HI).
C	11	R1	*Erigeron basalticus*	Asteraceae	Basalt daisy	U.S.A. (WA).
C	3	R1	*Erigeron decumbens var. decumbens*.	Asteraceae	None	U.S.A. (OR).
C	11	R2	*Erigeron lemmonii*	Asteraceae	Lemmon fleabane	U.S.A. (AZ).
C	2	R1	*Eriodictyon capitatum*	Hydrophyllaceae	Lompoc yerba santa	U.S.A. (CA).
C	3	R1	*Eriogonum apricum var. apricum*	Polygonaceae	Ione buckwheat	U.S.A. (CA).
C	3	R1	*Eriogonum apricum var. prostratum*	Polygonaceae	Irish Hill buckwheat	U.S.A. (CA).
C	5	R1	*Eriogonum argophyllum*	Polygonaceae	Buckwheat (no common name)	U.S.A. (NV).
C	11	R1	*Eriogonum kelloggii*	Polygonaceae	Red Mountain buckwheat	U.S.A. (CA).
PT		R1	*Eriogonum kennedyi var. austromontanum*.	Polygonaceae	Southern mountain wild buckwheat,	U.S.A. (CA).
PE		R1	*Euphorbia haeleeleana*	Euphorbiaceae	‘Akoko	
C	8	R2	*Festuca ligulata*	Poaceae	Guadalupe fescue	U.S.A. (TX), Mexico.

Table 1—Proposed and Candidate Animals and Plants—Continued

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Priority					
PE		R1	*Fremontodendron decumbens*	Sterculiaceae	Pine Hill flannelbush	U.S.A. (CA).
Y		R1	*Fremontodendron decumbens*	*** see ***	Fremontodendron californicum decumbens.	
PE		R1	*Fremontodendron mexicanum*	Sterculiaceae	Mexican flannelbush	U.S.A. (CA), Mexico.
C	2	R1	*Fritillaria gentneri*	Liliaceae	Gentner's (=Mission-bells, Gentner) fritillaria.	U.S.A. (OR).
PT		R1	*Fritillaria striata*	Liliaceae	Greenhorn adobe-lily	U.S.A. (CA).
PE		R1	*Galium buxifolium*	Rubiaceae	Island bedstraw	U.S.A. (CA).
PE		R1	*Galium californicum* ssp. *sierrae*	Rubiaceae	El Dorado bedstraw	U.S.A. (CA).
PE		R1	*Gardenia mannii*	Rubiaceae	Nanu	U.S.A. (HI)
C	3	R6	*Gaura neomexicana ssp. coloradensis.*	Onagraceae	Colorado butterfly plant	U.S.A. (CO, NE, WY).
C	5	R6	*Gilia caespitosa*	Polemoniaceae	Rabbit Valley gilia	U.S.A. (UT).
PE		R1	*Gilia tenuiflora ssp. hoffmannii*	Polemoniaceae	Hoffmann's gilia	U.S.A. (CA).
Y		R1	*Habenaria holochila*	*** see ***	Platanthera holochila	
C	3	R1	*Hedyotis schlechtendahliana var. remyi.*	Rubiaceae	None	U.S.A. (HI).
C	5	R5	*Helenium virginicum*	Asteraceae	None	U.S.A. (VA).
PE		R1	*Helianthemum greenei*	Cistaceae	Island rush-rose	U.S.A. (CA).
PT		R4	*Helianthus eggertii*	Asteraceae	Eggert's sunflower	U.S.A. (AL, KY, TN).
C	2	R2	*Helianthus paradoxus*	Asteraceae	Puzzle sunflower	U.S.A. (NM, TX).
PE		R1	*Hemizonia conjugens*	Asteraceae	Otay tarweed	U.S.A. (CA).
C	3	R1	*Hemizonia increscens ssp. villosa*	Asteraceae	Gaviota tarweed	U.S.A. (CA).
PE		R1	*Heuchera maxima*	Saxifragaceae	Island alumroot	U.S.A. (CA).
PE		R1	*Hibiscadelphus giffardianus*	Malvaceae	Hau kuahiwi	U.S.A. (HI).
PE		R1	*Hibiscadelphus hualalaiensis*	Malvaceae	Hau kuahiwi	U.S.A. (HI).
PE		R1	*Hibiscadelphus woodii*	Malvaceae	Hau kuahiwi	U.S.A. (HI)
C	5	R2	*Hibiscus dasycalyx*	Malvaceae	Neches River rose-mallow	U.S.A. (TX).
PE		R1	*Hibiscus waimeae ssp. hannerae*	Malvaceae	Koki'o ke'oke'o	U.S.A. (HI).
C	2	R1	*Holocarpha macradenia*	Asteraceae	Santa Cruz tarweed	U.S.A. (CA).
Y		R1	*Isodendrion forbesii*	*** see ***	Isodendrion laurifolium	
PE		R1	*Isodendrion laurifolium*	Violaceae	Aupaka	U.S.A. (HI).
PT		R1	*Isodendrion longifolium*	Violaceae	Aupaka	U.S.A. (HI.)
Y		R1	*Isodendrion lydgatei*	*** see ***	Isodendrion longifolium	
Y		R1	*Isodendrion maculatum*	*** see ***	Isodendrion longifolium	
Y		R1	*Isodendrion subsessilifolium*	*** see ***	Isodendrion laurifolium	
Y		R1	*Isodendrion waianaeense*	*** see ***	Isodendrion laurifolium	
PE		R4	*Juglans jamaicensis*	Juglandaceae	Nogal or West Indian walnut	U.S.A. (PR), Cuba, Hispaniola.
C	1	R1	*Kanaloa kahoolawensis*	Fabaceae	None	U.S.A. (HI)
PE		R1	*Kokia kauaiensis*	Malvaceae	Koki'o	U.S.A. (HI).
PE		R1	*Labordia cyrtandrae*	Loganiaceae	Kamakahala	U.S.A. (HI).
Y		R1	*Labordia cyrtandrae var. nahikuana*	*** see ***	Labordia cyrtandrae	
Y		R1	*Labordia triflora*	*** see ***	Labordia triiflora	
PE		R1	*Labordia tinifolia* var. *wahiawaensis*	Loganiaceae	Kamakahala	U.S.A., (HI)
C	2	R1	*Labordia trifolia*	Loganiaceae	Kamakahala	
PT		R1	*Lasthenia conjugens*	Asteraceae	Contra Costa goldfields	U.S.A. (CA).
C	5	R1	*Lathyrus biflorus*	Fabaceae	Two-flowered lathyrus	U.S.A. (CA).
PE		R1	*Lepidium arbuscula*	Brassicaceae	'Anaunau	U.S.A. (HI).
PE		R4	*Lesquerella perforata*	Brassicaceae	Spring Creek bladderpod	U.S.A. (TN).
C	5	R4	*Lesquerella stonensis*	Brassicaceae	Stones River bladderpod	U.S.A. (TN).
C	2	R2	*Lesquerella thamnophila*	Brassicaceae	Zapata bladderpod	U.S.A. (TX).
PE		R1	*Lessingia germanorum* var. *germanorum.*	Asteraceae	San Francisco lessingia	U.S.A. (CA).
Y		R2	*Lilaeopsis recurva*	*** see ***	Lilaeopsis schaffneriana ssp. recurva.	
PE		R2	*Lilaeopsis schaffneriana ssp. recurva.*	Apiaceae	Huachuca water-umbel	U.S.A. (AZ), Mexico.
PE		R1	*Lilium pardalinum ssp. pitkinense*	Liliaceae	Pitkin Marsh lily	U.S.A. (CA).
Y		R1	*Lilium pitkinense*	*** see ***	Lilium pardalinum ssp. pitkinense	
PT		R1	*Limnanthes gracilis* ssp. *parishii*	Limnanthaceae	Parish's meadowfoam	U.S.A. (CA).
PE		R1	*Lithophragma maximum*	Saxifragaceae	San Clemente Island woodland-star	U.S.A. (CA).
PE		R1	*Lobelia gaudichaudii* ssp. *koolauensis.*	Campanulaceae	None	
Y		R1	*Lobelia hillebrandii var. monostachya.*	*** see ***	Lobelia monostachya	
PE		R1	*Lobelia monostachya*	Campanulaceae	None	U.S.A. (HI)
C	5	R1	*Lomatium cookii*	Apiaceae	Cook's lomatium	U.S.A. (OR).
PE		R1	*Lupinus citrinus* var. *deflexus*	Fabaceae	Mariposa lupine	U.S.A. (CA).

Table 1—Proposed and Candidate Animals and Plants—Continued

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Priority					
Y		R1	*Lupinus deflexus*	*** see ***	Lupinus citrinus var. deflexus	
C	2	R1	*Lupinus nipomensis*	Fabaceae	Nipomo Mesa lupine	U.S.A. (CA).
PE		R1	*Lysimachia maxima* (=tenrnifolia)	Primulaceae	None	U.S.A. (HI).
Y		R1	*Lysimachia ternifolia*	*** see ***	Lysimachia maxima	
Y		R1	*Mahonia nevinii*	*** see ***	Berberis nevinii	
Y		R1	*Mahonia pinnata ssp. insularis*	*** see ***	Berberis pinnata ssp. insularis	
PE		R1	*Malacothamnus fasciculatus var. nesioticus.*	Malvaceae	Santa Cruz Island bush-mallow	U.S.A. (CA).
PE		R1	*Malacothrix indecora*	Asteraceae	Santa Cruz Island malocothrix	U.S.A. (CA).
PE		R1	*Malacothrix squalida*	Asteraceae	Island malacothrix	U.S.A. (CA).
C	2	R1	*Melicope munroi*	Rutaceae	None	U.S.A. (HI).
PE		R1	*Melicope saint-johnii*	Rutaceae	Alani	U.S.A. (HI)
PE		R1	*Melicope zahlbruckneri*	Rutaceae	Alani	U.S.A. (HI).
PE		R1	*Mimulus shevockii*	Scrophulariaceae	Kelso Creek monkey-flower	U.S.A. (CA).
Y		R1	*Mimulus sp. nov. /ined. (Kern Co.)*	*** see ***	Mimulus shevockii	
PE		R1	*Monardella linoides ssp. viminea*	Lamiaceae	Willowy monardella	U.S.A. (CA).
PE		R1	*Myrsine juddii*	Myrsinaceae	Kolea	U.S.A. (HI).
PE		R1	*Myrsine linearifolia*	Myrsinaceae	None	U.S.A. (HI).
C	8	R5	*Narthecium americanum*	Liliaceae	None	U.S.A. (DE, NJ, NC, SC).
Y		R5	*Narthecium ossifragum var. americanum.*	*** see ***	Narthecium americanum	
PT		R1	*Navarretia fossalis*	Polemoniaceae	Spreading navarretia	U.S.A. (CA), Mexico (Baja California).
PE		R1	*Navarretia leucocephala* ssp. *pauciflora.*	Polemoniaceae	Few-flowered navarretia	U.S.A. (CA).
PE		R1	*Navarretia leucocephala* ssp. *plieantha.*	Polemoniaceae	Many-flowered navarretia	U.S.A. (CA).
Y		R1	*Navarretia pauciflora*	*** see ***	Navarretia leucocephala ssp. pauciflora.	
Y		R1	*Navarretia plieantha*	*** see ***	Navarretia leucocephala ssp. plieantha.	
PT		R1	*Navarretia setiloba*	Polemoniaceae	Piute Mountains navarretia	U.S.A. (CA).
Y		R2	*Neolloydia erectocentra var. acunensis.*	*** see ***	Echinomastus erectocentrus var. acunensis.	
PT		R1	*Neostapfia colusana*	Poaceae	Colusa grass	U.S.A. (CA).
Y		R1	*Neraudia cookii*	*** see ***	Neraudia ovata	
PE		R1	*Neraudia ovata*	Urticaceae	None	U.S.A. (HI).
C	1	R1	*Nesogenes rotensis*	Verbenaceae	None	U.S.A. (HI)
PT		R1	*Nolina interrata*	Liliaceae	Dehesa bear-grass	U.S.A. (CA), Mexico.
C	6	R1	*Opuntia whipplei var. multigeniculata*	Cactaceae	None	U.S.A. (NV).
Y		R1	*Orcuttia californica var. inequalis*	*** see ***	Orcuttia inequalis	
Y		R1	*Orcuttia californica var. viscida*	*** see ***	Orcuttia viscida	
Y		R1	*Orcuttia greenei*	*** see ***	Tuctoria greenei	
PE		R1	*Orcuttia inequalis*	Poaceae	San Joaquin orcutt grass	U.S.A. (CA).
PE		R1	*Orcuttia pilosa*	Poaceae	Hairy (=pilose) orcutt grass	U.S.A. (CA).
PT		R1	*Orcuttia tenuis*	Poaceae	Slender orcutt grass	U.S.A. (CA).
PE		R1	*Orcuttia viscida*	Poaceae	Sacramento orcutt grass	U.S.A. (CA).
Y		R1	*Orthocarpus campestris var. succulentus.*	*** see ***	Castilleja campestris ssp. suculenta	
Y		R1	*Orthocarpus succulentus*	*** see ***	Castilleja campestris ssp. succulentus.	
C	1	R1	*Osmoxylon mariannense*	Araliaceae	None	U.S.A. (HI)
PE		R1	*Panicum niihauense*	Poaceae	Lau ‘ehu	U.S.A. (HI)
C	11	R2	*Paronychia congesta*	Caryophyllaceae	Bushy whitlow-wort	U.S.A. (TX).
PE		R1	*Parvisedum leiocarpum*	Crassulaceae	Lake County stonecrop	U.S.A. (CA).
C	2	R2	*Pediocactus paradinei*	Cactaceae	Kaibab pincushion cactus	U.S.A. (AZ).
C	6	R2	*Pediocactus peeblesianus var. fickeiseniae.*	Cactaceae	Fickeisen pincushion cactus	U.S.A. (AZ).
PE		R6	*Pediocactus winkleri*	Cactaceae	Winkler cactus	U.S.A. (UT).
Y		R1	*Pelea munroi*	*** see ***	Melicope munroi	
Y		R1	*Pelea saint-johnii*	*** see ***	Melicope saint-johnii	
Y		R1	*Pelea zahlbruckneri*	*** see ***	Melicope zahlbruckneri	
Y		R6	*Penstemon albifluvis*	*** see ***	Penstemon scariosus var. albifluvis	
C	5	R6	*Penstemon debilis*	Scrophulariaceae	Parachute Beardtongue	U.S.A. (CO).
C	8	R6	*Penstemon grahamii*	Scrophulariaceae	Graham beardtongue	U.S.A. (CO, UT).
C	5	R6	*Penstemon scariosus var. albifluvis*	Scrophulariaceae	White River beardtongue	U.S.A. (CO, UT).
PE		R1	*Pentachaeta lyonii*	Asteraceae	Lyon’s pentachaeta	U.S.A. (CA).
Y		R1	*Phacelia divaricata var. insularis*	*** see ***	Phacelia insularis var. insularis	

Table 1—Proposed and Candidate Animals and Plants—Continued

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Priority					
PE		R1	*Phacelia insularis var. insularis*	Hydrophyllaceae	Island phacelia	U.S.A. (CA).
C	11	R6	*Phacelia submutica*	Hydrophyllaceae	DeBeque phacelia	U.S.A. (CO).
C	2	R1	*Phlox hirsuta*	Polemoniaceae	Yreka phlox	U.S.A. (CA).
Y		R1	*Phyllostegia brevidens var. longipes*	*** see ***	Phyllostegia warshaueri	
PE		R1	*Phyllostegia hirsuta*	Lamiaceae	None	U.S.A. (HI)
PE		R1	*Phyllostegia kaalaensis*	Lamiaceae	None	U.S.A. (HI)
PE		R1	*Phyllostegia knudsenii*	Lamiaceae	None	U.S.A. (HI)
Y		R1	*Phyllostegia macrophylla var. velutina.*	*** see ***	Phyllostegia velutina	
Y		R1	*Phyllostegia mollis var. lydgatei*	*** see ***	Phyllostegia parviflora	
PE		R1	*Phyllostegia parviflora*	Lamiaceae	None	U.S.A. (HI.)
Y		R1	*Phyllostegia parviflora var. canescens.*	*** see ***	Phyllostegia parviflora	
Y		R1	*Phyllostegia parviflora var. glabriuscula.*	*** see ***	Phyllostegia parviflora	
PE		R1	*Phyllostegia racemosa*	Lamiaceae	Kiponapona	U.S.A. (HI).
PE		R1	*Phyllostegia velutina*	Lamiaceae	None	U.S.A. (HI).
PE		R1	*Phyllostegia warshaueri*	Lamiaceae	None	U.S.A. (HI).
PE		R1	*Phyllostegia wawrana*	Lamiaceae	None	U.S.A., (HI)
PE		R1	*Piperia yadonii*	Orchidaceae	Yadon's piperia	U.S.A. (CA).
C	2	R1	*Plagiobothrys hirtus*	Boraginaceae	Popcornflower (no common name)	U.S.A. (OR).
Y		R1	*Plagiobothrys hirtus var. hirtus*	*** see ***	Plagiobothrys hirtus	
PE		R1	*Plagiobothrys strictus*	Boraginaceae	Calistoga allocarya	U.S.A. (CA).
PE		R1	*Platanthera holochila*	Orchidaceae	None	U.S.A. (HI).
PE		R1	*Pleomele hawaiiensis*	Liliaceae	Hala pepe	U.S.A. (HI).
PE		R1	*Poa atropurpurea*	Poaceae	San Bernadino bluegrass	U.S.A. (CA).
PE		R1	*Poa napensis*	Poaceae	Napa bluegrass	U.S.A. (CA).
PE		R1	*Potentilla hickmanii*	Rosaceae	Hickman's potentilla	U.S.A. (CA).
Y		R1	*Potentilla hickmanii var. uliginosa /ined..*	*** see ***	Potentilla hickmanii	
Y		R1	*Potentilla uliginosa*	*** see ***	Potentilla hickmanii	
PE		R1	*Pritchardia aylmer-robinsonii*	Arecaceae	Wahane (=Hawane or lo'ulu)	U.S.A. (HI).
PE		R1	*Pritchardia kaalae*	Arecaceae	Loulu	U.S.A. (HI)
Y		R1	*Pritchardia kaalae var. minima*	*** see ***	Pritchardia kaalae	
PE		R1	*Pritchardia napaliensis*	Arecaceae	None	U.S.A. (HI).
PE		R1	*Pritchardia remota*	Arecaceae	Lo'ulu	U.S.A. (HI).
PE		R1	*Pritchardia schattaueri*	Arecaceae	Loulu	U.S.A. (HI).
PE		R1	*Pritchardia viscosa*	Arecaceae	Loulu	U.S.A. (HI).
PE		R1	*Pseudobahia bahiifolia*	Asteraceae	Hartweg's golden sunburst,	U.S.A. (CA).
PE		R1	*Pseudobahia peirsonii*	Asteraceae	San Joaquin adobe sunburst	U.S.A. (CA).
PE		R2	*Puccinellia parishii*	Poaceae	Parish's alkali grass	U.S.A. (AZ, CA, NM).
Y		R1	*Cyanea (=Rollandia) humboldtiana*	*** see ***	Cyanea humboldtiana	
Y		R1	*Cyanea (=Rollandia) st-johnii*	*** see ***	Cyanea st-johnii	
C	2	R2	*Rumex orthoneurus*	Polygonaceae	Blumer's dock	U.S.A. (AZ).
PE		R1	*Sanicula purpurea*	Apiaceae	None	U.S.A. (HI.)
PE		R1	*Schiedea helleri*	Caryophyllaceae	None	U.S.A., (HI)
PE		R1	*Schiedea hookeri*	Caryophyllaceae	None	U.S.A. (HI).
PE		R1	*Schiedea kauaiensis*	Caryophyllaceae	None	U.S.A. (HI).
PE		R1	*Schiedea kealiae*	Caryophyllaceae	Ma'oli'oli	U.S.A. (HI)
PE		R1	*Schiedea membranacea*	Caryophyllaceae	None	U.S.A. (HI).
PE		R1	*Schiedea nuttallii*	Caryophyllaceae	None	U.S.A. (HI).
PE		R1	*Schiedea sarmentosa*	Caryophyllaceae	None	U.S.A. (HI).
PE		R1	*Schiedea stellarioides*	Caryophyllaceae	Laulihilihi (=Ma'oli'oli)	U.S.A. (HI)
PE		R1	*Schiedea verticillata*	Caryophyllaceae	None	U.S.A. (HI).
C	2	R6	*Sclerocactus (=Echinocactus, =Pediocactus) brevispinus (=glaucus).*	Cactaceae	Pariette cactus	U.S.A. (UT)
C	11	R1	*Sedum eastwoodiae*	Crassulaceae	Red Mountain stonecrop	U.S.A. (CA).
Y		R1	*Sedum laxum ssp. eastwoodiae*	*** see ***	Sedum eastwoodiae	
PT		R1	*Senecio layneae*	Asteraceae	Layne's butterweed	U.S.A. (CA).
PE		R1	*Sibara filifolia*	Brassicaceae	Santa Cruz Island rockcress	U.S.A. (CA).
PE		R1	*Sicyos alba*	Cucurbitaceae	'Anunu	U.S.A. (HI).
C	9	R1	*Sidalcea hickmanii ssp. parishii*	Malvaceae	Parish's sidalcea	U.S.A. (CA).
C	2	R1	*Sidalcea keckii*	Malvaceae	Keck's sidalcea	U.S.A. (CA).
C	3	R1	*Sidalcea oregana var. calva*	Malvaceae	None	U.S.A. (WA).
PE		R1	*Sidalcea oregana ssp. valida*	Malvaceae	Kenwood Marsh checkermallow	U.S.A. (CA).
C	12	R1	*Silene campanulata ssp. campanulata.*	Caryophyllaceae	Red Mountain campion	U.S.A. (CA).
PE		R2	*Spiranthes delitescens*	Orchidaceae	Canelo Hills ladies'-tresses	U.S.A. (AZ).

Table 1—Proposed and Candidate Animals and Plants—Continued

Status		Lead Region	Scientific name	Family	Common name	Historic range
Category	Priority					
C	2	R1	*Tabernaemontana rotensis*	Apocynaceae	None	U.S.A. (CM)
PE		R1	*Taraxacum californicum*	Asteraceae	California dandelion	U.S.A. (CA).
C	3	R1	*Thelypodium howellii var. spectabilis*	Brassicaceae	None	U.S.A. (OR).
C	3	R1	*Thlaspi californicum*	Brassicaceae	Kneeland Prairie penny-cress	U.S.A. (CA).
Y		R1	*Thlaspi montanum var. californicum*	*** see ***	Thlaspi californicum	
PE		R1	*Thysanocarpus conchuliferus*	Brassicaceae	Santa Cruz Island lacepod (=fringepod).	U.S.A. (CA).
PE		R1	*Trematolobelia singularis*	Campanulaceae	None	U.S.A. (HI).
PT		R1	*Trichostema austromontanum ssp. compactum.*	Lamiaceae	Hidden Lake bluecurls	U.S.A. (CA).
PE		R1	*Trifolium amoenum*	Fabaceae	Clover, showy Indian	U.S.A. (CA).
PE		R1	*Trifolium trichocalyx*	Fabaceae	Monterey (=Del Monte) clover	U.S.A. (CA).
PE		R1	*Tuctoria greenei*	Poaceae	Greene's orcutt grass	U.S.A. (CA).
PT		R1	*Verbena californica*	Verbenaceae	Red Hills vervain	U.S.A. (CA).
PT		R1	*Verbesina dissita*	Asteraceae	Big-leaved crownbeard	U.S.A. (CA), Mexico.
PE		R1	*Viola kauaiensis var. wahiawaensis*	Violaceae	Nani wai'ale'ale	U.S.A. (HI).
PE		R1	*Viola oahuensis*	Violaceae	None	U.S.A. (HI).
C	4	R6	*Yermo xanthocephalus*	Asteraceae	Desert yellowhead	U.S.A. (WY).
PE		R1	*Zanthoxylum dipetalum var. tomentosum.*	Rutaceae	A'e	U.S.A. (HI).
C	11	R2	*Zanthoxylum parvum*	Rutaceae	Shinner's tickle-tongue	U.S.A. (TX).
			CONIFERS AND CYCADS.			
PT		R1	*Cupressus goveniana ssp. goveniana.*	Cupressaceae	Gowen cypress	U.S.A. (CA).

Table 2—Former Candidates and Proposed Species Now Removed From Candidate Status

Status		Lead Region	Scientific name	Family	Common name	Historic range
Code	Expl.					
			MAMMALS.			
R	A	R4	*Eumops glaucinus floridanus*	Molossidae	Florida mastiff-bat	U.S.A. (FL).
			BIRDS.			
R	F	R8	*Artamus leucorhynchus pelewensis*	Artamidae	Wood-swallow, Palau white-breasted.	PW, FM (Caroline Islands).
R	F	R8	*Asio flammeus ponapensis*	Strigidae	Owl, Ponape short-eared	FM (Caroline Islands).
R	F	R8	*Rukia ruki*	Zosteropidae	White-eye, Truk greater	FM (Caroline Islands).
			AMPHIBIANS.			
E	L	R1	*Bufo microscaphus californicus*	Bufonidae	Toad, Arroyo southwestern	U.S.A. (CA), Mexico.
R	A	R1	*Bufo nelsoni*	Bufonidae	Amargosa toad	U.S.A. (NV).
R	A	R4	*Eleutherodactylus eneidae*	Leptodactylidae	Mottled coqui (Eneida's coqui)	U.S.A. (PR).
R	A	R4	*Eleutherodactylus karlschmidti*	Leptodactylidae	Web-footed coqui	U.S.A. (PR).
R	N	R4	*Rana areolata sevosa*	Ranidae	Dusky crawfish (=gopher) frog	U.S.A. (AL, FL, LA, MS).
			FISHES.			
R	A	R4	*Elassoma alabamae*	Centrarchidae	Spring pygmy sunfish	U.S.A. (AL).
E	L	R4	*Etheostoma etowahae*	Percidae	Darter, Etowah	U.S.A. (GA)
R	A	R1	*Lentipes concolor*	Gobiidae	O'opu alamo'o (goby)	U.S.A. (HI).
R	A	R6	*Lepidomeda mollispinis mollispinis*	Cyprinidae	Spinedace, Virgin	U.S.A. (AZ, NV, UT).
			CLAMS.			
E	L	R4	*Alasmidonta raveneliana*	Unionidae	Elktoe, Appalachian	U.S.A. (NC, TN)
			SNAILS.			
R	A	R2	*Pyrgulopsis (="Fontelicella") pecosensis* (Taylor, 1987).	Hydrobiidae	Pecos springsnail	U.S.A. (NM).
E	L	R1	*Helminthoglypta walkeriana*	Helminthoglyptida	Snail, Morro shoulderband (=Banded dune).	U.S.A. (CA)
			INSECTS.			
R	A	R1	*Aegialia concinna*	Scarabaeidae	Ciervo aegialian scarab (beetle)	U.S.A. (CA).
R	I	R1	*Coelus gracilis*	Tenebrionidae	San Joaquin dune beetle	U.S.A. (CA).
R	M	R1	*Icaricia icariodes* ssp.	Lycaenidae	Point Reyes blue (butterfly)	U.S.A. (CA).
E	L	R4	*Neonympha mitchellii francisci*	Nymphalidae	Butterfly, Saint Francis' satyr	U.S.A. (NC)
E	L	R3	*Somatochlora hineana*	Corduliidae	Dragonfly, Hine's (=Ohio) emerald	U.S.A. (IL, IN, OH, WI)

Table 2—Former Candidates and Proposed Species Now Removed From Candidate Status—Continued

Status		Lead Region	Scientific name	Family	Common name	Historic range
Code	Expl.					
			ARACHNIDS.			
E	L	R4	*Microhexura montivaga*	Dipluridae	Spider, spruce-fir moss	U.S.A. (NC, TN)
			CRUSTACEANS.			
R	A	R1	*Artemia monica*	Artemiidae	Mono Lake brine shrimp	U.S.A. (CA).
			FLOWERING PLANTS.			
R	A	R1	*Allium aaseae*	Liliaceae	Onion, Aase's	U.S.A. (ID).
R	A	R1	*Allium dictuon*	Liliaceae	Blue Mountain onion	U.S.A. (WA).
R	A	R1	*Allium hickmanii*	Liliaceae	Onion, Hickman's	U.S.A. (CA).
E	L	R2	*Ambrosia cheiranthifolia*	Asteraceae	South Texas ambrosia	U.S.A. (TX)
R	N	R1	*Amsinckia carinata*	Boraginaceae	None	U.S.A. (OR).
E	L	R4	*Arabis perstellata*	Brassicaceae	Rock-cress	U.S.A. (AL, KY, TN)
Y		R4	*Arabis perstellata var. ampla*	*** see ***	Arabis perstellata	
Y		R4	*Arabis perstellata var. perstellata*	*** see ***	Arabis perstellata	
R	A	R1	*Arabis rigidissima var. demota*	Brassicaceae	Rock-cress, Galena Creek (=Carson Range).	U.S.A. (NV).
T	L	R1	*Arctostaphylos morroensis*	Ericaceae	Manzanita, Morro	U.S.A. (CA)
R	I	R1	*Arctostaphylos rudis*	Ericaceae	Sand mesa (=shagbark) manzanita	U.S.A. (CA).
R	I	R1	*Artemisia campestris var. wormskioldii.*	Asteraceae	None	U.S.A. (OR, WA).
R	I	R1	*Aster jessicae*	Asteraceae	Aster, Jessica's	U.S.A. (ID, WA).
R	N	R2	*Aster puniceus* var. *scabricaulis*	Asteraceae	Aster, rough-stemmed	U.S.A. (TX).
Y		R2	*Aster scabricaulis*	*** see ***	Aster puniceus var. scabricaulis	
R	A	R1	*Astragalus agnicidus*	Fabaceae	Milk-vetch, Humboldt	U.S.A. (CA).
E	L	R1	*Astragalus albens*	Fabaceae	Cushenbury milk-vetch	U.S.A. (CA)
R	A	R1	*Astragalus australis var. olympicus*	Fabaceae	None	U.S.A. (WA).
R	A	R1	*Astragalus beatleyae*	Fabaceae	Milk-vetch, Beatley	U.S.A. (NV).
R	A	R1	*Astragalus columbianus*	Fabaceae	Columbia milk-vetch	U.S.A. (WA).
R	A	R1	*Astragalus mulfordiae*	Fabaceae	Mulford's milk-vetch	U.S.A. (ID, OR).
R	A	R1	*Astragalus nevinii*	Fabaceae	Milk-vetch, San Clemente Island	U.S.A. (CA).
E	L	R2	*Astrophytum (=Echinocactus) asterias.*	Cactaceae	Star cactus	U.S.A. (TX), Mexico
E	L	R4	*Auerodendron pauciflorum*	Rhamnaceae	None	U.S.A. (PR)
E	L	R2	*Ayenia limitaris*	Sterculiaceae	Texas ayenia	U.S.A. (TX), Mexico
R	A	R1	*Bloomeria humilis*	Liliaceae	Goldenstar, dwarf	U.S.A. (CA).
E	L	R1	*Bonamia menziesii*	Convolvulaceae	None	U.S.A. (HI)
Y		R1	*Brighamia citrina*	*** see ***	Brighamia insignis	
E	L	R1	*Brighamia insignis*	Campanulaceae	'Olulu	U.S.A. (HI)
R	A	R1	*Calochortus clavatus var. avius*	Liliaceae	Mariposa lily, Pleasant Valley	U.S.A. (CA).
R	A	R1	*Calochortus greenei*	Liliaceae	Greene's mariposa lily	U.S.A. (CA, OR).
R	I	R1	*Calochortus howellii*	Liliaceae	Howell's Mariposa lily	U.S.A. (OR).
R	A	R1	*Calochortus nitidus*	Liliaceae	None	U.S.A. (ID, WA).
T	L	R1	*Calochortus tiburonensis*	Liliaceae	Tiburon mariposa lily	U.S.A. (CA)
R	A	R1	*Calochortus westonii*	Liliaceae	Mariposa lily, Shirley Meadows	U.S.A. (CA).
E	L	R4	*Calyptranthes thomasiana*	Myrtaceae	None	U.S.A. (PR, VI) British VI
R	A	R1	*Cardamine pattersonii*	Brassicaceae	Saddle Mountain bittercress	U.S.A. (OR).
E	L	R1	*Castilleja affinis ssp. neglecta*	Scrophulariaceae	Tiburon paintbrush	U.S.A. (CA).
Y		R1	*Castilleja neglecta*	*** see ***	Castilleja affinis ssp. neglecta	
R	N	R1	*Castilleja salsuginosa*	Scrophulariaceae	Paintbrush, Monte Neva	U.S.A. (NV).
R	A	R1	*Caulanthus amplexicaulis var. barbarae.*	Brassicaceae	Jewelflower, Santa Barbara	U.S.A. (CA).
E	L	R1	*Ceanothus ferrisae*	Rhamnaceae	Coyote ceanothus (=Coyote Valley California-lilac).	U.S.A. (CA)
E	L	R1	*Chamaesyce (=Euphorbia) deppeana.*	Euphorbiaceae	'Akoko	U.S.A. (HI)
R	X	R1	*Chamaesyce remyi var. hanaleiensis.*	Euphorbiaceae	None	U.S.A. (HI).
E	L	R1	*Chorizanthe pungens* var. *hartwegiana.*	Polygonaceae	Ben Lomond spineflower	U.S.A. (CA)
T	L	R1	*Chorizanthe pungens* var. *pungens*	Polygonaceae	Monterey spineflower	U.S.A. (CA)
E	L	R1	*Chorizanthe robusta* (incl. vars. *robusta & hartwegii*).	Polygonaceae	Robust (incl. Scotts Valley) spineflower.	U.S.A. (CA)
E	L	R1	*Cirsium fontinale var. fontinale*	Asteraceae	Fountain thistle	U.S.A. (CA)
E	L	R1	*Cirsium fontinale var. obispoense*	Asteraceae	Thistle, Chorro Creek bog	U.S.A. (CA)
Y		R1	*Clarkia calientensis*	*** see ***	Clarkia temblorensis ssp. calientensis.	
E	L	R1	*Clarkia franciscana*	Onagraceae	Presidio clarkia	U.S.A. (CA)
E	L	R1	*Clarkia speciosa ssp. immaculata*	Onagraceae	Pismo clarkia	U.S.A. (CA)

Table 2—Former Candidates and Proposed Species Now Removed From Candidate Status—Continued

Status		Lead Region	Scientific name	Family	Common name	Historic range
Code	Expl.					
R	I	R1	*Clarkia temblorensis ssp. calientensis.*	Onagraceae	Clarkia, Caliente	U.S.A. (CA).
R	N	R1	*Claytonia lanceolata var. peirsonii*	Portulacaceae	Spring beauty, Peirson's	U.S.A. (CA).
E	L	R1	*Clermontia lindseyana*	Campanulaceae	'Oha wai	U.S.A. (HI)
E	L	R1	*Clermontia peleana*	Campanulaceae	'Oha wai	U.S.A. (HI)
E	L	R1	*Clermontia pyrularia*	Campanulaceae	'Oha wai	U.S.A. (HI)
R	A	R1	*Collomia rawsoniana*	Polemoniaceae	Trumpet, Rawson's flaming	U.S.A. (CA).
E	L	R1	*Colubrina oppositifolia*	Rhamnaceae	Kauila	U.S.A. (HI)
Y		R1	*Cordylanthus brunneus var. capillaris.*	*** see ***	Cordylanthus tenuis ssp. capillaris	
Y		R1	*Cordylanthus littoralis*	*** see ***	Cordylanthus rigidus ssp. littoralis	
R	A	R1	*Cordylanthus nidularius*	Scrophulariaceae	Bird's-beak, Mt. Diablo	U.S.A. (CA).
R	A	R1	*Cordylanthus rigidus ssp. littoralis*	Scrophulariaceae	Bird's-beak, seaside	U.S.A. (CA).
E	L	R1	*Cordylanthus tenuis ssp. capillaris*	Scrophulariaceae	Pennell's bird's-beak	U.S.A. (CA)
R	A	R2	*Coryphantha recurvata*	Cactaceae	Cactus, beehive, Santa Cruz	U.S.A. (AZ), Mexico.
E	L	R2	*Coryphantha scheeri* var. *robustispina.*	Cactaceae	Pima pineapple cactus	U.S.A. (AZ), Mexico (Sonora)
R	I	R1	*Cryptantha traskiae*	Boraginaceae	Trask's cryptantha	U.S.A. (CA).
E	L	R1	*Cyanea asarifolia*	Campanulaceae	Haha	U.S.A. (HI)
Y		R1	*Cyanea carlsonii*	*** see ***	Cyanea hamatiflora ssp. carlsonii	
E	L	R1	*Cyanea copelandii* ssp. *copelandii*	Campanulaceae	Haha	U.S.A. (HI)
Y		R1	*Cyanea grimesiana var. hirsutifolia*	*** see ***	Cyanea grimesiana ssp. obatae	
E	L	R1	*Cyanea grimesiana* ssp. *obatae*	Campanulaceae	Haha	U.S.A. (HI)
E	L	R1	*Cyanea hamatiflora* ssp. *carlsonii*	Campanulaceae	Haha	U.S.A. (HI)
Y		R1	*Cyanea lindseyana*	*** see ***	Clermontia lindseyana	
E	L	R1	*Cyanea shipmannii*	Campanulaceae	Haha	U.S.A. (HI)
E	L	R1	*Cyanea stictophylla*	Campanulaceae	Haha	U.S.A. (HI)
E	L	R1	*Cyanea truncata*	Campanulaceae	Haha	U.S.A. (HI)
R	A	R1	*Cymopterus deserticola*	Apiaceae	Desert cymopterus	U.S.A. (CA).
E	L	R1	*Cyrtandra crenata*	Gesneriaceae	Ha'iwale	U.S.A. (HI)
E	L	R1	*Cyrtandra giffardii*	Gesneriaceae	Ha'iwale	U.S.A. (HI)
T	L	R1	*Cyrtandra limahuliensis*	Gesneriaceae	Ha'iwale	U.S.A. (HI)
E	L	R1	*Cyrtandra polyantha*	Gesneriaceae	Ha'iwale	U.S.A. (HI)
E	L	R1	*Cyrtandra tintinnabula*	Gesneriaceae	Ha'iwale	U.S.A. (HI)
E	L	R1	*Delissea rhytidosperma*	Campanulaceae	None	U.S.A. (HI)
R	I	R1	*Delphinium pavonaceum*	Ranunculaceae	Peacock larkspur	U.S.A. (OR).
R	A	R1	*Delphinium variegatum ssp. thornei*	Ranunculaceae	Larkspur, Thorne's royal	U.S.A. (CA).
R	A	R1	*Delphinium viridescens*	Ranunculaceae	Larkspur, Wenatchee	U.S.A. (WA).
R	I	R1	*Dithyrea maritima*	Brassicaceae	Beach spectacle-pod	U.S.A. (CA), Mexico.
R	I	R1	*Draba trichocarpa*	Brassicaceae	Whitlow-grass, Stanley	U.S.A. (ID).
Y		R1	*Drypetes phyllanthoides*	*** see ***	Flueggea neowawraea	
R	A	R1	*Dudleya cymosa ssp. costifolia*	Crassulaceae	Liveforever, Pierpoint Springs (Tulare Co.).	U.S.A. (CA).
E	L	R1	*Dudleya setchellii*	Crassulaceae	Santa Clara Valley dudleya	U.S.A. (CA)
R	A	R1	*Dudleya viscida*	Crassulaceae	Liveforever, sticky-leaved	U.S.A. (CA).
Y		R2	*Echinocactus asterias*	*** see ***	Astrophytum asterias	
E	L	R1	*Eremalche kernensis (=E. parryi* ssp. *k.).*	Malvaceae	Kern mallow	U.S.A. (CA)
Y		R1	*Eremalche parryi ssp. kernensis*	*** see ***	Eremalche kernensis	
T	L	R1	*Erigeron parishii*	Asteraceae	Parish's daisy	U.S.A. (CA)
E	L	R1	*Eriodictyon altissimum*	Hydrophyllaceae	Indian Knob mountain balm	U.S.A. (CA)
R	A	R6	*Eriogonum brandegei*	Polygonaceae	Wild-buckwheat, Brandegee	U.S.A. (CO).
R	A	R1	*Eriogonum breedlovei var. breedlovei.*	Polygonaceae	Buckwheat, Piute	U.S.A. (CA).
R	A	R1	*Eriogonum chrysops*	Polygonaceae	Buckwheat, golden	U.S.A. (OR).
R	A	R1	*Eriogonum ericifolium var. thornei*	Polygonaceae	Buckwheat, Thorne's	U.S.A. (CA).
E	L	R1	*Eriogonum ovalifolium* var. *vineum*	Polygonaceae	Cushenbury buckwheat	U.S.A. (CA)
R	I	R1	*Eriophyllum lanatum var. hallii*	Asteraceae	Ft. Tejon wooly-sunflower	U.S.A. (CA).
E	L	R1	*Eriophyllum latilobum*	Asteraceae	San Mateo woolly sunflower	U.S.A. (CA)
R	I	R1	*Eryngium aristulatum var. hooveri*	Apiaceae	Button-celery, Hoover's	U.S.A. (CA).
E	L	R1	*Erysimum teretifolium*	Brassicaceae	Ben Lomond wallflower	U.S.A. (CA)
R	I	R4	*Erythrina eggersii*	Fabaceae	Pinon espinoso or cockspur	U.S.A. (PR, VI).
E	L	R4	*Eugenia haematocarpa*	Myrtaceae	Uvillo	U.S.A. (PR)
E	L	R1	*Eugenia koolauensis*	Myrtaceae	Nioi	U.S.A. (HI)
Y		R1	*Eugenia molokaiana*	*** see ***	Eugenia koolauensis	
Y		R1	*Euphorbia deppeana*	*** see ***	Chamaesyce deppeana	
E	L	R1	*Exocarpos luteolus*	Santalaceae	Heau	U.S.A. (HI)
E	L	R1	*Flueggea neowawraea*	Euphorbiaceae	Mehamehame	U.S.A. (HI)
R	X	R4	*Franklinia alatamaha*	Theaceae	Franklin tree	U.S.A. (GA).
T	L	R4	*Gesneria pauciflora*	Gesneriaceae	None	U.S.A. (PR)

Table 2—Former Candidates and Proposed Species Now Removed From Candidate Status—Continued

Status		Lead Region	Scientific name	Family	Common name	Historic range
Code	Expl.					
R	A	R1	*Gilia maculata*	Polemoniaceae	Gilia, Little San Bernardino Mountains.	U.S.A. (CA).
Y		R1	*Gouania bishopii*	*** see ***	Gouania vitifolia	
Y		R1	*Gouania hawaiiensis*	*** see ***	Gouania vitifolia	
E	L	R1	*Gouania vitifolia*	Rhamnaceae	None	U.S.A. (HI)
R	A	R1	*Hackelia cronquistii*	Boraginaceae	Stickseed, Cronquist's	U.S.A. (OR).
R	N	R1	*Hackelia venusta*	Boraginaceae	Stickseed, showy	U.S.A. (WA).
R	A	R1	*Haplopappus insecticruris*	Asteraceae	None	U.S.A. (ID).
R	A	R1	*Haplopappus radiatus*	Asteraceae	Goldenweed,	U.S.A. (ID, OR).
R	I	R1	*Hastingsia bracteosa*	Liliaceae	None	U.S.A. (OR).
E	L	R1	*Hedyotis cookiana*	Rubiaceae	'Awiwi	U.S.A. (HI)
R	A	R1	*Hemizonia arida*	Asteraceae	Tarweed, Red Rock	U.S.A. (CA).
R	A	R1	*Hemizonia parryi ssp. congdonii*	Asteraceae	Pappose spikeweed	U.S.A. (CA).
T	L	R1	*Hesperolinon congestum*	Linaceae	Marin dwarf-flax	U.S.A. (CA)
R	A	R1	*Hesperolinon didymocarpum*	Linaceae	Dwarf-flax, Lake County	U.S.A. (CA).
E	L	R1	*Hesperomannia arborescens*	Asteraceae	None	U.S.A. (HI)
R	X	R1	*Hibiscadelphus crucibracteatus*	Malvaceae	None	U.S.A. (HI).
E	L	R1	*Hibiscus brackenridgei*	Malvaceae	Ma'o hau hele	U.S.A. (HI)
E	L	R1	*Hibiscus clayi*	Malvaceae	Clay's hibiscus	U.S.A. (HI)
Y		R1	*Hibiscus newhousei*	*** see ***	Hibiscus clayi	
T	L	R6	*Howellia aquatilis*	Campanulaceae	Water howellia	U.S.A. (CA, ID, MT, OR, WA)
E	L	R2	*Ipomopsis sancti-spiritus*	Polemoniaceae	Holy Ghost ipomopsis	U.S.A. (NM)
E	L	R1	*Ischaemum byrone*	Poaceae	Hilo ischaemum	U.S.A. (HI)
Y		R1	*Isodendrion hawaiiense*	*** see ***	Isodendrion pyrifolium	
Y		R1	*Isodendrion hillebrandii*	*** see ***	Isodendrion pyrifolium	
Y		R1	*Isodendrion lanaiense*	*** see ***	Isodendrion pyrifolium	
Y		R1	*Isodendrion molokaiense*	*** see ***	Isodendrion pyrifolium	
E	L	R1	*Isodendrion pyrifolium*	Violaceae	Wahine noho kula	U.S.A. (HI)
Y		R1	*Isodendrion remyi*	*** see ***	Isodendrion pyrifolium	
R	A	R1	*Ivesia aperta var. canina*	Rosaceae	Ivesia, Dog Valley	U.S.A. (CA).
E	L	R4	*Jacquemontia reclinata*	Convolvulaceae	Beach jacquemontia	U.S.A. (FL)
R	I	R1	*Juncus leiospermus var. ahartii*	Juncaceae	Rush, Ahart's	U.S.A. (CA).
R	N	R1	*Lavatera assurgentiflora*	Malvaceae	Island tree mallow (=Malva rosa)	U.S.A. (CA).
Y		R1	*Lavatera assurgentiflora* ssp. *assurgentiflora.*	*** see ***	Lavatera assurgentiflora	
Y		R1	*Lavatera assurgentiflora ssp. glabra*	*** see ***	Lavatera assurgentiflora	
R	A	R1	*Layia leucopappa*	Asteraceae	Layia, Comanche	U.S.A. (CA).
E	L	R1	*Lesquerella kingii* ssp. *bernardina*	Brassicaceae	San Bernardino Mountains bladderpod.	U.S.A. (CA)
E	L	R6	*Lesquerella tumulosa*	Brassicaceae	Kodachrome bladderpod	U.S.A. (UT)
R	I	R1	*Lilium maritimum*	Liliaceae	Lily, coast	U.S.A. (CA).
E	L	R1	*Lilium occidentale*	Liliaceae	Western lily	U.S.A. (OR, CA)
R	A	R1	*Limnanthes floccosa ssp. pumila*	Limnanthaceae	Meadowfoam, dwarf	U.S.A. (OR).
Y		R1	*Lipochaeta deltoidea*	*** see ***	Lipochaeta fauriei	
Y		R1	*Lipochaeta exigua*	*** see ***	Lipochaeta micrantha	
E	L	R1	*Lipochaeta fauriei*	Asteraceae	Nehe	U.S.A. (HI)
E	L	R1	*Lipochaeta micrantha*	Asteraceae	Nehe	U.S.A. (HI)
E	L	R1	*Lipochaeta waimeaensis*	Asteraceae	Nehe	U.S.A. (HI)
E	L	R1	*Lobelia oahuensis*	Campanulaceae	None	U.S.A. (HI)
R	A	R1	*Lomatium erythrocarpum*	Apiaceae	Desert-parsley, red-fruited	U.S.A. (OR).
R	A	R1	*Lomatium greenmanii*	Apiaceae	Desert-parsley, Greenman's	U.S.A. (OR).
R	A	R1	*Lomatium shevockii*	Apiaceae	Owens Peak lomatium	U.S.A. (CA).
R	A	R1	*Lotus argophyllus var. adsurgens*	Fabaceae	San Clemente Island silver hosackia.	U.S.A. (CA).
R	I	R1	*Luina serpentina*	Asteraceae	None	U.S.A. (OR).
R	N	R4	*Lunania buchii*	Flacourtiaceae	None	U.S.A. (PR), Hispanola.
R	A	R1	*Lupinus aridus ssp. ashlandensis*	Fabaceae	Lupine, Ashland	U.S.A. (OR).
E	L	R1	*Lysimachia filifolia*	Primulaceae	None	U.S.A. (HI)
R	A	R1	*Malacothamnus abbottii*	Malvaceae	Bush-mallow, Abbott's	U.S.A. (CA).
E	L	R1	*Mariscus fauriei*	Cyperaceae	None	U.S.A. (HI)
E	L	R1	*Mariscus pennatiformis*	Cyperaceae	None	U.S.A. (HI)
E	L	R1	*Melicope adscendens*	Rutaceae	Alani	U.S.A. (HI)
E	L	R1	*Melicope balloui*	Rutaceae	Alani	U.S.A. (HI)
E	L	R1	*Melicope haupuensis*	Rutaceae	Alani	U.S.A. (HI)
E	L	R1	*Melicope knudsenii*	Rutaceae	Alani	U.S.A. (HI)
E	L	R1	*Melicope (=Pelea) lydgatei*	Rutaceae	Alani	U.S.A. (HI)
E	L	R1	*Melicope ovalis*	Rutaceae	Alani	U.S.A. (HI)
E	L	R1	*Melicope pallida*	Rutaceae	Alani	U.S.A. (HI)
E	L	R1	*Melicope quadrangularis*	Rutaceae	Alani	U.S.A. (HI)

Table 2—Former Candidates and Proposed Species Now Removed From Candidate Status—Continued

Status		Lead Region	Scientific name	Family	Common name	Historic range
Code	Expl.					
R	A	R1	*Mimulus mohavensis*	Scrophulariaceae	Monkey-flower, Mojave	U.S.A. (CA).
E	L	R4	*Mitracarpus maxwelliae*	Rubiaceae	None	U.S.A. (PR)
E	L	R1	*Munroidendron racemosum*	Araliaceae	None	U.S.A. (HI)
E	L	R4	*Myrcia paganii*	Myrtaceae	None	U.S.A. (PR)
Y		R1	*Neowawraea phyllanthoides*	*** see ***	Flueggea neowawraea	
Y		R2	*Nephropetalum pringlei*	*** see ***	Ayenia limitaris	
Y		R1	*Neraudia kahoolawensis*	*** see ***	Neraudia sericea	
E	L	R1	*Neraudia sericea*	Urticaceae	None	U.S.A. (HI)
E	L	R1	*Nothocestrum breviflorum*	Solanaceae	‘Aiea	U.S.A. (HI)
E	L	R1	*Nothocestrum peltatum*	Solanaceae	‘Aiea	U.S.A. (HI)
E	L	R1	*Ochrosia kilaueaensis*	Apocynaceae	Holei	U.S.A. (HI)
R	A	R1	*Oenothera psammophila*	Onagraceae	Evening-primrose,	U.S.A. (ID).
R	A	R1	*Oenothera wolfii*	Onagraceae	Evening-primrose, Wolf’s	U.S.A. (CA, OR).
R	A	R1	*Orobanche parishii ssp. brachyloba*	Orobanchaceae	Broomrape, short-lobed	U.S.A. (CA).
E	L	R1	*Oxytheca parishii* var. *goodmaniana*	Polygonaceae	Cushenbury oxytheca	U.S.A. (CA)
Y		R1	*Pelea balloui*	*** see ***	Melicope balloui	
Y		R1	*Pelea descendens*	*** see ***	Melicope lydgatei	
Y		R1	*Pelea haupuensis*	*** see ***	Melicope haupuensis	
Y		R1	*Pelea knudsenii*	*** see ***	Melicope knudsenii	
Y		R1	*Pelea leveillei*	*** see ***	Melicope pallida	
Y		R1	*Pelea lydgatei*	*** see ***	Melicope lydgatei	
Y		R1	*Pelea multiflora*	*** see ***	Melicope knudsenii	
Y		R1	*Pelea ovalis*	*** see ***	Melicope ovalis	
Y		R1	*Pelea pallida*	*** see ***	Melicope pallida	
Y		R1	*Pelea quadrangularis*	*** see ***	Melicope quadrangularis	
Y		R1	*Pelea tomentosa*	*** see ***	Melicope knudsenii	
R	A	R2	*Penstemon discolor*	Scrophulariaceae	Beardtongue, Catalina	U.S.A. (AZ).
E	L	R1	*Pentachaeta bellidiflora*	Asteraceae	White-rayed pentachaeta	U.S.A. (CA)
R	A	R1	*Pentachaeta exilis ssp. aeolica*	Asteraceae	Pentachaeta, slender	U.S.A. (CA).
R	I	R1	*Petrophytum cinerascens*	Rosaceae	Rockmat, chelan	U.S.A. (WA).
Y		R1	*Peucedanum kauaiense*	*** see ***	Peucedanum sandwicense	
T	L	R1	*Peucedanum sandwicense*	Apiaceae	Makou	U.S.A. (HI)
R	A	R1	*Phlox idahonis*	Polemoniaceae	Phlox, Clearwater	U.S.A. (ID).
E	L	R1	*Phyllostegia waimeae*	Lamiaceae	None	U.S.A. (HI)
E	L	R1	*Plantago hawaiensis*	Plantaginaceae	Laukahi kuahiwi	U.S.A. (HI)
E	L	R1	*Plantago princeps*	Plantaginaceae	Laukahi kuahiwi	U.S.A. (HI)
Y		R1	*Plantago princeps var. acaulis*	*** see ***	Plantago princeps	
Y		R1	*Plantago princeps var. denticulata*	*** see ***	Plantago princeps	
Y		R1	*Plantago princeps var. elata*	*** see ***	Plantago princeps	
Y		R1	*Plantago princeps var. laxifolia*	*** see ***	Plantago princeps	
Y		R1	*Plantago princeps var. queleniana*	*** see ***	Plantago princeps	
E	L	R4	*Pleodendron macranthum*	Canellaceae	Chupacallos (=Chupagallo)	U.S.A. (PR)
R	A	R1	*Pleuropogon oregonus*	Poaceae	Semaphore grass, Oregon	U.S.A. (OR).
E	L	R1	*Poa mannii*	Poaceae	Mann’s bluegrass	U.S.A. (HI)
R	A	R1	*Polemonium pectinatum*	Polemoniaceae	None	U.S.A. (WA).
R	A	R1	*Polyctenium williamsiae*	Brassicaceae	Combleaf	U.S.A. (NV).
E	L	R1	*Portulaca sclerocarpa*	Portulacaceae	Po‘e	U.S.A. (HI)
R	A	R1	*Potentilla basaltica*	Rosaceae	Cinquefoil, Soldier Meadows	U.S.A. (NV).
E	L	R1	*Pritchardia affinis*	Arecaceae	Loulu	U.S.A. (HI)
E	L	R1	*Pteralyxia kauaiensis*	Apocynaceae	Kaulu	U.S.A. (HI)
R	A	R1	*Puccinellia howellii*	Poaceae	Alkali grass, Howell’s	U.S.A. (CA).
R	I	R1	*Ranunculus reconditus*	Ranunculaceae	None	U.S.A. (OR, WA).
E	L	R1	*Rollandia crispa*	Campanulaceae	None	U.S.A. (HI)
R	A	R1	*Rorippa subumbellata*	Brassicaceae	Yellow-cress, Tahoe	U.S.A. (CA, NV).
R	I	R1	*Rubus nigerrimus*	Rosaceae	None	U.S.A. (WA).
E	L	R1	*Schiedea spergulina* var. *leiopoda*	Caryophyllaceae	None	U.S.A. (HI)
T	L	R1	*Schiedea spergulina* var. *spergulina*	Caryophyllaceae	None	U.S.A. (HI)
Y		R1	*Schizostege lidgatei*	*** see ***	Pteris lidgatei	
R	A	R2	*Scrophularia macrantha*	Scrophulariaceae	Figwort,	U.S.A. (NM).
R	A	R1	*Senecio ertterae*	Asteraceae	Ragwort, Ertter’s	U.S.A. (OR).
R	A	R2	*Senecio huachucanus*	Asteraceae	Groundsel, Huachuca	U.S.A. (AZ), Mexico.
Y		R1	*Sesbania arborea*	*** see ***	Sesbania tomentosa	
Y		R1	*Sesbania hawaiiensis*	*** see ***	Sesbania tomentosa	
Y		R1	*Sesbania hobdyi*	*** see ***	Sesbania tomentosa	
Y		R1	*Sesbania molokaiensis*	*** see ***	Sesbania tomentosa	
E	L	R1	*Sesbania tomentosa*	Fabaceae	‘Ohai	U.S.A. (HI)
Y		R1	*Sesbania tomentosa var. molokaiensis.*	*** see ***	Sesbania tomentosa	
R	A	R1	*Sidalcea covillei*	Malvaceae	Checkermallow, Owens Valley	U.S.A. (CA).
R	A	R1	*Sidalcea stipularis*	Malvaceae	Checkerbloom, Scadden Flat	U.S.A. (CA).

Table 2—Former Candidates and Proposed Species Now Removed From Candidate Status—Continued

Status		Lead Region	Scientific name	Family	Common name	Historic range
Code	Expl.					
T	L	R1	*Silene hawaiiensis*	Caryophyllaceae	None	U.S.A. (HI)
Y		R1	*Solanum haleakalaense*	*** see ***	Solanum incompletum	
Y		R1	*Solanum hillebrandii*	*** see ***	Solanum sandwicense	
E	L	R1	*Solanum incompletum*	Solanaceae	Popolo ku mai	U.S.A. (HI)
Y		R1	*Solanum kauaiense*	*** see ***	Solanum sandwicense	
E	L	R1	*Solanum sandwicense*	Solanaceae	'Aiakeakua, popolo	U.S.A. (HI)
E	L	R1	*Spermolepis hawaiiensis*	Apiaceae	None	U.S.A. (HI)
R	I	R1	*Sphaeromeria compacta*	Asteraceae	Tansy,	U.S.A. (NV).
E	L	R1	*Streptanthus albidus ssp. albidus*	Brassicaceae	Metcalf Canyon jewelflower	U.S.A. (CA)
R	N	R1	*Streptanthus albidus ssp. peramoenus.*	Brassicaceae	Jewelflower, most beautiful (=uncommon).	U.S.A. (CA).
R	I	R1	*Streptanthus brachiatus ssp. brachiatus.*	Brassicaceae	Streptanthus, Contact Mine	U.S.A. (CA).
R	I	R1	*Streptanthus brachiatus ssp. hoffmanii.*	Brassicaceae	Jewelflower, Freed's	U.S.A. (CA).
R	I	R1	*Streptanthus morrisonii ssp. elatus*	Brassicaceae	Jewelflower, Three Peaks	U.S.A. (CA).
R	I	R1	*Streptanthus morrisonii ssp. hirtiflorus.*	Brassicaceae	Jewelflower, Dorr's Cabin	U.S.A. (CA).
E	L	R1	*Streptanthus niger*	Brassicaceae	Tiburon jewelflower	U.S.A. (CA)
E	L	R1	*Suaeda californica*	Chenopodiaceae	Seablite, California	U.S.A. (CA)
R	A	R1	*Synthyris ranunculina*	Scrophulariaceae	Kittentails,	U.S.A. (NV).
R	N	R1	*Trifolium polyodon*	Fabaceae	Clover, Pacific Grove	U.S.A. (CA).
R	I	R1	*Trifolium thompsonii*	Fabaceae	Clover, Thompson's	U.S.A. (WA).
Y		R1	*Urostachys nutans*	*** see ***	Lycopodium nutans	
			CONIFERS AND CYCADS.			
R	N	R1	*Cupressus stephensonii*	Cupressaceae	Cypress, Cuyamaca	U.S.A. (CA).
			FERNS AND ALLIES.			
E	L	R1	*Adenophorus periens*	Grammitidaceae	Pendant kihi fern	U.S.A. (HI)
E	L	R1	*Asplenium fragile* var. *insulare*	Aspleniaceae	None	U.S.A. (HI)
E	L	R1	*Ctenitis squamigera*	Aspleniaceae	Pauoa	U.S.A. (HI)
E	L	R1	*Diellia erecta*	Aspleniaceae	Asplenium-leaved diellia	U.S.A. (HI)
E	L	R1	*Diellia pallida*	Aspleniaceae	None	U.S.A. (HI)
E	L	R1	*Diellia unisora*	Aspleniaceae	None	U.S.A. (HI)
E	L	R1	*Diplazium molokaiense*	Aspleniaceae	None	U.S.A. (HI)
E	L	R1	*Lycopodium nutans*	Lycopodiaceae	Wawae'iole	U.S.A. (HI)
R	N	R1	*Ophioglossum concinnum*	Ophioglossaceae	Adder's-tongue,	U.S.A. (HI).
E	L	R1	*Pteris lidgatei*	Adiantaceae	None	U.S.A. (HI)
			LICHENS.			
E	L	R4	*Gymnoderma lineare*	Cladoniaceae	Lichen, rock gnome	U.S.A. (NC, TN)

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Part IV

Office of Management and Budget

Office of Federal Procurement Policy

48 CFR Part 9903

Revisions to the Cost Accounting Standards Board Disclosure Statement Form; Final Rule

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Part 9903

Cost Accounting Standards Board; Revisions to the Cost Accounting Standards Board Disclosure Statement Form (CASB DS–1)

AGENCY: Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

ACTION: Final rule.

SUMMARY: The Office of Federal Procurement Policy, Cost Accounting Standards Board (CASB), is revising its Disclosure Statement Form (CASB DS–1). Section 26(g)(1) of the Office of Federal Procurement Policy Act, 41 U.S.C. 422(g)(1), requires that the Board, when promulgating any new or revised Cost Accounting Standard, publish a final rule. This final rule incorporates an updated and revised CASB Disclosure Statement developed by the Board.

EFFECTIVE DATE: February 28, 1996.

FOR FURTHER INFORMATION CONTACT: Rein Abel, Director of Research, Cost Accounting Standards Board (telephone: 202–395–3254).

SUPPLEMENTARY INFORMATION:

A. Regulatory Process

The CASB's rules, regulations and Standards are codified at 48 CFR Chapter 99. Section 26(g)(1) of the Office of Federal Procurement Policy Act, 41 U.S.C. 422(g)(1), requires that the Board, prior to the establishment of any new or revised CAS, complete a prescribed rulemaking process. The process generally consists of the following four steps:

1. Consult with interested persons concerning the advantages, disadvantages and improvements anticipated in the pricing and administration of Government contracts as a result of the adoption of a proposed Standard.
2. Promulgate an Advance Notice of Proposed Rulemaking (ANPRM).
3. Promulgate a Notice of Proposed Rulemaking (NPRM).
4. Promulgate a final rule.

This promulgation completes the four step process.

B. Background

Prior Promulgations

The original Disclosure Statement Form (CASB DS–1) was developed and promulgated in the early 1970s. No revisions to the document were made until the Board was reestablished in 1990. In 1992, some minor revisions were made. 57 FR 14148, 14159 (April 17, 1992). Subsequently, a project was initiated to revise and update the Disclosure Statement (CASB DS–1).

On April 2, 1993, a Staff Discussion Paper incorporating a revised Disclosure Statement was distributed to certain interested parties who generally possessed actual field experience in submitting and auditing these Statements. On the basis of the comments received in response to this Staff Discussion Paper, an Advance Notice of Proposed Rulemaking (ANPRM) was developed and published in the Federal Register on April 4, 1994 (59 FR 15695).

The majority of the comments received in response to the ANPRM were generally supportive of the proposed approach, but at the same time, numerous revisions were suggested that were intended to improve and streamline the document. Many of these suggested revisions were incorporated in the Notice of Proposed Rulemaking (NPRM) that was published in the Federal Register on November 29, 1994 (59 FR 60948).

Public Comments

Nine sets of public comments were received in response to the NPRM from government contractors, industry associations and Federal agencies.

Most commenters acknowledged that the NPRM version of the DS–1 was a significant improvement as compared with the earlier versions of the Disclosure Statement. Nevertheless, numerous additional revisions were suggested by commenters in order to further simplify and streamline the DS–1. Of particular concern to several commenters was the amount and type of information needed to respond adequately to questions in Part VII of the Statement.

In general, the Board has tried to be responsive to the suggestions made by commenters. In particular, a careful reevaluation of Part VII has been undertaken. In reevaluating this Part, the instructions have been clarified to make clear that only relevant cost accounting practices and applicable identifying data need be disclosed. Therefore, numeric data representing accounting estimates is not required to be submitted. Also, in most sections of Part VII, the substantive questions have been limited to items that cover only 80-percent of the relevant cost groupings.

The commenters overall concerns and suggestions are addressed in greater detail under Section E., Public Comments.

The Board and the CASB staff express their appreciation for the constructive suggestions and criticisms provided by the commenters with regard to the content of the revised Disclosure Statement. Many of the commenters' suggested improvements have been incorporated into the final rule being promulgated today.

Benefits

After consideration of the public comments received, the Board believes that the revised Disclosure Statement, as set forth in this final rule, will improve the cost accounting practices followed by contractors when estimating, accumulating and reporting costs deemed allocable to Federal contracts. Adequate disclosure of cost accounting practices is essential in order to ensure consistency in cost measurement as costs are first estimated and then accumulated and reported. A Disclosure Statement that has not been updated for some two decades clearly cannot adequately reflect currently prevailing cost accounting practices and cost elements. Therefore, in order to ensure that the policies and Standards promulgated by the Board are implemented in an economical and effective manner, a revised and updated Disclosure Statement becomes essential. In addition, the Board has previously expressed the view that an updated Disclosure Statement should facilitate interaction between contractors and Government representatives when dealing with contract costing matters.

The introduction of the revised statement should not impose any new burden on contractors as it merely replaces an existing form which requires periodic updating of disclosed practices.

To further reduce the possibility of increased costs, the extended dates for submission of the new Disclosure Statement are designed to provide an opportunity to delay submission until such time as contractors would most likely have to file an updated disclosure form regardless of whether a new Disclosure Statement is introduced or not.

Summary of Amendments

The primary purpose of this revision of the Disclosure Statement is to bring it up to date and to improve it in light of two decades of field experience that the government procurement community has had with this document. The basic characteristics of the Disclosure Statement have not been changed. However, a multitude of specific changes are incorporated in the revised Statement. It would be impractical to list here all the specific

changes. However, most of these changes can be summarized as follows:

1. The current Disclosure Statement specifies that Parts I through VII be prepared at the segment or business unit level, while Part VIII should be prepared at the corporate or group headquarters level. This revised Statement provides that although Parts V, VI and VII still have to be submitted by segments, they may be completed either at the segment or headquarters level depending on where the applicable practices or procedures are established or where the cost is actually incurred.

2. In general, various legal references have been updated.

3. As the original Disclosure Statement was in essence prepared before any Cost Accounting Standards were issued, the revised format includes references to subsequently issued Standards where appropriate. In this context, some cost accounting practices described in the original Disclosure Statement may not be in compliance with the relevant provisions of a Cost Accounting Standard. The purpose of the Disclosure Statement is not to elicit noncompliant answers, and therefore, any references to potentially non-compliant practices have been eliminated.

4. Requests for certain statistical data have been eliminated as this information is no longer used.

5. Certain new topical areas have been added to the Disclosure Statement. These cover items that have become important from a cost measurement perspective over the last two decades. The topical areas include cost-of-money, post-retirement health benefits and employee stock ownership plans. Most of these new topical areas are incorporated in a significantly revised Part VII.

C. Paperwork Reduction Act

The information collection aspects of this rule have been approved by the Office of Management and Budget, and assigned Control Number 0348–0051.

D. Executive Order 12866 and the Regulatory Flexibility Act

The economic impact of this final rule on contractors and subcontractors is expected to be minor. As a result, the Board has determined that this final rule does not result in the promulgation of a ''major rule'' under the provisions of Executive Order 12866, and that a regulatory impact analysis will not be required. Furthermore, this final rule does not have a significant effect on a substantial number of small entities because small businesses are exempt from the application of the Cost Accounting Standards. Therefore, this rule does not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

E. Public Comments

This final rule is based upon the NPRM published in the Federal Register on November 29, 1994 (59 FR 60948), wherein public comments were invited. Nine sets of comments were received from government contractors, industry associations and Federal agencies. The more significant comments received, and the Board's actions taken in response thereto, are summarized below. Many other comments that were more of an editorial nature have been incorporated in the document where appropriate.

Comment: Two commenters suggested that compliant as well as non-compliant cost accounting practices should be described in the Disclosure Statement.

Response: The Board agrees that the actual cost accounting practices being followed must be described. However, where the Disclosure Statement provides a list of alternative practices, only compliant alternatives will be listed. If the contractor's practice is not one of the listed alternatives, the actual practice must be described on a continuation sheet. This will not be tantamount to conceding that the practice is non-compliant since such a determination can only be made after appropriate analysis and review.

Comment: Several commenters indicated that although the NPRM has been significantly improved and streamlined, the draft still contains too many questions of a detailed nature that may, in the future, increase rather than decrease the opportunities for disputes.

Response: The Board has, once more, consulted with the respondents to the NPRM and all the concerns have been subjected to additional review. As a result, some changes have been made to the version incorporated in the NPRM that should contribute to further streamlining and clarification of the final document. This comment applies in particular to Part VII of the Disclosure Statement.

Comment: At least two commenters indicated that, in their opinion the revised document still contains too many pages.

Response: In the final format there is no substantial difference in the length of the original and the final Disclosure Statement.

Comment: One commenter stressed that whenever possible, existing CAS wording or definitions should be used.

Response: The Board agrees with this suggestion and, wherever appropriate, the Disclosure Statement has accordingly been changed.

Comment: Several contractors indicated that throughout the document the term ''CAS-covered contracts'' rather than ''Federal contracts'' should be used.

Response: The Disclosure Statement deals with the cost accounting practices of an entity such as a segment or home office and it is presumed that cost accounting practices are applied consistently to all the applicable final cost objectives. Although the dollar amount of CAS-covered contracts received is crucial in determining whether a Disclosure Statement has to be filed, once the requirement to file has been met, the disclosure will cover all of the entity's policies and practices as they affect cost measurement and allocation to all contracts. Therefore, a broader term, such as ''Federal contracts'', seems preferable to a narrower term such as ''CAS-covered contracts''.

Comment: Two commenters suggested a shorter implementation period than the one proposed in the NPRM.

Response: While the Board encourages early adoption of the new form, it does not believe that it can adequately envision all the circumstances that might arise necessitating a delay in the introduction of the new form. It believes that any deadline imposed for the introduction of the new form should make ample provision for any unexpected difficulties that may arise at the implementation stage. Therefore, the final filing date for existing contractors has not been changed, although the Board hopes that an earlier adoption is possible in most cases.

Comment: Several commenters expressed some criticism of the procedure outlined in *General Instructions* that allows parts of contractors' accounting manuals to be incorporated by reference in the Disclosure Statement.

Response: The wording in the Instructions has been changed to make it clear that the procedure in question is an optional one—particularly from the perspective of the contractor.

Comment: Several commenters suggested that the language be clarified to indicate the appropriate circumstances in which home offices may be able to complete Parts V, VI, or VII to be filed by segments reporting to the home office.

Response: The language in the *General Instructions* has been clarified. In particular, it has been made clear that where the home office establishes the applicable cost accounting policies and

procedures, it may also complete the relevant Parts of the Disclosure Statement to be submitted by its subordinate segments.

Comment: Several commenters offered suggestions for clarifying the layout and terminology used on the *Cover Sheet.*

Response: Certain changes have been made to the *Cover Sheet,* in particular to item 0.2, Reporting Unit Classification, in order to introduce standard CAS terminology and definitions whenever appropriate.

Comment: Several commenters pointed out that in Part I, General Information, the wording of several items could be improved in order to ensure that the questions are more clearly focused and take into account current practices.

Response: Some changes have been made to Part I to reflect the suggestions made by several commenters. In particular, the question dealing with unallowable costs has been reformatted so as to reflect the basic structure of CAS 9904.405, Accounting for Unallowable Costs.

Comment: A number of comments were received concerning the formulation of questions in Part II, Direct Costs, dealing with direct material, direct labor and other direct costs. Some commenters suggested that the questions included in this part might be more appropriate elsewhere, such as in Part III, Direct vs. Indirect Costs, of the Disclosure Statement.

Response: The basic characteristic of Part II, as a section dealing with direct material, direct labor and other direct costs has been retained. The purpose here is to obtain information on how certain elements of cost are treated once it has been determined that they represent direct costs for government contract costing purposes. Therefore, items such as the question dealing with employee travel expenses that are directly charged to contracts have been retained.

On the other hand, as suggested by several commenters, the question dealing with interorganizational transfers has been eliminated primarily because it requested information about the cost accounting practices of the transferor and not of the transferee who is preparing the Disclosure Statement. It cannot be assumed that such information is always readily available to the transferee. The transferee's practices in this area are covered in Part IV, Indirect Costs.

Comment: A few commenters suggested that Part III should be drastically recast—including a suggestion that instead of long lists of functions, elements of cost and transactions, the equivalent information should be described on a continuation sheet.

Response: The existing format has been retained as it seems to be the most effective way to obtain the relevant information on whether an item of cost is being treated as a direct cost, as an indirect cost or as a sometimes direct/sometimes indirect cost. The lists of functions, elements of cost and transactions have been somewhat modified on the basis of comments received.

Comment: In Part IV, several commenters pointed out that the subtitles used to describe various methods of allocating General and Administrative (G&A) expense did not properly reflect the requirements of CAS 9904.410, Allocation of Business Unit General and Administrative Expenses to Final Cost Objectives.

Response: The subtitles in question have been modified to conform more closely to the requirements of CAS 9904.410.

Comment: A number of commenters were concerned about the amount of detail required in Part IV dealing with modified allocations from indirect cost pools using a modified allocation base or a rate that is either more or less than the normal ''full rate''. Some commenters indicated that too much detail was requested regarding those modified allocations whereas others expressed the view that more information should be made available.

Response: Certain parts of Part IV, in particular the question dealing with the application of overhead and G&A rates to specified transactions or costs, have been restated in an attempt to present a more effective and balanced data gathering instrument. It should, once more, be remembered that the aim has been to provide a vehicle for a contractor to disclose its CAS compliant cost accounting practices. Therefore, the Disclosure Statement should not be regarded as a substitute for an audit check list. It is for this reason that non-compliant practices have been expressly excluded from the Disclosure Statement.

Comment: Several commenters suggested changes in the format in which questions regarding Independent Research and Development (IR&D) and Bid and Proposal (B&P) costs were presented in Part IV.

Response: The two questions that previously dealt separately with IR&D and B&P respectively have been combined to provide a more compact approach to the topic. In particular, the new approach, unlike the one in the NPRM, does not presuppose that every contractor who incurs B&P expense also has incurred IR&D expense—a supposition that does not necessarily hold for civilian agencies.

Comment: One commenter suggested that the headings in the question in Part VI, Other Costs and Credits, dealing with charging and crediting vacation, holiday and sick pay be rearranged.

Response: The column headings have been changed to reflect the fact that salaried exempt and non-exempt employees (as defined by the Fair Labor Standards Act) are generally treated differently in this area.

Comment: Regarding Part VII, Deferred Compensation and Insurance Costs, most commenters representing contractors expressed the view that too much detailed and possibly superfluous and ambiguous information was required with respect to the various pension, post-retirement health, deferred compensation and insurance plans. One commenter had actually tested the proposed NPRM requirements by using actual plan data in completing selected parts of the various sections in Part VII. The estimated time to complete these various sections were clearly significant and possibly burdensome when extrapolated to cover the whole of Part VII. Even though the data submitted was not verified on an overall basis, it did provide valuable insight into the relative amount of time required to complete the various individual questions. The data also distinguished between time required on a ''recurring'' basis to keep the Disclosure Statement current, as contrasted with the initial effort of ''non-recurring'' time required to prepare the original submission. The general comments regarding time required to complete Part VII were frequently supplemented by specific suggestions regarding individual sections or questions.

Response: The Board is grateful to those commenters who spent significant amounts of time to prepare constructive comments on this part of the Disclosure Statement. In particular, the Board would like to express its gratitude to the commenter who actually completed sections of Part VII and made the relevant data available to the Board.

As a result of the input received from commenters, Part VII has been substantially redesigned in order to make it more ''user friendly''. When dealing with pension plans, post-retirement health benefits, employee group insurance, deferred compensation, and worker's compensation and property insurance, the amount of detailed information related to various aspects of cost measurement has been substantially

reduced. The detailed data is required only for those plans or policies that account for 80-percent of the relevant category of costs—provided data on at least three plans is disclosed. Only a limited amount of general plan information is sought for all the other plans. By excluding the less significant plans from the more detailed disclosure requirements, it is anticipated that the paperwork burden will be significantly eased.

Some commenters also inferred that in certain instances actual numeric data was requested that would have to be updated annually. It has been made clear in the final document that when dealing with such items as actuarial assumptions, only the basis used to determine numeric values need be disclosed and not the actual values themselves. This clarification should ensure that no regular annual updates of the Disclosure Statement are prepared and submitted merely to reflect changes in the relevant numeric values.

Other, more specific changes to the various sections of Part VII are summarized below:

Pension Plans. The number of General Plan Information questions has been reduced from nine in the NPRM to six in the final document.

In the NPRM, the information requested for Defined Contribution Plans applied to all plans of this type. In the final version, if there are more than three plans, this information has to be supplied only for plans that account for 80-percent of the defined contribution plan costs.

Defined Benefit Plans. The number of questions asked in this area has not been changed. However, the topics covered and the manner of presentation have been somewhat changed. In particular, it has been made clear that regarding actuarial assumptions, no disclosure of actual numeric values is required. Only the basis for determining these numeric values need be described.

Post-Retirement Benefits (PRBs). This section has been rearranged to conform with the pattern established for pension plans in the previous section. In the NPRM, the questions posed were applicable to all PRB plans. In the final rule, questions dealing with general plan information have been separated from questions dealing with more specific aspects of PRB cost determination. The latter group consists of five questions and they have to be completed only for those plans that, in the aggregate, account for at least 80-percent of the total PRB costs. However, if there are three plans or less, then data on all the plans must be disclosed.

Employee Group Insurance Programs. Responses to this section of Part VII of the NPRM indicated that it was the most time consuming section to complete. Therefore, some significant changes have been made to the amount of information to be disclosed. First, if there are more than three policies or self-insurance plans, the applicable information should be provided only for those policies and self-insurance plans that, in the aggregate, account for at least 80-percent of the costs of the program for each category of insured risk. Second, the information previously requested under three separate questions has been recast as a single question in a tabular form. Third, a number of specific questions dealing with treatment of dividends, earned refunds, and employee contributions have been dropped as these items are largely covered by the provision of CAS 9904.416, Accounting for Insurance Costs. It is anticipated that the time needed to complete this section of Part VII will be significantly reduced as a result of the changes listed above.

Deferred Compensation Plans. This section has been recast to conform to the format used in the sections dealing with pension plans and PRBs. Therefore, the first five questions dealing with general plan information are applicable to all the plans. Two other questions, of a more substantive nature, should be completed for all the plans if there are no more than three plans. If there are more than three plans, the information should be provided for those plans that in the aggregate account for at least 80-percent of these deferred compensation costs.

Employee Stock Ownership Plans (ESOPs). Questions in this section have been reformulated, and, as a result, the total number of these general plan information questions has been increased by two as compared with the NPRM. These questions must be completed for all ESOPs.

Worker's Compensation Liability and Property Insurance. This section has been rearranged to conform to the format used in dealing with employee group insurance plans. In addition, the term ''line of insurance'' has been introduced in an attempt to clarify the nature of the aggregation of costs for which the relevant cost data has to be disclosed. In this context, for the purpose of guidance, ''line of insurance'' has the meaning attributed to it in Generally Accepted Auditing Standards (GAAS) literature (see *AICPA Audit and Accounting Guide, Audits of Property and Liability Insurance Companies*) and includes groupings such as fire and similar perils, general liability, marine perils, automobile liability and property damage, worker's compensation, theft, etc. If there are more than three policies or self-insurance plans, the applicable information should be provided only for those policies and plans that in the aggregate account for at least 80-percent of the applicable costs for a line of insurance. Also, two separate questions have been combined into a single question in a tabular form.

Comment: Several comments relating to Part VIII, Corporate or Group Expenses, dealt with the requirement in the NPRM to ''list all active segments and groups that are material in size reporting to the home . . . office''. Suggestions received included deletion of the words ''all'', ''active'', and ''that are material in size'' in the above quote from the first question in this part. At least one commenter suggested that if the term ''material'' is used, criteria for materiality should be developed.

Response: The suggestions regarding deletions have been accepted by the Board. The restated sentence reads: ''list segments and other intermediate level home offices reporting to this home office.''

The Board believes that this is an area where the individuals implementing the Standards and other regulations necessarily must exercise their own judgment in carrying out their tasks. The objective of this provision in the Disclosure Statement is to obtain a listing of segments and other entities to which home office expenses may be allocated. This allocation is part of the cost determination process for government contract costing purposes. Furthermore, this cost determination process, which includes all the relevant pronouncements of the Board, is subject to the materiality provisions of 9903.305. Specific reiteration of the materiality provision in each instance is not needed. Therefore, the requirement in the present instance is to list all the segments or other entities reporting to the home office that may have other than immaterial impact on the cost allocation process from the home office to its subordinate entities.

Comment: Several suggestions were received to improve and streamline the main section of Part VIII that deals with the pooling and allocation of home office expenses.

Response: Several of the suggestions received have been adopted. An addition has been made to the list of allocation base codes used and one question in the NPRM has been eliminated and its substance combined with another question.

List of Subjects in 48 CFR Part 9903

Cost accounting standards, Government procurement.

Richard C. Loeb,

Executive Secretary, Cost Accounting Standards Board.

For the reasons set forth in this preamble, chapter 99 of title 48 of the Code of Federal Regulations is amended as set forth below:

1. The authority citation for Part 9903 continues to read as follows:

Authority: Public Law 100–679, 102 Stat. 4056, 41 U.S.C. 422.

PART 9903—CONTRACT COVERAGE

Subpart 9903.2—CAS Program Requirements

2. Section 9903.202 is amended by deleting the illustrated CASB DS–1 and inserting a revised CASB DS–1.

BILLING CODE 3110–01–P

FORM APPROVED OMB NUMBER
0348-0051

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FORM CASB DS-1 (REV 2/96)

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	GENERAL INSTRUCTIONS

1. This Disclosure Statement has been designed to meet the requirements of Public Law 100-679, and persons completing it are to describe the contractor and its contract cost accounting practices. For complete regulations, instructions and timing requirements concerning submission of the Disclosure Statement, refer to Section 9903.202 of Chapter 99 Of Title 48 CFR (48 CFR 9903.202).

2. Part I of the Statement provides general information concerning each reporting unit (e.g., segment, Corporate or other intermediate level home office, or a business unit). Parts II through VII pertain to the types of costs generally incurred by the segment or business unit directly performing Federal contracts or similar cost objectives. Part VIII pertains to the types of costs that are generally incurred by a Home office and are allocated to one or more segments performing Federal contracts. For a definition of the term "home office", see 48 CFR 9904.403.

3. Each segment or business unit required to disclose its cost accounting practices should complete the Cover Sheet, the Certification, and Parts I through VII.

4. Each home office required to disclose its cost accounting practices for measuring, assigning and allocating its costs to segments performing Federal contracts or similar cost objectives shall complete the Cover Sheet, the Certification, Part I and Part VIII of the Disclosure Statement. Where a home office either establishes practices or procedures for the types of costs covered by Parts V, VI and VII,or incurs and then allocates these types of cost to its segments, the home office may complete Parts V, VI and VII to be included in the Disclosure Statement submitted by its segments. While a home office may have more than one segment submitting Disclosure Statements, only one Statement needs to be submitted to cover the home office operations.

5. The Statement must be signed by an authorized signatory of the reporting unit.

6. The Disclosure Statement should be answered by marking the appropriate line or inserting the applicable letter code which describes the segment's (reporting unit's) cost accounting practices.

7. A number of questions in this Statement may need narrative answers requiring more space than is provided. In such instances, the reporting unit should use the attached continuation sheet provided. The continuation sheet may be reproduced locally as needed. The number of the question involved should be indicated and the same coding required to answer the questions in the Statement should be used in presenting the answer on the continuation sheet. Continuation sheets should be inserted at the end of the pertinent Part of the Statement. On each continuation sheet, the reporting unit should enter the next sequential page number for that Part and, on the last continuation sheet used, the words "End of Part" should be inserted after the last entry.

8. Where the cost accounting practice being disclosed is clearly set forth in the contractor's existing written accounting policies and procedures, such documents may be cited on a continuation sheet and incorporated by reference at the option of the contractor. In such cases, the contractor should provide the date of issuance and effective date for each accounting policy and/or procedures document cited. Alternatively, copies of the relevant parts of such documents may be attached as appendices to the pertinent Disclosure Statement Part. Such continuation sheets and appendices should be labeled and cross-referenced with the applicable Disclosure Statement number and follow the page number specified in paragraph 7. Any supplementary comments needed to adequately describe the cost accounting practice being disclosed should also be provided.

9. Disclosure Statements must be amended when cost accounting practices are changed to comply with a new CAS or when practices are changed with or without knowledge of the Government (Also see 48 CFR 9903.202-3).

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	GENERAL INSTRUCTIONS

10. Amendments shall be submitted to the same offices to which submission would have been made were an original Disclosure Statement filed.

11. Each amendment, or set of amendments should be accompanied by an amended cover sheet (indicating revision number and effective date of the change) and a signed certification. For all resubmissions, on each page, insert "Revision Number ____" and "Effective Date _____" in the Item Description block; and, insert a revision mark (e.g., "R") in the right hand margin of any line that is revised. Completely resubmitted Disclosure Statements must be accompanied by similar notations identifying the items which have been changed.

12. Use of this Disclosure Statement, amended February 1996, shall be phased in as follows:

A. New Contractors. This form shall be used by new contractors when they are initially required to disclose their cost accounting practices pursuant to 9903.202-1.

B. Existing Contractors. If a contractor has disclosed its cost accounting practices on a prior edition of the Disclosure Statement (CASB DS-1), such disclosure shall remain in effect until the contractor amends or revises a significant portion of the Disclosure Statement in accordance with CAS 9903.202-3. Minor amendments to an existing DS-1 may continue to be made using the prior form. However, when a substantive change is made, a complete Disclosure Statement must be filed using this form. In any event, all contractors and subcontractors must submit a new Disclosure Statement (this version of the CASB DS-1) not later than the beginning of the contractor's next full fiscal year after December 31, 1998.

ATTACHMENT - Blank Continuation Sheet

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	CONTINUATION SHEET NAME OF REPORTING UNIT

Item No.	Item description

FORM CASB DS-1 (REV 2/96)

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	COVER SHEET AND CERTIFICATION

0.1 Company or Reporting Unit.

Name

Street Address

City, State, & Zip Code

Division or Subsidiary of (if applicable)

0.2 Reporting Unit: (Mark one.)

A. _____ Business Unit comprising an entire business organization which is not divided into segments.
B.1. _____ Corporate Home Office
2. _____ Intermediate Level Home Office
3. _____ Segment or business unit reporting directly to a home office.

0.3 Official to Contact Concerning this Statement.

Name and Title

Phone number (including area code and extension)

0.4 Statement Type and Effective Date:

A. (Mark type of submission. If a revision, enter number)
(a)_____ Original Statement
(b)_____ Revised Statement; Revision No._____

B. Effective Date of this Statement/Revision:_____

0.5 Statement Submitted To (Provide office name, location and telephone number, include area code and extension):

(a) Cognizant Federal Agency: _____
(b) Cognizant Federal Auditor:_____

CERTIFICATION

I certify that to the best of my knowledge and belief this Statement, as amended in the case of a revision, is the complete and accurate disclosure as of the above date by the above-named organization of its cost accounting practices, as required by the Disclosure Regulation (48 CFR 9903.202) of the Cost Accounting Standards Board under P.L. 100-679.

_____
(Name)

_____
(Title)

THE PENALTY FOR MAKING A FALSE STATEMENT IN THIS DISCLOSURE IS PRESCRIBED IN 18 U.S.C. § 1001

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART I - GENERAL INFORMATION NAME OF REPORTING UNIT

Item No.	Item description
	Part I Instructions Sales data for this part should cover the most recently completed fiscal year of the reporting unit. "Government CAS Covered Sales" includes sales under both prime contracts and subcontracts. "Annual CAS Covered Sales" includes intracorporate transactions.
1.1.0	Type of Business Entity of Which the Reporting Unit is a Part. (Mark one.) A. _____ Corporation B. _____ Partnership C. _____ Proprietorship D. _____ Not-for-profit organization E. _____ Joint Venture F. _____ Federally Funded Research and Development Center (FFRDC) Y. _____ Other (Specify) _____
1.2.0	Predominant Type of Government Sales. (Mark one.) 1/ A. _____ Manufacturing B. _____ Research and Development C. _____ Construction D. _____ Services Y. _____ Other (Specify)_____
1.3.0	Annual CAS Covered Government Sales as Percentage of Total Sales (Government and Commercial). (Mark one. An estimate is permitted for this section.) 1/ A. _____ Less than 10% B. _____ 10%-50% C. _____ 51%-80% D. _____ 81% - 95% E. _____ Over 95%
1.4.0	Description of Your Cost Accounting System for Government Contracts and Subcontracts. (Mark the appropriate line(s) and if more than one is marked, explain on a continuation sheet.) 1/ A. _____ Standard costs - Job order B. _____ Standard costs - Process C. _____ Actual costs - Job order D. _____ Actual costs - Process Y. _____ Other(s) 2/ 1/ Do not complete when Part I is filed in conjunction with Part VIII. 2/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART I - GENERAL INFORMATION NAME OF REPORTING UNIT

Item No.	Item description
1.5.0	Identification of Differences Between Contract Cost Accounting and Financial Accounting Records. List on a continuation sheet, the types of costs charged to Federal contracts that are supported by memorandum records and identify the method used to reconcile with the entity's financial accounting records.
1.6.0	Unallowable Costs. Costs that are not reimbursable as allowable costs under the terms and conditions of Federal awards are identified as follows: (Mark all that apply and if more than one is marked, describe on a continuation sheet the major cost groupings, organizations, or other criteria for using each marked technique.)
1.6.1	Incurred costs. A. _____ Specifically identified and recorded separately in the formal financial accounting records. B. _____ Identified in separately maintained accounting records or workpapers. C. _____ Identifiable through use of less formal accounting techniques that permit audit verification. D. _____ Determinable by other means. 1/
1.6.2	Estimated costs. A. _____ By designation and description (in backup data, workpapers, etc) which have specifically been identified and recognized in making estimates. B. _____ By description of any other estimating technique employed to provide appropriate recognition of any unallowable amounts pertinent to the estimates. C. _____ Other. 1/
1.7.0	Fiscal Year: _____ (Specify twelve month period used for financial accounting and reporting purposes, e.g., 1/1 to 12/31.)
1.7.1	Cost Accounting Period: _____ (Specify period. If the cost accounting period used for the accumulation and reporting of costs under Federal contracts is other than the fiscal year identified in Item 1.7.0, explain circumstances on a continuation sheet.) 1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART II - DIRECT COSTS NAME OF REPORTING UNIT

Item No.	Item description
	Part II Instructions This part covers the three major categories of direct costs, i.e., Direct Material, Direct Labor, and Other Direct Costs. It is not the intent here to spell out or define the three elements of direct costs. Rather, each contractor should disclose practices based on its own definitions of what costs are, or will be, charged directly to Federal contracts or similar cost objectives as Direct Material, Direct Labor, or Other Direct Costs. For example, a contractor may charge or classify purchased labor of a direct nature as "Direct Material" for purposes of pricing proposals, requests for progress payments, claims for cost reimbursement, etc.; some other contractor may classify the same cost as "Direct Labor," and still another as "Other Direct Costs." In these circumstances, it is expected that each contractor will disclose practices consistent with its own classifications of Direct Material, Direct Labor, and Other Direct Costs.
2.1.0	Description of Direct Material. Direct material as used here is not limited to those items of material actually incorporated into the end product; they also include material, consumable supplies, and other costs when charged to Federal contracts or similar cost objectives as Direct Material. (Describe on a continuation sheet the principal classes or types of material and services which are charged as direct material; group the material and service costs by those which are incorporated in an end product and those which are not.)
2.2.0	Method of Charging Direct Material.
2.2.1	Direct Charge Not Through an Inventory Account at: (Mark the appropriate line(s) and if more than one is marked, explain on a continuation sheet.) A. _____ Standard costs (Describe the type of standards used.) 1/ B. _____ Actual Costs Y. _____ Other(s) 1/ Z. _____ Not applicable
2.2.2	Charged Direct from a Contractor-owned Inventory Account at: (Mark the appropriate line(s) and if more than one is marked, explain on a continuation sheet.) A. _____ Standard costs 1/ B. _____ Average Costs 1/ C. _____ First in, first out D. _____ Last in, first out Y. _____ Other(s) 1/ Z. _____ Not applicable 1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART II - DIRECT COSTS NAME OF REPORTING UNIT

Item No.	Item description
2.3.0	**Timing of Charging Direct Material.** (Mark the appropriate line(s) to indicate the point in time at which direct material are charged to Federal contracts or similar cost objectives, and if more than one line is marked, explain on a continuation sheet.) A. _____ When orders are placed B. _____ When both the material and invoice are received C. _____ When material is issued or released to a process, batch, or similar intermediate cost objective D. _____ When material is issued or released to a final cost objective E. _____ When invoices are paid Y. _____ Other(s) 1/ Z. _____ Not applicable
2.4.0	**Variances from Standard Costs for Direct Material.** (Do not complete this item unless you use a standard cost method, i.e., you have marked Line A of Item 2.2.1, or 2.2.2. Mark the appropriate line(s) in Items 2.4.1, 2.4.2, and 2.4.4, and if more than one line is marked, explain on a continuation sheet.)
2.4.1	**Type of Variance.** A. _____ Price B. _____ Usage C. _____ Combined (A and B) Y. _____ Other(s) 1/
2.4.2	**Level of Production Unit used to Accumulate Variance.** Indicate which level of production unit is used as a basis for accumulating material variances. A. _____ Plant-wide Basis B. _____ By Department C. _____ By Product or Product Line Y. _____ Other(s) 1/
2.4.3	**Method of Disposing of Variance.** Describe on a continuation sheet the basis for, and the frequency of, the disposition of the variance.
2.4.4	**Revisions.** Standard costs for direct materials are revised: A. _____ Semiannually B. _____ Annually C. _____ Revised as needed, but at least once annually Y. _____ Other(s) 1/ 1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART II - DIRECT COSTS NAME OF REPORTING UNIT

Item No.	Item description

2.5.0 Method of Charging Direct Labor: (Mark the appropriate line(s) for each Direct Labor Category to show how such labor is charged to Federal contracts or similar cost objectives, and if more than one line is marked, explain on a continuation sheet. Also describe on a continuation sheet the principal classes of labor rates that are, or will be applied to Manufacturing Labor, Engineering Labor, and Other Direct Labor, in order to develop direct labor costs.

	Direct Labor Category		
	Manufacturing	Engineering	Other Direct
A. Individual/actual rates	____	____	____
B. Average rates – uncompensated overtime hours included in computation 1/	____	____	____
C. Average rates – uncompensated overtime hours excluded from computation	____	____	____
D. Standard costs/rates 1/	____	____	____
Y. Other(s) 1/	____	____	____
Z. Labor category is not applicable	____	____	____

2.6.0 Variances from Standard Costs for Direct Labor. (Do not complete this item unless you use a standard costs/rate method, i.e., you have marked Line D of Item 2.5.0 for any direct labor category. Mark the appropriate line(s) in each column of Items 2.6.1, 2.6.2, and 2.6.4. If more than one is marked, explain on a continuation sheet.)

2.6.1 Type of Variance.

	Direct Labor Category		
	Manufacturing	Engineering	Other Direct
A. Rate	____	____	____
B. Efficiency	____	____	____
C. Combined (A and B)	____	____	____
Y. Other(s) 1/	____	____	____
Z. Labor category is not applicable	____	____	____

1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART II - DIRECT COSTS NAME OF REPORTING UNIT

Item No.	Item description
2.6.2	**Level of Production Unit used to Accumulate Variance.** Indicate which level of production unit is used as a basis for accumulating the labor variances.

	Direct Labor Category		
	Manufacturing	Engineering	Other Direct
A. Plant-wide basis	____	____	____
B. By department	____	____	____
C. By product or product line	____	____	____
Y. Other(s) 1/	____	____	____
Z. Labor category is not applicable	____	____	____

2.6.3 **Method of Disposing of Variance.** Describe on a continuation sheet the basis for, and the frequency of, the disposition of the variance.

2.6.4 **Revisions.** Standard costs for direct labor are revised:

A. ____ Semiannually
B. ____ Annually
C. ____ Revised as needed, but at least once annually
Y. ____ Other(s) 1/

2.7.0 **Description of Other Direct Costs.** Other significant items of cost directly identified with Federal contracts or other final cost objectives. Describe on a continuation sheet the principal classes of other costs that are always charged directly, that is, identified specifically with final cost objectives, e.g., fringe benefits, travel costs, services, subcontracts, etc.

2.7.1 When Employee Travel Expenses for lodging and subsistence are charged direct to Federal contracts or similar cost objectives the charge is based on:

A. ____ Actual Costs
B. ____ Per Diem Rates
C. ____ Lodging at actual costs and subsistence at per diem
Y. ____ Other Method 1/
Z. ____ Not Applicable

2.8.0 **Credits to Contract Costs.** When Federal contracts or similar cost objectives are credited for the following circumstances, are the rates of direct labor, direct materials, other direct costs and applicable indirect costs always the same as those for the original charges? (Mark one line for each circumstance, and for each "No" answer, explain on a continuation sheet how the credit differs from the original charge.)

Circumstance	A. Yes	B. No	Z. Not Applicable
(a) Transfers to other jobs/contracts	____	____	____
(b) Unused or excess materials remaining upon completion of contract	____	____	____

1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART III - DIRECT VS. INDIRECT COSTS NAME OF REPORTING UNIT

Item No.	Item description

3.1.0 **Criteria for Determining How Costs are Charged to Federal Contracts Or Similar Cost Objectives.** Describe on a continuation sheet your criteria for determining when costs incurred for the same purpose, in like circumstances, are treated either as direct costs only or as indirect costs only with respect to final cost objectives.

3.2.0 **Treatment of Costs of Specified Functions, Elements of Cost, or Transactions.** (For each of the functions, elements of cost or transactions listed in Items 3.2.1, 3.2.2, and 3.2.3, enter one of the Codes A through F, or Y, to indicate how the item is treated. Enter Code Z in those lines that are not applicable to you. Also, specify the name(s) of the indirect pool(s) (as listed in 4.1.0, 4.2.0 and 4.3.0) for each function, element of cost, or transaction coded E or F. If Code E, Sometimes direct/Sometimes indirect, is used, explain on a continuation sheet the circumstances under which both direct and indirect allocations are made.)

Treatment Code

A. Direct material
B. Direct labor
C. Direct material and labor
D. Other direct costs
E. Sometimes direct/Sometimes indirect
F. Indirect only
Y. Other(s) 1/
Z. Not applicable

3.2.1

Functions, Elements of Cost, or Transactions Related to Direct Material		Treatment Code	Name of Pool(s)
(a)	Cash Discounts on Purchases	____	_____
(b)	Freight in	____	_____
(c)	Income from Sale of Scrap	____	_____
(d)	Income from Sale of Salvage	____	_____
(e)	Incoming Material Inspection (receiving)	____	_____
(f)	Inventory adjustment	____	_____
(g)	Purchasing	____	_____
(h)	Trade Discounts, Refunds, Rebates, and Allowances on Purchases	____	_____

1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART III - DIRECT VS. INDIRECT COSTS NAME OF REPORTING UNIT

Item No.	Item description		Treatment Code	Name of Pool(s)
3.2.2	Functions, Elements of Cost, or Transactions Related to Direct Labor			
	(a)	Incentive Compensation	____	_____
	(b)	Holiday Differential (Priemium Pay)	____	_____
	(c)	Vacation Pay	____	_____
	(d)	Overtime Premium Pay	____	_____
	(e)	Shift Premium Pay	____	_____
	(f)	Pension Costs	____	_____
	(g)	Post Retirement Benefits Other Than Pensions	____	_____
	(h)	Health Insurance	____	_____
	(i)	Life Insurance	____	_____
	(j)	Other Deferred Compensation 1/	____	_____
	(k)	Training	____	_____
	(l)	Sick Leave	____	_____

1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART III - DIRECT VS. INDIRECT COSTS NAME OF REPORTING UNIT

Item No.	Item description		Treatment Code	Name of Pool(s)
3.2.3	Functions, Elements of Cost, or Transactions - Miscellaneous			
	(a)	Design Engineering (in-house)	____	_____
	(b)	Drafting (in-house)	____	_____
	(c)	Computer Operations (in-house)	____	_____
	(d)	Contract Administration	____	_____
	(e)	Subcontract Administration Costs	____	_____
	(f)	Freight Out (finished product)	____	_____
	(g)	Line (or production) Inspection	____	_____
	(h)	Packaging and Preservation	____	_____
	(i)	Preproduction Costs and Start-up Costs	____	_____
	(j)	Departmental Supervision	____	_____
	(k)	Professional Services (consultant fees)	____	_____
	(l)	Purchased Labor of Direct Nature (on premises)	____	_____
	(m)	Purchased Labor of Direct Nature (off premises)	____	_____
	(n)	Rearrangement Costs	____	_____
	(o)	Rework Costs	____	_____
	(p)	Royalties	____	_____
	(q)	Scrap Work	____	_____
	(r)	Special Test Equipment	____	_____
	(s)	Special Tooling	____	_____
	(t)	Warranty Costs	____	_____
	(u)	Rental Costs	____	_____
	(v)	Travel and Subsistence	____	_____
	(w)	Employee Severance Pay	____	_____
	(x)	Security Guards	____	_____

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART IV - INDIRECT COSTS NAME OF REPORTING UNIT

Item No.	Item description

Part IV Instructions

For the purpose of this part, indirect costs have been divided into three categories: (I) manufacturing, engineering, and comparable indirect costs, (II) general and administrative (G&A) expenses, and (III) service center and expense pool costs, as defined in Item 4.3.0. The term "overhead," as used in this part, refers only to the first category of indirect costs.

The following Allocation Base Codes are provided for use in connection with Items 4.1.0, 4.2.0 and 4.3.0.

A.	Sales	H.	Direct labor dollars
B.	Cost of sales	I.	Direct labor hours
C.	Total Cost input (direct material, direct labor, other direct costs and applicable overhead)	J.	Machine hours
		K.	Usage
		L.	Unit of production
D.	Value-added cost input (total cost input less direct material and subcontract costs)	M.	Direct material cost
		N.	Total payroll dollars (direct and indirect employees)
E.	Total cost incurred (total cost input plus G&A expenses)	O.	Headcount or number of employees (direct and indirect employees)
F.	Prime cost (direct material, direct labor and other direct cost)	P.	Square feet
		Y.	Other(s), or more than one basis (Describe on a continuation sheet.)
G.	Processing or conversion cost (direct labor and applicable overhead)	Z.	Pool not applicable

4.1.0 Overhead Pools. List all the overhead pools, i.e., pools of indirect costs, other than general and administrative (G&A) expenses, that are allocated to final cost objectives without any intermediate allocations. A segment or business unit may have only a single pool encompassing all of its overhead costs or alternatively it may have several pools such as manufacturing overhead, engineering overhead, material handling overhead, etc. For each pool listed indicate the base used for allocating such pooled expenses to Federal contracts or similar cost objectives. Also, for each of the pools indicate (a) the major functions, activities, and elements of cost included, and (b) the make up of the allocation base. Use a continuation sheet if additional space is required.

Allocation Base Code

1. _____

(a) Major functions, activities, and elements of cost included:

_____

_____

(b) Description/Make up of the allocation base:

_____

_____

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART IV - INDIRECT COSTS NAME OF REPORTING UNIT

Item No.	Item description
4.1.0	Continued. Allocation Base Code 2. _____ ____ (a) Major functions, activities, and elements of cost included: _____ _____ (b) Description/Make up of the allocation base: _____ _____
4.2.0	General and Administrative (G&A) Expense Pool(s). Select among the three categories of pools below that describe(s) the manner in which G&A expenses are allocated. For each category of pool(s) selected indicate the base(s) used for allocating such pooled expenses to Federal contracts or similar cost objectives. Also, for each category of pool(s) selected, indicate (a) the major functions, activities, and elements of cost included, and (b) the make up of the allocation base(s). For example, if direct labor dollars are used, are fringe benefits included? If a total cost input base is used, is the imputed cost of capital included? Use a continuation sheet if additional space is required. Allocation Base Code Single Pool Containing G&A Expenses Only _____ ____ (a) Major functions, activities, and elements of cost included: _____ _____ (b) Description/Make up of the allocation base: _____ _____

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART IV - INDIRECT COSTS NAME OF REPORTING UNIT

Item No.	Item description
4.2.0	Continued. **Single Pool Containing Both G&A and Non-G&A Expenses** — Allocation Base Code _____ ____ (a) Major functions, activities, and elements of cost included: _____ _____ (b) Description/Make up of the allocation base: _____ _____ **Special Allocations** — Allocation Base Code 1. _____ ____ (a) Major functions, activities, and elements of cost included: _____ _____ (b) Description/Make up of the allocation base: _____ _____ 2. _____ ____ (a) Major functions, activities, and elements of cost included: _____ _____ (b) Description/Make up of the allocation base: _____ _____

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART IV - INDIRECT COSTS NAME OF REPORTING UNIT

Item No.	Item description
4.3.0	**Service Center and Expense Pool Allocation Bases.**

Service centers are departments or other functional units which perform specific technical and/or administrative services primarily for the benefit of other units within a reporting unit. Expense pools are pools of indirect costs that are allocated primarily to other units within a reporting unit. Examples of service centers are data processing centers, reproduction services and communications services. Examples of expense pools are use and occupancy pools and fringe benefit pools.

Category Code

Generally, costs incurred by such centers or pools are, or can be, charged or allocated (i) partially to specific final cost objectives as direct costs and partially to other indirect cost pools (such as a manufacturing overhead pool) for subsequent reallocation to several final cost objectives, referred to herein as Category "A", and (ii) only to several other indirect cost pools (such as a manufacturing overhead pool, engineering overhead pool and G&A expense pool) for subsequent reallocation to several final cost objectives, referred to herein as Category "B".

Rate Code

Some service centers or expense pools may use predetermined billing or costing rates to charge or allocate the costs (Rate Code A) while others may charge or allocate on an actual basis (Rate Code B).

List all the service centers and expense pools and enter in column (1) Code A or B to indicate the category of pool. Enter in Column (2) one of the Allocation Base Codes A through P, or Y, listed on Page ___, to indicate the base used for charging or allocating service center or expense pool costs. Enter in Column (3) Rate Code A or B to describe the costing method used. Also, for each of the centers and pools indicate (a) the major functions, activities, and elements of cost included, and (b) the make up of the allocation base. Use a continuation sheet if additional space is required.

	Service Center or Expense Pool	Category Code (1)	Allocation Base Code (2)	Rate Code (3)
1.	_____	___	___	___
	(a) Major functions, activities, and elements of cost included: _____ _____			
	(b) Description/Make up of the allocation base: _____ _____			
2.	_____	___	___	___
	(a) Major functions, activities, and elements of cost included: _____ _____			
	(b) Description/Make up of the allocation base: _____ _____			

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART IV - INDIRECT COSTS NAME OF REPORTING UNIT

Item No.	Item description
4.4.0	**Treatment of Variances from Actual Cost (Underabsorption or Overabsorption).** Where predetermined billing or costing rates are used to charge costs of service centers and expense pools to Federal contracts or other indirect cost pools (Rate Code A in Column (3) of Item 4.3.0), variances from actual costs are: (Mark the appropriate line(s) and if more than one is marked, explain on a continuation sheet.) A. ____ Prorated to users on the basis of charges made, at least once annually B. ____ All charged or credited to indirect cost pool(s) at least once annually Y. ____ Other(s) 1/ Z. ____ Service center is not applicable to reporting unit
4.5.0	**Application of Overhead and G&A Rates to Specified Transactions or Costs.** This item is directed to ascertaining your practice in special situations where, in lieu of establishing a separate indirect cost pool, allocation is made from an established overhead or G&A pool at a rate other than the normal full rate for that pool. In the case of such a special allocation, the terms "less than full rate" or "more than full rate" should be used to describe the practice. The terms do not apply to situations where, as in some cases of off-site activities, etc., a separate indirect cost pool and base are used and the rate for such activities is lower than the "in-house" rate. For each of the transactions or costs listed below, enter one of the following codes to indicate your indirect cost allocation practice with respect to that transaction or cost. If Code A, full rate, is entered, identify on a continuation sheet the pool(s) reported under items 4.1.0, 4.2.0, and 4.3.0, which are applicable. If Codes B or C, less than or more than the full rate, is entered, describe on a continuation sheet the major types of expenses that are covered by such a rate. **Rate Code** A. Full rate B. Special allocation at less than full rate C. Special allocation at more than full rate D. No overhead or G&A is applied Z. Transaction or cost is not applicable to reporting unit **Transaction or Cost to Which Indirect Costs May be Allocated** — **Rate Code** (a) Subcontract costs ____ (b) Purchased Labor ____ (c) Government-furnished materials ____ (d) Self-constructed depreciable assets ____ (e) Labor on installation of assets ____ (f) Off-site work ____ (g) Interorganizational transfers out ____ (h) Interorganizational transfers in (Also indicate on a continuation sheet the basis used by you as transferee to charge the cost or price of interogranizational transfers to Federal contracts or similar cost objectives. If the charge is based on cost, indicate whether the transferor's G&A expenses are included.) ____ (i) Other transactions or costs (Enter Code B or C on this line if there are other transactions or costs to which either less than full rate or more than full rate is applied. List such transactions or costs on a continuation sheet, and for each describe the major types of expenses covered by such a rate. If there are no other such transactions or costs, enter code Z.) ____ 1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART IV - INDIRECT COSTS NAME OF REPORTING UNIT

Item No.	Item description
4.6.0	Independent Research and Development (IR&D) and Bid and Proposal (B&P) Costs. Definitions of and requirements for the allocation of IR&D and B&P costs are contained in 48 CFR 9904.420. The full rate of all allocable manufacturing, engineering, and/or other overhead is applied to IR&D and B&P costs as if IR&D and B&P projects were under contract, and the "burdened" IR&D and B&P costs are: (Mark appropriate line(s).) A. ____ Allocated to Federal contracts or similar cost objectives by means of a composite pool with G&A expenses. B. ____ Allocated to Federal contracts or similar cost objectives by means of a separate pool. C. ____ Transferred to the corporate or home office level for reallocation to the benefiting segments. Y. ____ Other 1/ Z. ____ Not applicable
4.7.0	Cost of Capital Committed to Facilities. In accordance with instructions for Form CASB-CMF, undistributed facilities capital items are allocated to overhead and G&A expense pools: (Mark one.) A. ____ On a basis identical to that used to absorb the actual depreciation or amortization from these facilities; land is assigned in the same manner as the facilities to which it relates. B. ____ On a basis not identical to that used to absorb the actual depreciation or amortization from these facilities. (Describe on a continuation sheet the difference for each step of the allocation process.) C. ____ By the "alternative allocation process" described in instructions for Form CASB-CMF. Z. ____ Not applicable. 1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART V - DEPRECIATION AND CAPITALIZATION PRACTICES NAME OF REPORTING UNIT

Item No.	Item description

Part V Instructions

Where a home office either establishes practices or procedures for the types of costs covered in this Part or incurs and then allocates these costs to its segments, the home office may complete this Part to be included in the submission by the segment as indicated on page (i) 4., General Instructions.

5.1.0 Depreciating Tangible Assets for Government Contract Costing. (For each of the asset categories listed on Page ___, enter a code from A through H in Column (1) describing the method of depreciation (Code F for assets that are expensed); a code from A through C in Column (2) describing the basis for determining useful life; a code from A through C in Column (3) describing how depreciation methods or use charges are applied to property units; and a Code A, B or C in Column (4) indicating whether or not residual value is deducted from the total cost of depreciable assets. Enter Code Y in each column of an asset category where another or more than one method applies. Enter Code Z in Column (1) only, if an asset category is not applicable.)

Column (1)—Depreciation Method Code

A. Straight Line
B. Declining balance
C. Sum-of-the years digits
D. Machine hours
E. Unit of production
F. Expensed at acquisition
G. Use charge
H. Method of depreciation used under the applicable Internal Revenue Procedures
Y. Other or more than one method 1/
Z. Asset category is not applicable

Column (2)—Useful Life Code

A. Replacement experience adjusted by expected changes in periods of usefulness
B. Term of Lease
C. Estimated on the basis of Asset Guidelines under Internal Revenue Procedures
Y. Other, or more than one method 1/

Column (3)—Property Units Code

A. Individual units are accounted for separately
B. Applied to groups of assets with similar service lives
C. Applied to groups of assets with varying service lives
Y. Other or more than one method 1/

Column (4)—Residual Value Code

A. Residual value is estimated and deducted
B. Residual value is covered by the depreciation method (e.g., declining balance)
C. Residual value is estimated but not deducted in accordance with the provisions of 48 CFR 9904.409 1/
Y. Other or more than one method 1/

1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART V - DEPRECIATION AND CAPITALIZATION PRACTICES NAME OF REPORTING UNIT

Item No.	Item description

5.1.0 Continued.

Asset Category	Depreciation Method Code (1)	Useful Life Code (2)	Property Units Code (3)	Residual Value Code (4)
(a) Land improvements	___	___	___	___
(b) Building	___	___	___	___
(c) Building improvements	___	___	___	___
(d) Leasehold improvements	___	___	___	___
(e) Machinery and equipment	___	___	___	___
(f) Furniture and fixtures	___	___	___	___
(g) Automobiles and trucks	___	___	___	___
(h) Data processing equipment	___	___	___	___
(i) Programming/reprogramming costs	___	___	___	___
(j) Patterns and dies	___	___	___	___
(k) Tools	___	___	___	___
(l) Other depreciable asset categories (Enter Code Y on this line if other asset categories are used and enumerate on a continuation sheet each such asset category and the applicable codes. Otherwise enter Code Z.)	___	___	___	___

5.2.0 Depreciation Practices for Costing, Financial Accounting, and Income Tax. Are depreciation practices the same for costing Federal contracts as for financial accounting and income tax? (Mark either (A) or (B) on each line under Financial Accounting and Income Tax. Not-for-profit organizations need not complete this item.)

Financial Accounting	A. Yes	B. No
(a) Methods	___	___
(b) Useful lives	___	___
(c) Property units	___	___
(d) Residual values	___	___

Income Tax	A. Yes	B. No
(e) Methods	___	___
(f) Useful lives	___	___
(g) Property units	___	___
(h) Residual values	___	___

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART V - DEPRECIATION AND CAPITALIZATION PRACTICES NAME OF REPORTING UNIT

Item No.	Item description
5.3.0	**Fully Depreciated Assets.** Is a usage charge for fully depreciated assets charged to Federal contracts? (Mark one.) A. ____ Yes 1/ B. ____ No Z. ____ Not applicable
5.4.0	**Treatment of Gains and Losses on Disposition of Depreciable Property.** Gains and losses are: (Mark the appropriate line(s) and if more than one is marked, explain on a continuation sheet.) A. ____ Credited or charged currently to the same overhead or G&A pools to which the depreciation of the assets was charged B. ____ Taken into consideration in the depreciation cost basis of the new items, where trade-in is involved C. ____ Not accounted for separately, but reflected in the depreciation reserve account Y. ____ Other(s) 1/ Z. ____ Not applicable
5.5.0	**Capitalization or Expensing of Specified Costs.** (Mark one line on each item to indicate your practices regarding capitalization or expensing of specified costs incurred in connection with capital assets. If the same specified cost is sometimes expensed and sometimes capitalized, mark both lines and describe on a continuation sheet the circumstances when each method is used.) Cost — A. Expensed — B. Capitalized (a) Freight-in ____ ____ (b) Sales taxes ____ ____ (c) Excise taxes ____ ____ (d) Architect-engineer fees ____ ____ (e) Overhauls (extraordinary repairs) ____ ____ 1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART V - DEPRECIATION AND CAPITALIZATION PRACTICES NAME OF REPORTING UNIT

Item No.	Item description
5.6.0	Criteria for Capitalization. Enter (a) the minimum dollar amount of acquisition cost or expenditures for addition, alteration and improvement of depreciable assets capitalized, and (b) the minimum number of expected life years of capitalized assets. If more than one dollar amount or number applies, show the information for the majority of your depreciable assets, and enumerate on a continuation sheet the dollar amounts and/or number of years for each category or subcategory of assets involved which differ from those for the majority of assets. (a) Minimum dollar amount capitalized _____ (b) Minimum service life years _____
5.7.0	Group or Mass Purchase. Are group or mass purchases (original complement) of low cost equipment, which individually are less than the capitalization amount indicated above, capitalized? (Mark one. If Yes is marked, provide the minimum aggregate dollar amount capitalized.) A. ____ Yes _____Minimum aggregate dollar amount capitalized B. ____ No

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VI - OTHER COSTS AND CREDITS NAME OF REPORTING UNIT

Item No.	Item description			
	Part VI Instructions			
	Where a home office either establishes practices or procedures for the types of costs covered in this Part or incurs and then allocates these costs to its segments, the home office may complete this Part to be included in the submission by the segment as indicated on page (ii) 4., General Instructions.			
6.1.0	Method of Charging and Crediting Vacation, Holiday, and Sick Pay. (Mark the appropriate line(s) in each column of Items 6.1.1, 6.1.2, 6.1.3 and 6.1.4 to indicate the method used to charge, or credit any unused or unpaid vacation, holiday, or sick pay. If more than one method is marked, explain on a continuation sheet.)			
			Salaried	
6.1.1	Charges for Vacation Pay	Hourly (1)	Non-exempt 1/ (2)	Exempt 1/ (3)
	A. When Accrued (earned)	___	___	___
	B. When Taken	___	___	___
	Y. Other(s) 2/	___	___	___
6.1.2	Charges for Holiday Pay			
	A. When Accrued (earned)	___	___	___
	B. When Taken	___	___	___
	Y. Other(s) 2/	___	___	___
6.1.3	Charges for Sick Pay			
	A. When Accrued (earned)	___	___	___
	B. When Taken	___	___	___
	Y. Other(s) 2/	___	___	___
6.1.4	Credits for Unused or Unpaid Vacation, Holiday, or Sick Pay			
	A. Credited to Accounts Originally charged at Least Once Annually	___	___	___
	B. Credited to Indirect Cost Pools at Least Once Annually	___	___	___
	C. Carried Over to Future Cost Accounting Periods 2/	___	___	___
	Y. Other(s) 2/	___	___	___
	Z. Not Applicable	___	___	___
	1/ For the definition of Non-exempt and Exempt salaries, see the Fair Labor Standards Act, 29 U.S.C. 206.			
	2/ Describe on a Continuation Sheet.			

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VI - OTHER COSTS AND CREDITS NAME OF REPORTING UNIT

Item No.	Item description
6.2.0	**Supplemental Unemployment (Extended Layoff) Benefit Plans.** Costs of such plans are charged to Federal contracts: (Mark the appropriate line(s) and if more than one is marked, explain on a continuation sheet.) A. ____ When actual payments are made directly to employees B. ____ When accrued (book accrual or funds set aside but no trust fund involved) C. ____ When contributions are made to a nonforfeitable trust fund D. ____ Not charged Y. ____ Other(s) 1/ Z. ____ Not applicable
6.3.0	**Severance Pay and Early Retirement.** Costs of normal turnover severance pay and early retirement incentive plans, as defined in FAR 31.2 or other pertinent procurement regulations, which are charged directly or indirectly to Federal contracts, are based on: (Mark the appropriate line(s) and if more than one is marked, explain on a continuation sheet.) A. ____ Actual payments made B. ____ Accrued amounts on the basis of past experience C. ____ Not charged Y. ____ Other(s) 1/ Z. ____ Not applicable
6.4.0	**Incidental Receipts.** (Mark the appropriate line(s) to indicate the method used to account for incidental or miscellaneous receipts, such as revenues from renting real and personal property or selling services, when related costs have been allocated to Federal contracts. If more than one is marked, explain on a continuation sheet.) A. ____ The entire amount of the receipt is credited to the same indirect cost pools to which related costs have been charged B. ____ Where the amount of the receipt includes an allowance for profit, the cost-related part of the receipt is credited to the same indirect cost pools to which related costs have been charged; the profits are credited to Other (Miscellaneous) Income C. ____ The entire amount of the receipt is credited directly to Other (Miscellaneous) Income Y. ____ Other(s) 1/ Z. ____ Not applicable 1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VI - OTHER COSTS AND CREDITS NAME OF REPORTING UNIT

Item No.	Item description
6.5.0	**Proceeds from Employee Welfare Activities.** Employee welfare activities include all of those activities set forth in FAR 31.2 . (Mark the appropriate line(s) to indicate the practice followed in accounting for the proceeds from such activities. If more than one is marked, explain on a continuation sheet.) A. ____ Proceeds are turned over to an employee-welfare organization or fund; such proceeds are reduced by all applicable costs such as depreciation, heat, light and power B. ____ Same as above, except the proceeds are not reduced by all applicable costs C. ____ Proceeds are credited at least once annually to the appropriate cost pools to which costs have been charged D. ____ Proceeds are credited to Other (Miscellaneous) Income Y. ____ Other(s) 1/ Z. ____ Not applicable 1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VII - DEFERRED COMPENSATION AND INSURANCE COST NAME OF REPORTING UNIT

Item No.	Item description

Part VII Instructions

This part covers the measurement and assignment of costs for employee pensions, post retirement benefits other than pensions (including post retirement health benefits), certain other types of deferred compensation, and insurance. Some organizations may incur all of these costs at the corporate or home office level, while others may incur them at subordinate organizational levels. Still others may incur a portion of these costs at the corporate level and the balance at subordinate organizational levels.

Where the segment (reporting unit) does not directly incur such costs, the segment should, on a continuation sheet, identify the organizational entity that incurs and records such costs, and should require that entity to complete the applicable portions of this Part VII. Each such entity is to fully disclose the methods and techniques used to measure, assign, and allocate such costs to the segment(s) performing Federal contracts or similar cost objectives. Necessary explanations required to achieve that objective should be provided by the entity on a continuation sheet.

Where a home office either establishes practices or procedures for the types of costs covered in this Part VII or incurs and then allocates those costs to its segments, the home office may complete this Part to be included in the submission by the segment as indicated on page (i) 4., General Instructions.

7.1.0 Pension Plans with Costs Charged to Federal Contracts. Identify the types and number of pension plans whose costs are charged to Federal contracts or similar cost objectives: (Mark applicable line(s) and enter number of plans.)

Type of Pension Plan	Number of Plans
A. Defined-Contribution Plan (Other than ESOPs (see 7.5.0))	
1. Non-Qualified	____
2. Qualified	____
B. Defined-Benefit Plan	
1. Non-Qualified	
a. Costs are measured and assigned on accrual basis	____
b. Costs are measured and assigned on cash (pay-as-you-go) basis	____
2. Qualified	
a. Trusteed (Subject to ERISA's minimum funding requirements)	____
b. Fully-insured plan (Exempt from ERISA's minimum funding requirements) treated as a defined-contribution plan	____
c. Collectively bargained plan treated as a defined-contribution plan	____
Y. ____ Other 1/	____
Z. ____ Not Applicable (Proceed to Item 7.2.0)	

1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VII - DEFERRED COMPENSATION AND INSURANCE COST NAME OF REPORTING UNIT

Item No.	Item description
7.1.1	General Plan Information. On a continuation sheet for each plan identified in Item 7.1.0, provide the following information: A. The plan name B. The Employer Identification Number (EIN) of the plan sponsor as reported on IRS Form 5500, if any C. The plan number as reported on IRS Form 5500, if any D. Is there a funding agency established for the plan? E. Indicate where costs are accumulated: (1) Home Office (2) Segment F. If the plan provides supplemental benefits to any other plan, identify the other plan(s).
7.1.2	Defined-Contribution Plan(s) and Certain Defined-Benefit Plans treated as Defined-Contribution Plans. Where numerous plans are listed under 7.1.0.A., 7.1.0.B.2.b., or 7.1.0.B.2.c., for those plans which represent the largest dollar amounts of costs charged to Federal contracts, or similar cost objectives, describe on a continuation sheet the basis for the contribution (including treatment of dividends, credits, and forfeitures) required for each fiscal year. (If there are not more than three plans, provide information for all the plans. If there are more than three plans, information should be provided for those plans that in the aggregate account for at least 80 percent of those defined-contribution plan costs allocable to this segment or business unit.) Z. ____ Not applicable. (Proceed to Item 7.1.3)
7.1.3	Defined-Benefit Plan(s). Where numerous plans are listed under 7.1.0.B. (excluding certain defined-benefit plans treated as defined-contribution plans reported under 7.1.0.B.2.b. and 7.1.0.B.2.c.), for those plans which represent the largest dollar amounts of costs charged to Federal contracts, provide the information requested below on a continuation sheet. (If there are not more than three plans, provide information for all the plans. If there are more than three plans, information should be provided for those plans that in the aggregate account for at least 80 percent of those defined-benefit plan costs allocable to this segment or business unit.): A. Actuarial Cost Method. Identify the actuarial cost method used, including the cost method(s) used to value ancillary benefits, for each plan. Include the method used to determine the actuarial value of assets. Also, if applicable, include whether normal cost is developed as a level dollar amount or as a level percent of salary. For plans listed under 7.1.0.B.1.b., enter "pay-as-you-go". B. Actuarial Assumptions. Describe the events or conditions for which significant actuarial assumptions are made for each plan. Do not include the current numeric values of the assumptions, but provide a description of the basis used for determining these numeric values. Also, describe the criteria used to evaluate the validity of an actuarial assumption. For plans listed under 7.1.0.B.1.b., enter "not applicable". C. Market Value of Funding Agency Assets. Indicate if all assets of the funding agency are valued on the basis of a readily determinable market price. If yes, indicate the basis for the market value. If no, describe how the market values are determined for those assets that do not have a readily determinable market price. For plans listed under 7.1.0.B.1.b., enter "not applicable". D. Basis for Cost Computation. Indicate whether the cost for the segment is determined as: 1. An allocated portion of the total pension plan cost. 2. A separately computed pension cost for one or more segments. If so, identify these segments. Z. ____ Not applicable, proceed to Item 7.2.0.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VII - DEFERRED COMPENSATION AND INSURANCE COST NAME OF REPORTING UNIT

Item No.	Item description
7.2.0	**Post-retirement Benefits (PRBs) Other than Pensions (including post-retirement health care benefits) Charged to Federal Contracts.** Identify the accounting method used to determine the costs and the number of PRB plans whose costs are charged to Federal contracts or similar cost objectives. Where retiree benefits are provided as an integral part of an employee group insurance plan that covers active employees, report that plan under 7.3.0. (Mark applicable line(s) and enter number of plans.) Method Used to Determine Costs — Number of Plans A. Accrual Accounting ____ B. Cash (pay-as-you-go) Accounting ____ C. Purchased Insurance from unrelated Insurer ____ D. Purchased Insurance from Captive Insurer ____ E. Self-Insurance (including insurance obtained through Captive Insurer) ____ F. Terminal Funding ____ Y. Other 1/ ____ Z. ____ Not Applicable (Proceed to Item 7.3.0)
7.2.1	General PRB Plan Information. On a continuation sheet for each plan identified in item 7.2.0, provide the following information grouped by method used to determine costs: A. The plan name B. The Employer Identification Number (EIN) of the plan sponsor as reported on IRS Form 5500, if any C. The plan number as reported on IRS Form 5500, if any D. Is there a funding agency or funded reserve established for the plan? E. Indicate where costs are accumulated: (1) Home Office (2) Segment F. Are benefits provided pursuant to a written plan or an established practice? If established practice, briefly describe. G. If this PRB plan is listed under 7.2.0.C., 7.2.0.D., or 7.2.0.E., indicate whether the plan is operated as an employee group insurance program. If this PRB plan is listed under 7.2.0.Y., indicate whether the plan is operated as a group insurance program. If the plan is operated as an employee group insurance program, report this plan under 7.3.0. and 7.3.1., as appropriate. If no, report the plan under 7.2.2. 1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VII - DEFERRED COMPENSATION AND INSURANCE COST NAME OF REPORTING UNIT

Item No.	Item description
7.2.2	PRB Plan(s). Where numerous plans are listed under 7.2.0, for those plans which represent the largest dollar amounts of costs charged to Federal contracts, or other similar cost objectives, provide the information below on a continuation sheet. (If there are not more than three plans, provide information for all the plans. If there are more than three plans, information should be provided for those plans that in the aggregate account for at least 80 percent of those PRB costs allocable to this segment or business unit.) A. Actuarial Cost Method. Identify the actuarial cost method used for each plan or each benefit, as appropriate. Include the method used to determine the actuarial value of assets. Identify the amortization methods and periods used, if any. For plans listed under 7.2.0.B., enter "cash accounting". For plans listed under 7.2.0.F., enter "terminal funding" and identify the amortization methods and periods used, if any. B. Actuarial Assumptions. Describe the events or conditions for which significant actuarial assumptions are made for each plan. Do not include the current numeric values of the assumptions, but provide a description of the basis used for determining these numeric values. Also, describe the criteria used to evaluate the validity of an actuarial assumption. For plans under 7.2.0.B. or 7.2.0.F., enter "not applicable". C. Funding. Provide the following information on the funding practice for the costs of the plan: (For plans under 7.2.0.B. or 7.2.0.F., enter "not applicable".) 1. Describe the criteria for or practice of funding the measured and assigned cost; e.g., full funding of the accrual, funding is made pursuant to VEBA or 401(h) rules. 2. Briefly describe the funding arrangement. 3. Are all assets valued on the basis of a readily determinable market price? If yes, indicate the basis used for the market value. If no, describe how the market value is determined for those assets that are not valued on the basis of a readily determinable market price. D. Basis for Cost Computation. Indicate whether the cost for the segment is determined as: 1. An allocated portion of the total PRB plan cost 2. A separately computed PRB cost for one or more segments. If so, identify those segments. E. Forfeitability. Does each participant have a non-forfeitable contractual right to their benefit or account balance? If no, explain. Z. _____ Not applicable, proceed to item 7.3.0.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VII - DEFERRED COMPENSATION AND INSURANCE COST NAME OF REPORTING UNIT

Item No.	Item description

7.3.0 Employee Group Insurance Charged to Federal Contracts or Similar Cost Objectives. Does your organization provide group insurance coverage to its employees? (Includes coverage for life, hospital, surgical, medical, disability, accident, and similar plans for both active and retired employees, even if the coverage was previously described in 7.2.0.)

A. _____ Yes (Complete Item 7.3.1)

B. _____ No (Proceed to Item 7.4.0)

7.3.1 Employee Group Insurance Programs. For each program that covers a category of insured risk (e.g., life, hospital, surgical, medical, disability, accident, and similar programs for both active and retired employees), provide the information below on a continuation sheet, using the codes described below: (If there are not more than three policies or self-insurance plans that comprise the program, provide information for all the policies and self-insurance plans. If there are more that three policies or self-insurance plans, information should be provided for those policies and self-insurance plans that in the aggregate account for at least 80 percent of the costs allocable to this segment or business unit for the program that covers each category of insured risk identified.)

Description of Employee Group Insurance Program: _____

Policy or Self-Insurance Plan	Cost Accumulation (1)	Cost Basis (2)	Includes Retirees (3)	Purchased Insurance Rating Basis (4)	Self-Insurance: Projected Average Loss (5)	Self-Insurance: Insurance Administrative Expenses (6)

Column (1) – Cost Accumulation

Enter Code A, B, or Y, as appropriate.

A. Costs are accumulated at the Home Office.
B. Costs are accumulated at Segment
Y. Other 1/

Column (2) – Cost Basis

Enter code A, B, C, or Y, as appropriate.

A. Purchased Insurance from unrelated third party
B. Self-insurance
C. Purchased Insurance from a captive insurer
Y. Other 1/

1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VII - DEFERRED COMPENSATION AND INSURANCE COST NAME OF REPORTING UNIT

Item No.	Item description
7.3.1	Continued. Column (3) – Includes Retirees Enter code A, B, C, or Y, as appropriate. A. No, does not include benefits for retirees. B. Yes, PRB benefits for retirees that are a part of a policy or coverage for both active employees and retirees are reported here instead of 7.2.0. C. Yes, PRB benefits for retirees are a part of a PRB plan previously reported under 7.2.0. Y. Other 1/ Column (4) – Purchased Insurance Rating Basis For each plan listed enter code A, B, C, Y, or Z, as appropriate. A. Retrospective Rating (also called experience rating plan or retention plan). B. Manually Rated C. Community Rated Y. Other, or more than one type 1/ Z. Not applicable Column (5) – Projected Average Loss For each self-insured group plan, or the self-insured portion of purchased insurance, enter code A, B, C, Y, or Z, as appropriate. A. Self-insurance costs represent the projected average loss for the period estimated on the basis of the cost of comparable purchased insurance. B. Self-insurance costs are based on the contractor's experience, relevant industry experience, and anticipated conditions in accordance with accepted actuarial principles. C. Actual payments are considered to represent the projected average loss for the period. Y. Other, or more than one method 1/ Z. Not applicable Column (6) – Insurance Administration Expenses For each self-insured group plan, or the self-insured portion of purchased insurance, enter code A, B, C, D, Y, or Z, as appropriate, to indicate how administrative costs are treated. A. Separately identified and accumulated in indirect cost pool(s). B. Separately identified, accumulated, and allocated to cost objectives either at the segment and/or home office level (Describe allocation method on a Continuation Sheet). C. Not separately identified, but included in indirect cost pool(s). (Describe pool(s) on a Continuation Sheet) D. Incurred by an insurance carrier or third party (Describe accumulation and allocation process on a Continuation Sheet). Y. Other 1/ Z. Not applicable 1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VII - DEFERRED COMPENSATION AND INSURANCE COST NAME OF REPORTING UNIT

Item No.	Item description
7.4.0	Deferred Compensation, as defined in CAS 9904.415. Does your organization award deferred compensation, other than ESOPs, which is charged to Federal contracts or similar cost objectives? (Mark one.) A. ____ Yes (Complete Item 7.4.1.) B. ____ No (Proceed to Item 7.5.0.)
7.4.1	General Plan Information. On a continuation sheet for all deferred compensation plans, as defined by CAS 9904.415, provide the following information: A. The plan name B. The Employer Identification Number (EIN) of the plan sponsor as reported on IRS Form 5500, if any C. The plan number as reported on IRS Form 5500, if any D. Indicate where costs are accumulated: (1) Home office (2) Segment E. Are benefits provided pursuant to a written plan or an established practice? If established practice, briefly describe .
7.4.2	Deferred Compensation Plans. Where numerous plans are listed under 7.4.1, for those plans which represent the largest dollar amounts of costs charged to Federal contracts, or other similar cost objectives, provide the information below on a continuation sheet. (If there are not more than three plans, provide information for all the plans. If there are more than three plans, information should be provided for those plans that in the aggregate account for at least 80% of these deferred compensation costs allocable to this segment or business unit): A. Description of Plan. 1. Stock Options 2. Stock Appreciation Rights 3. Cash Incentive 4. Other (explain) B. Method of Charging Costs to Federal Contracts or Similar Cost Objectives. 1. Costs charged when accrued and the accrual is fully funded 2. Costs charged when accrued and the accrual is partially funded or not funded 3. Costs charged when paid to employee (pay-as-you-go) 4. Other (explain)

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VII - DEFERRED COMPENSATION AND INSURANCE COST NAME OF REPORTING UNIT

Item No.	Item description
7.5.0	Employee Stock Ownership Plans (ESOPs). Does your organization make contributions to fund ESOPs that are charged directly or indirectly to Federal contracts or similar cost objectives? (Mark one) A. _____ Yes (Proceed to Item 7.5.1) B. _____ No (Proceed to Item 7.6.0)
7.5.1	General Plan Information. On a continuation sheet, for all ESOPs provide the following information: A. The plan name B. The Employer Identification Number (EIN) of the plan sponsor as reported on IRS Form 5500, if any C. The plan number as reported on IRS Form 5500, if any D. Indicate where costs are accumulated: (1) Home office (2) Segment E. Are benefits provided pursuant to a written plan or an established practice? If established practice, briefly describe. F. Indicate whether the ESOP plan is a defined-contribution plan subject to CAS 9904.412. (Answer Yes or No). G. Indicate whether the ESOP is leveraged or nonleveraged. H. Valuation of Stock or Non-Cash Assets. Are the plan assets valued on the basis of a readily determinable market price? If yes, indicate the basis for the market value. If no, indicate how the market value is determined for those assets that do not have a readily determinable market price. I. Forfeitures and Dividends. Describe the accounting treatment for forfeitures and dividends, on both allocated and unallocated shares, in the measurement of ESOP costs charged directly or indirectly to Federal contracts or similar cost objectives for each plan identified. J. Administrative Costs. Describe how the costs of administration of each plan listed are identified, grouped, and accumulated.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VII - DEFERRED COMPENSATION AND INSURANCE COST NAME OF REPORTING UNIT

Item No.	Item description

7.6.0 Worker's Compensation, Liability, and Property Insurance. Does your organization have insurance coverage regarding worker's compensation, liability and property insurance?

A. _____ Yes (Complete Item 7.6.1.)

B. _____ No (Proceed to Part VIII)

7.6.1 Worker's Compensation, Liability and Property Insurance Coverage.

For each line of insurance that covers a category of insured risk (e.g., worker's compensation, fire and similar perils, automobile liability and property damage, general liability), provide the information below on a continuation sheet using the codes described below: (If there are not more than three policies or self-insurance plans that are applicable to the line of insurance, provide information for all the policies and self-insurance plans. If there are more than three policies or insurance plans, information should be provided for those policies and self-insurance plans that in the aggregate account for at least 80 percent of the costs allocable to this segment or business unit for each line of insurance identified.)

Description of Line of Insurance Coverage: _____

Policy or Self-Insurance Plan	Cost Accumulation (1)	Cost Basis (2)	Crediting of Dividends and Earned Refunds (3)	Self-Insurance: Projected Average Loss (4)	Self-Insurance: Insurance Administrative Expenses (5)

Column (1) – Cost Accumulation

Enter code A, B, or Y, as appropriate.

A. Costs are accumulated at the Home Office.
B. Costs are accumulated at Segment
Y. Other 1/

Column (2) – Cost Basis

Enter code A, B, C, or Y, as appropriate.

A. Purchased insurance from unrelated third party
B. Self-insurance
C. Purchased insurance from a captive insurer
Y. Other 1/

1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VII - DEFERRED COMPENSATION AND INSURANCE COST NAME OF REPORTING UNIT

Item No.	Item description
7.6.1	Continued.

Column (3) – Crediting of Dividends and Earned Refunds

For each line of coverage listed, enter code A, B, C, D, E, Y, or Z, as appropriate.

A. Credited directly or indirectly to Federal contracts or similar cost objectives in the year earned
B. Credited directly or indirectly to Federal contracts or similar cost objectives in the year received, not necessarily in the year earned
C. Accrued each year, as applicable, to currently reflect the net annual cost of the insurance
D. Not credited or refunded to the contractor but retained by the carriers as reserves in accordance with 48 CFR 9904.416-50(a)(1)(iv)
E. Manually Rated - not applicable
Y. Other, or more than one 1/
Z. Not applicable

Column (4) – Projected Average Loss

For each self-insured group plan, or the self-insured portion of purchased insurance, enter code A, B, C, Y, or Z, as appropriate.

A. Costs that represent the projected average loss for the period estimated on the basis of the cost of comparable purchased insurance.
B. Costs that are based on the contractor's experience, relevant industry experience, and anticipated conditions in accordance with generally accepted actuarial principles and practices.
C. The actual amount of losses are considered to represent the projected average loss for the period.
Y. Other, or more than one method. 1/
Z. Not applicable

Column (5) – Insurance Administration Expenses

For each self-insured group plan, or the self-insured portion of purchased insurance, enter code A, B, C, D, Y, or Z, as appropriate, to indicate how administrative costs are treated.

A. Separately identified and accumulated in indirect cost pool(s).
B. Separately identified, accumulated, and allocated to cost objectives either at the segment and/or home office level (Describe allocation method on a Continuation Sheet).
C. Not separately identified, but included in indirect cost pool(s). (Describe pool(s) on a Continuation Sheet).
D. Incurred by an insurance carrier or third party. (Describe accumulation and allocation process on a Continuation Sheet).
Y. Other 1/
Z. Not applicable

1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VIII - HOME OFFICE EXPENSES NAME OF REPORTING UNIT

Item No.	Item description

Part VIII Instructions

FOR HOME OFFICE, AS APPLICABLE (Includes home office type operations of subsidiaries, joint ventures, partnerships, etc.). 1/

This part should be completed only by the office of a corporation or other business entity where such an office is responsible for administering two or more segments, where it allocates its costs to such segments and where at least one of the segments is required to file Parts I through VII of the Disclosure Statement.

Data for this part should cover the reporting unit's (corporate or other intermediate level home office's) most recently completed fiscal year. For a corporate (home) office, such data should cover the entire corporation. For a intermediate level home office, they should cover the subordinate organizations administered by that group office.

8.1.0 Organizational Structure.

On a continuation sheet, provide the following information:

1. **In column (1) list segments and other intermediate level home offices reporting to this home office,**
2. **In column (2) insert "yes" or "no" to indicate if reporting units have recorded any CAS-covered Government Sales, and**
3. **In column (3) provide the percentage of annual CAS-covered Government Sales as a Percentage of Total Sales (Government and Commercial), if applicable, as follows:**

   A. Less than 10%
   B. 10%-50%
   C. 51%-80%
   D. 81%-95%
   E. Over 95%

Segment or Other Intermediary Home Office (1)	CAS Covered Government Sales (2)	Government Sales as a Percentage of Total Sales (3)

8.2.0 Other Applicable Disclosure Statement Parts. (Refer to page (i) 4., General Instructions, and Parts V, VI and VII of the Disclosure Statement. Indicate below the parts that the reporting unit has completed concurrently with Parts I and VIII.)

A. ____ Part V - Depreciation and Capitalization Practices
B. ____ Part VI - Other Costs and Credits
C. ____ Part VII - Deferred Compensation and Insurance Costs
Z. ____ Not Applicable

1/ For definition of home office see 48 CFR 9904.403.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VIII - HOME OFFICE EXPENSES NAME OF REPORTING UNIT

Item No.	Item description
8.3.0	**Expenses or Pools of Expenses and Methods of Allocation.** For classification purposes, three methods of allocation, defined as follows, are to be used: (i) Directly Allocated--those expenses that are charged to specific corporate segments or other intermediate level home offices based on a specific identification of costs incurred, as described in 9904.403; (ii) Homogeneous Expense Pools--those individual or groups of expenses which are allocated using a base which reflects beneficial or causal relationships, as described in 9904.403; and (iii) Residual Expense--the remaining expenses which are allocated to all segments by means of a base representative of the total activity of such segments. **Allocation Base Codes** A. Sales B. Cost of Sales C. Total Cost Input (Direct Material, Direct Labor, Other Direct Costs, and Applicable Overhead) D. Total Cost Incurred (Total Cost Input Plus G&A Expenses) E. Prime Cost (Direct Material, Direct Labor, and Other Direct Costs F. Three factor formula (CAS 9904.403-50(c)) G. Processing or Conversion Cost (Direct Labor and Applicable Overhead) H. Direct Labor Dollars I. Direct Labor Hours J. Machine Hours K. Usage L. Unit of Production M. Direct Material Cost N. Total Payroll Dollars (Direct and Indirect Employees) O. Headcount or Number of employees (Direct and Indirect Employees) P. Square Feet Q. Value Added Y. Other, or More than One Basis 1/ (On a continuation sheet, under each of the headings 8.3.1, 8.3.2, and 8.3.3 enter the type of expenses or the name of the expense pool(s). For each of the types of expense or expense pools listed, also indicate as item (a) the major functions, activities, and elements of cost included. In addition, for items listed under 8.3.2 and 8.3.3 enter one of the Allocation Base Codes A through Q, or Y, to indicate the basis of allocation and describe as item (b) the make up of the base(s). For example, if direct labor dollars are used, are ovetime premiums, fringe benefits, etc. included? For items listed under 8.3.2 and 8.3.3, if a pool is not allocated to all reporting units listed under 8.1.0, then list those reporting units either receiving or not receiving an allocation. Also identify special allocations of residual expenses and/or fixed mangement charges (see 9904.403-40(c)(3)). 1/ Describe on a Continuation Sheet.

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VIII - HOME OFFICE EXPENSES NAME OF REPORTING UNIT

Item No.	Item description
	Type of Expenses or Name of Pool of Expenses
8.3.1	**Directly Allocated**
	1. _____
	(a) Major functions, activities, and elements of cost include:
	_____
	_____
	2. _____
	(a) Major functions, activities, and elements of cost include:
	_____
	_____
8.3.2	**Homogeneous Expense Pools** — **Allocation Base Code**
	1. _____ ____
	(a) Major functions, activities, and elements of cost include:
	_____
	_____
	(b) Description/Make up of the allocation base:
	_____
	_____
	2. _____ ____
	(a) Major functions, activities, and elements of cost include:
	_____
	_____
	(b) Description/Make up of the allocation base:
	_____
	_____

COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 100-679	PART VIII - HOME OFFICE EXPENSES NAME OF REPORTING UNIT

Item No.	Item description
8.3.3	**Residual Expenses** **Allocation Base Code** _____ ____ (a) Major functions, activities, and elements of cost include: _____ _____ (b) Description/Make up of the allocation base: _____ _____
8.4.0	**Transfer of Expenses.** If there are normally transfers of expenses from reporting units to this home office, identify on a continuation sheet the classification of the expense and the name of the reporting unit incurring the expense.

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Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Funding Availability: Housing Opportunities for Persons with AIDS; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–4012–N–01]

Notice of Funding Availability for Housing Opportunities for Persons With AIDS

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: This Notice announces the availability of up to $17,100,000 in funds to be allocated by competition for housing assistance and supportive services under the Housing Opportunities for Persons with AIDS (HOPWA) program. The funds available under this NOFA will be used to fund projects for low-income persons with HIV/AIDS and their families under three categories of assistance: (1) Grants for special projects of national significance which, due to their innovative nature or their potential for replication, are likely to serve as effective models in addressing the needs of eligible persons; (2) grants for special projects of national significance—HIV Multiple-Diagnoses Initiative; and (3) grants for projects which are part of long-term comprehensive strategies for providing housing and related services for eligible persons in areas that are not eligible for HOPWA formula allocations.

One new feature of this notice is an initiative to assist homeless persons who are living with HIV/AIDS who have chronic alcohol and/or other drug abuse problems and/or serious mental illness. The initiative responds to recommendations expressed during the 1995 White House Conference on HIV and AIDS, to recommendations to HUD by residents and providers of HIV/AIDS housing, and to recommendations and a survey of priority unmet needs of homeless providers and advocates cited in *Priority: Home! The Federal Plan to Break the Cycle of Homelessness,* issued by the Interagency Council on the Homeless in March, 1994. The HIV Multiple-Diagnoses Initiative is a collaborative effort between HUD and the Department of Health and Human Services to establish, evaluate and disseminate information on model programs to provide the integration of health care and other supportive services with housing assistance for eligible persons. The initiative targets assistance to homeless persons who often have complex needs and for whom service systems are often least developed.

HOPWA assistance announced in this notice is being offered in conjunction with related assistance being announced under the Special Projects of National Significance component of the Ryan White CARE Act under Department of Health and Human Services notices published elsewhere in today's Federal Register. One HHS notice provides for grants for Special Projects of National Significance, including grants for the development and evaluation of programs for the integration of medical, substance abuse, and mental health services in residential facilities or home health care agencies. The other HHS notice establishes an Evaluation Technical Assistance Center which will undertake national and multi-site evaluations of the Special Projects of National Significance, including grants for Housing for Homeless Persons with HIV/AIDS and Substance Abuse and/or Mental Illness. In addition, the Center will provide for assessment and technical support for projects selected under this initiative for HUD projects that request program development support.

This NOFA contains information concerning eligible applicants, the funding available, the application package, its processing, and selection of applications.

DATES: Applications for HOPWA assistance are due in HUD Headquarters by midnight Eastern Time on May 21, 1996. Conditionally selected applicants will be notified by HUD of their selection and may be required to submit additional information within two months of the date of their notification from HUD.

FOR A COPY OF APPLICATION PACKAGES CONTACT: A HUD Field Office listed in the appendix A to this NOFA for the application package and supplemental information, which may include a video presentation. Applications for CPD programs are also available by calling the Community Connections information center at 1–800–998–9999 or by internet at gopher://amcom.aspensys.com:75/11/funding.

ADDRESSES: Completed applications must be submitted to the Office of Community Planning and Development, Processing Control Branch, Room 7255, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. HUD will treat as ineligible for consideration applications that are received after the deadline. A copy must also be sent to the HUD Field Office serving the area in which the applicant's project is located. A list of field offices appears at the end of this NOFA. The Department will not accept any application which is submitted to HUD via facsimile (FAX) transmission.

FOR FURTHER INFORMATION CONTACT: The HUD Field Office for the area in which the proposed project is located. Telephone numbers are included in the list of Field Offices set forth in the appendix to this NOFA.

ELIGIBLE APPLICANTS AND SCHEDULE OF COMPETITIONS IN 1996

Category	Special Projects of National Significance.	Special Projects of National Significance—HIV Multiple-Diagnoses Initiative.	Projects which are part of Long-term Comprehensive Strategies for providing housing and related services.
Eligible Applicants	States, Local Governments, Non-profit Organizations.	States, Local Governments, Non-profit Organizations.	States and Local Governments in areas that are not eligible for Formula allocations.
Approximate funding	$17.1 million (approximately $7 million reserved for SPNS–HIV MDI)		
Maximum Award Per Applicant	$1,000,000 for program activities, and 100,000 for administrative costs, and, if applicable, 100,000 for program development support of SPNS–HIV MDI projects.		
Where to obtain application packages	Contact the area HUD CPD Office listed in Appendix A, for the application package and supplemental information, which may include a video presentation, or call the Community Connections information center at 1–800–998–9999.		
Applications due to HUD Headquarters in Washington, DC	May 21, 1996 Midnight Eastern Time.		
Applications to be sent to	Original to HUD Headquarters (Room 7255) and one copy to the area HUD Office (CPD office).		

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement. The information collection requirements for the HOPWA program have been approved under the Paperwork Reduction Act by the Office of Management and Budget (OMB), and have been assigned OMB control number 2506–0133 (exp. 2/28/97).

I. Purpose and Substantive Description

(a) Purpose. The funds available under this NOFA will be used to fund projects for low-income persons with HIV/AIDS and their families under three categories of assistance: (1) Grants for special projects of national significance which, due to their innovative nature or their potential for replication, are likely to serve as effective models in addressing the needs of eligible persons; (2) grants for special projects of national significance—HIV Multiple-Diagnoses Initiative; and (3) grants for projects which are part of long-term comprehensive strategies for providing housing and related services for eligible persons in areas that are not eligible for HOPWA formula allocations.

(b) Authority. The assistance made available under this NOFA is authorized by the AIDS Housing Opportunity Act (42 U.S.C. 12901), and is anticipated to be appropriated by the HUD Appropriations Act of 1996. The annual FY 1996 appropriation for HUD has not yet been enacted. However, HUD is publishing this notice in order to give potential applicants adequate time to prepare applications. The estimate of the amount of funds available for this program is based on the level of funding available for FY 1995. HUD is not bound by the estimate set forth in this notice. The regulations for HOPWA are found at 24 CFR part 574.

(c) Eligibility. (1) States, units of general local government, and nonprofit organizations may apply for grants for special projects of national significance, including grants under the HIV Multiple-Diagnoses Initiative. (2) All states and units of general local government may apply for grants for projects under the Long-term category of grants, except for: (A) any state that was eligible to receive a formula award in fiscal year 1996; and (B) any unit of general local government that was located in a metropolitan area or state that was eligible to receive a formula award in fiscal year 1996, see appendix B. Nonprofit organizations are not eligible to apply for the Long-term category of grants.

(d) Allocation amounts. Up to $17,100,000 is being made available by this NOFA. The Department expects that approximately $7 million will be used under an initiative to address the needs of multiply-diagnosed homeless persons who are living with HIV/AIDS and have chronic alcohol and/or other drug abuse problems and/or serious mental illness. Since some of the appropriated funds are to be derived from the recapture of prior year obligations, the actual amount available may be less.

The maximum amount that an applicant may receive is $1,000,000 for program activities, and applicants may receive up to an additional $100,000 for administrative costs (potentially $30,000 for grantee administrative costs and $70,000 for project sponsors' administrative costs).

The notice also makes available up to an additional $100,000 for program development support under the HIV Multiple-Diagnoses Initiative for applicants that agree to participate in a HUD and HHS process and outcome evaluation and dissemination component. An applicant that requests additional funds for program development support will use such funds to participate in the HHS Evaluation Technical Assistance Center efforts to evaluate project performance and disseminate information on project outcomes. Collaborative efforts will be undertaken to develop effective interventions for the targeted population, to share information and to undertake cross-site evaluations of related HUD and HHS projects.

Creation of model projects and dissemination of information under the HIV Multiple-Diagnoses Initiative will help improve the systems of care and continuum-of-care initiatives for the targeted population in other localities and nationally. The HUD model projects will use program development funds in connection with the HHS Center, for example to develop and implement project evaluation plans, to participate in jointly-sponsored HUD and HHS evaluation meetings, to acquire technical assistance in operating programs and evaluating performance and to disseminate information on their projects. The Departments expect that six semiannual evaluation meetings will be held with initiative participants over a three year period.

The program development support activities are eligible HOPWA activities under 24 CFR 574.300 (b)(2) as ''Resource identification to establish, coordinate and develop housing assistance resources for eligible persons (including conducting preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives).''

HUD reserves the right to fund less than the full amount requested in any application and to modify requests accordingly. If a request is modified by HUD, the conditionally selected applicant will be required to modify its project plans and application to conform to the terms of HUD approval before execution of a grant agreement.

Funds received under this competition are to be expended within three years following the date of the signing of a grant agreement. Any unobligated funds from previous competitions or additional funds that may become available as a result of deobligations or recaptures from previous awards may also be used to fund applications submitted in response to this NOFA.

(e) Program goal. Applicants for HOPWA assistance under this NOFA should emphasize the connection between housing assistance and appropriate supportive services in designing their programs. As stated by the National Commission on AIDS in *Housing and the HIV/AIDS Epidemic* (issued in June 1992) there is ''frequently desperate need for safe shelter that provides not only protection and comfort, but also a base in which and from which to receive services, care and support.''

(f) HIV Multiple-Diagnoses Initiative. This notice implements an initiative for multiply-diagnosed homeless persons who are living with HIV/AIDS and have chronic alcohol and/or other drug abuse problems and/or serious mental illness. Participants in the 1995 White House Conference on HIV and AIDS and others recommended that collaborative efforts be made by the Department of Housing and Urban Development and the Department of Health and Human Services to integrate funding streams for projects that address the needs of multiply-diagnosed clients. Participants noted that many communities lack resources within existing programs to assist these clients who are often among the hardest-to-serve population of persons living with HIV/AIDS. The survey in *Priority: Home!* found that among the top five priority areas consistently identified were mental health treatment services and substance abuse treatment services. The report recommended that communities be encouraged to ''Effectively target mental health and housing resources to the most needy, such as homeless persons with mental illnesses or dual diagnoses'' as part of developing more integrated systems of housing and services. The report also recommended that states and communities give some priority in existing and new funding to homeless

persons with AIDS, including providing health care and other supportive services.

This HUD–HHS initiative addresses the need for model programs for multiply-diagnosed clients under the Special Projects of National Significance components of the HOPWA program administered by HUD and the Ryan White CARE Act programs administered by HHS. This notice lists elements that both Departments seek in model projects that assist this targeted population. Supplemental information to the application package will contain information that further describes examples of model efforts, and may include a video presentation. Among those elements are:

- Outreach to homeless persons who are living with HIV/AIDS and have chronic alcohol and/or other drug abuse problems and/or serious mental illness;
- Client needs assessment and monitoring;
- Transitional supportive housing;
- Permanent supportive housing; and
- Health care and other supportive services that address the needs of eligible homeless persons with chronic alcohol and/or other drug abuse problems and/or serious mental illness;
- Safe haven residences or other housing assistance for homeless persons with serious mental illness that have minimal initial demands on residents and do not require participation in services. It is hoped and anticipated that residents, in time, will participate in mental health programs and/or substance abuse programs and move to or accept transitional or other supportive housing;
- Program evaluation; and
- Other innovative features.

The elements may be funded under this initiative or funded in part under this initiative in connection with efforts supported from other federal, state, local or private sources, including health-care and other supportive services funded under the Ryan White CARE Act. Given the limited amount of housing assistance funds available under this program, HUD encourages applicants to fund supportive services activities from non-HOPWA sources.

Under this initiative, the targeting of assistance to homeless persons means that assistance is provided to persons who are sleeping in emergency shelters (including hotels or motels used as shelter for homeless families), other facilities for homeless persons, or places not meant for human habitation, such as cars, parks, sidewalks, or abandoned buildings. This includes persons who ordinarily live in such places but are in a hospital or other institution on a short-term basis (short-term is considered to be 30 consecutive days or less). In targeting assistance, HUD expects that only an incidental percentage of clients who are not homeless, as described above, but are at risk of homelessness will be assisted under this initiative.

Safe havens are designed to provide persons with serious mental illness who have been living on the streets with a secure, non-threatening, non-institutional, supportive environment. A safe haven proposal should: (1) Propose to serve hard-to-serve homeless persons; (2) provide 24-hour residence; (3) provide private or semi-private accommodations; (4) provide, optionally, for the common use of accessible kitchen facilities, dining rooms, and bathrooms; and (5) limit overnight occupancy to no more than 25 persons in any one structure. HUD will consider appropriate modifications in applying the competition rating criteria to safe haven proposals to ensure that the special characteristics of safe havens are not considered less competitive than alternative supportive housing proposals.

Model projects that serve multiply-diagnosed homeless persons are also included in a notice of availability of funds that was issued by the Health Resources and Services Administration, Department of Health and Human Services, for the award of cooperative agreements as Special Projects of National Significance under the Ryan White CARE Act. Given the limited amount of housing funds available, applicants who propose to use federal funds for supportive services only and are not requesting funds for housing assistance are encouraged to apply under the HHS notice, if the request is consistent with the assistance available under that notice.

HUD reserves the right to select lower rated applications if necessary to ensure that a minimum number of applications that propose model HIV multiple-diagnoses projects are among conditionally selected applications. The Department estimates that approximately $7 million will be used to address the needs of this targeted population. This expected amount will help ensure that a sufficient number of applications, estimated to be seven to ten projects, are selected under the initiative in order to provide for the operation and evaluation of a variety of model programs as well as provide additional resources to the targeted difficult-to-serve population. HUD also reserves the right to ensure that a project that is applying for and eligible for selection under this and other HUD and HHS competitions is not awarded funds that duplicate activities. HUD reserves the right to reduce this estimate for the HIV Multiple-Diagnoses Initiative and reallocate funds to the other categories of assistance if an insufficient number of approvable applications are received for this initiative.

II. Application Selection Process

(a) Review. Applications will be reviewed to ensure that they meet the following:

(1) *Applicant eligibility*. The applicant and project sponsor(s), if any, are eligible to apply for the specific program;

(2) *Eligible population to be served*. The persons proposed to be served are eligible persons;

(3) *Eligible activities*. The proposed activities are eligible for assistance under the program; and

(4) *Other requirements*. The applicant is currently in compliance with the federal requirements contained in 24 CFR part 574, subpart G, ''Other Federal Requirements.''

(b) Competition. Applications under the three categories of grant will be rated in a national competition. To rate applications, the Department may establish a panel including persons not currently employed by HUD to obtain outside points of view, including views from other federal agencies.

(c) Rating of Applications.

(1) Procedure. Applications will be rated based on the criteria listed below. The criteria listed in paragraph (2) (A), (B), (C), and (D) are common for all applications. Paragraphs (3), (4) and (5) are specific for the category of assistance under which the application is being submitted. Ratings will be made with a maximum of 100 points awarded. After rating, these applications will be placed in the rank order of their final score for selection.

(2) Common Rating Criteria. Applications under the three categories of grant will be rated on the following four common criteria for up to 65 points:

(A) *Applicant and Project Sponsor capacity (20 points)*. HUD will award up to 20 points based on the ability of the applicant and, if applicable, any project sponsor(s) to develop and operate the proposed program, in relation to which entity is carrying out an activity. With regard to both the applicant and the project sponsor(s), HUD will consider: (a) past experience in serving persons with HIV/AIDS and their families; (b) past experience in programs similar to those proposed in the application; and (c) experience in monitoring and evaluating program performance and

disseminating information on project outcomes.

As applicable, the rating under this criterion will also consider prior performance with any HUD-administered programs, timeliness in implementing HUD-administered programs, including any serious, outstanding audit or monitoring findings that directly affect the proposed project.

(B) *Need for the project in the area to be served (15 points).* HUD will award up to 15 points based on the extent to which the need for the project in the area to be served is demonstrated with 10 of these points to be determined by the relative numbers of AIDS cases and per capita AIDS incidence, as reported to and confirmed by the Director of the Centers for Disease Control and Prevention and in the case of applicants under the HIV Multiple-Diagnoses Initiative, HUD will also consider evidence presented on the unmet needs of the targeted population of persons who are homeless and living with HIV/AIDS who experience serious mental illness and/or have chronic alcohol and/or other drug abuse problems.

HUD will award 5 of these points under this criterion to the highest rated application for each category in each state or, for projects that substantially propose multiple-state or national service areas, one nationally.

(C) *Appropriateness of program activities: housing, supportive services and other assistance (20 points).* HUD will award up to 20 points based on the extent to which a plan for undertaking and managing the proposed activities:

(a) describes and responds to the need for housing and related supportive services of eligible persons in the community; or, in relation to technical assistance activities proposed in the application, describes and responds to the technical assistance needs of programs which provide housing and related supportive services for eligible persons;

(b) describes how activities carried out with HOPWA funds and other resources will provide a continuum of housing and services to meet the changing needs of eligible persons, such as the linkage of housing assistance with health-care and other supportive services in area continuum of care efforts, offers a personalized response to those needs which maximizes opportunities for independent living, and in the case of a family, accommodates the needs of families; in the case of a safe haven proposal, describes how activities carried out with HOPWA funds and other resources will provide for the stabilization of clients, the availability of basic services in the safe haven, and linkage to other assistance;

(c) provides for monitoring and the evaluation of the assistance provided to participants; and

(d) in relation to technical assistance activities proposed in the application, provides technical assistance related to the development and operation of programs and the capacity of organizations to undertake and manage assistance for eligible persons; and

(D) *Extent of leveraged public and private resources for the project (10 points).* HUD will award up to 10 points based on the extent to which resources from other public or private sources have been committed to support the project at the time of application. In establishing leveraging, HUD will not consider other HOPWA-funded activities, entitlement benefits inuring to eligible persons, or conditioned commitments that depend on future fund-raising or actions.

(3) Additional Criterion for Special Projects of National Significance (35 points). Applications for special projects of national significance will be rated on:

(A) *Innovative nature of the proposal and its potential for replication.* HUD will award up to 25 points based on the extent to which the project involves a new program for, or alternative method of, meeting the needs of eligible persons, when compared to other applications and projects funded in the past. The Department will consider the extent to which the project design, management plan, proposed effects, local planning and coordination of housing programs, and proposed activities are exemplary and appropriate as a model for replication in similar localities or nationally, when compared to other applications and projects funded in the past, and the likelihood of the continuation of the state and local efforts; and

(B) *Evaluation and dissemination.* HUD will award up to 10 points based on the extent to which the project provides for the evaluation and dissemination of information on the success of the proposed activities in assisting eligible persons and/or in establishing or operating systems of care for eligible persons.

(4) Additional Criterion for Special Projects of National Significance—HIV Multiple-Diagnoses Initiative (35 points). Applications for Special Projects of National Significance under the HIV Multiple-Diagnoses Initiative will be rated on:

(A) *Innovative nature of the proposal and its potential for replication.* HUD will award up to 25 points based on the extent to which the project involves a new program for, or alternative method of, meeting the needs of the targeted population of eligible persons, when compared to other applications and projects funded in the past. The Department will consider the extent to which the project design, management plan, proposed effects, local planning and coordination of housing programs, the likelihood that activities will benefit the targeted population of eligible persons and proposed activities are exemplary and appropriate as a model for replication in similar localities or nationally, when compared to other applications and projects funded in the past, and the likelihood of the continuation of the state and local efforts; and

(B) *Evaluation and dissemination.* HUD will award up to 10 points based on the applicant's evaluation and dissemination plan or, alternatively, 10 points to an applicant that agrees to fully participate in the joint HUD and HHS evaluation component. If the applicant submits its own evaluation and dissemination plan, up to 10 points will be awarded based on the extent to which the applicant describes an evaluation and dissemination plan that:

(a) Demonstrates thoroughness, feasibility and appropriateness of the evaluation design from a methodological and statistical perspective;

(b) Allows for a generalizable conclusion regarding the success or lessons learned from the model, including comparison to other similar program models;

(c) Includes an assessment of the assistance provided to clients and its implications for systems of care in other localities or nationally; and

(d) Provides a preliminary dissemination plan that evidences how the planned presentation of project outcomes is likely to be undertaken in an effective manner.

As an alternative to submitting its own evaluation and dissemination plan, an applicant may receive 10 points if that applicant agrees to fully participate in the joint HUD and HHS evaluation component and requests the program development funds designated for this purpose. The Department recognizes that participation in the HUD and HHS evaluation component will fulfill the items of paragraph (B) of this criterion.

(5) Additional Criterion for Projects which are part of long-term comprehensive strategies for providing housing and related services for eligible persons in areas not qualifying for formula allocations (35 points). Applications for projects for this

category of assistance will be rated on the extent of local planning and coordination of housing programs. HUD will award up to 35 points based on the extent to which the applicant demonstrates:

(A) The proposed project is part of a community strategy involving local, metropolitan or state-wide planning and coordination of housing programs designed to meet the changing needs of low-income persons with HIV/AIDS and their families, including programs providing housing assistance and related services that are operated by federal, state, local, private and other entities serving eligible persons;

(B) The likelihood of the continuation of the state and local efforts; and

(C) Provides for an evaluation and dissemination of information on the success of the proposed activities in assisting eligible persons and/or in establishing or operating systems of care for eligible persons.

(d) Selection. Whether an application is conditionally selected will depend on its overall ranking compared to other applications within each of the three categories of assistance. The Department will select applications to the extent that funds are available. HUD reserves the right to select lower rated applications (but not an application that is rated below 50 points) if necessary to achieve geographic diversity (i.e. resulting in funding activities within a variety of states) and to ensure that a minimum number of applications under each category of assistance are among conditionally selected applications.

In the event of a tie between applications, the application with the highest total points for the criterion need will be selected, and if still tied, the highest total points for the criterion appropriateness of housing and services. In the event of a procedural error that, when corrected, would result in selection of an otherwise eligible application during the funding round under this NOFA, HUD may select that application when sufficient funds become available.

III. Application Submission Requirements

The application submission requirements are contained in the application package. This package includes all required forms and certifications, and may be obtained from a HUD Field Office listed in the appendix A to this NOFA.

IV. Clarifications and Technical Assistance

(a) Clarification of Application Information. In accordance with the provisions of 24 CFR part 4, subpart B, HUD may contact an applicant to seek clarification of an item in the application, or to request additional or missing information, but the clarification or the request for additional or missing information shall not relate to items that would improve the substantive quality of the application pertinent to the funding decision.

(b) Technical Assistance. Prior to the application deadline, HUD field office staff will be available to provide advice, general technical assistance and guidance to potential applicants on application requirements and program policies. Following conditional selection, HUD staff will be available to assist in clarifying or confirming information that is a prerequisite to the offer of a grant agreement by HUD. However, between the application deadline and the announcement of conditional selections, HUD will accept no information that would improve the substantive quality of the application pertinent to the funding decision.

V. Grant Award Process

HUD will notify conditionally selected applicants in writing. Such applicants will subsequently be notified of any modification made by HUD, the additional project information necessary for grant award and the date of the two month deadline for submission of such information. If an applicant is unable to meet any conditions for grant award within the specified time period, HUD reserves the right not to award funds and to use the funds available in the next competition for the applicable program.

VI. Other Matters

Environmental Impact. A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), at the time of the development of the FY 1995 NOFA for this program. Because no substantive programmatic changes have been made, that Finding (for FR–3853) remains applicable to this NOFA and is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500.

Federalism Impact. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that the policies contained in this Notice will not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the Notice is not subject to review under the Order. The Notice announces the availability of funds and invites applications from eligible applicants for the HOPWA program.

Impact on the Family. The General Counsel, as the Designated Official for Executive Order 12606, *The Family,* has determined that this Notice, to the extent the funds provided under it are directed to families, has the potential for a beneficial impact on family formation, maintenance and general well-being. The statutory authority for the program requires that the funds be targeted to individuals with acquired immunodeficiency syndrome or related diseases and their families. Any funding provided to projects can be expected to enable those families with a participating member who has HIV infection to live in decent, safe, and sanitary housing in connection with the supportive services necessary to live independently in mainstream American society. Since the impact on families is a beneficial one, no further review is necessary.

Accountability in the Provision of HUD Assistance. HUD's regulation implementing section 102 of the Department of Housing and Urban Development Reform Act of 1989, found at 24 CFR part 12, contains a number of provisions designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. Additional information on the implementation of section 102 was published on January 16, 1992 at 57 FR 1942. The documentation, public access, and disclosure requirements of section 102 apply to assistance awarded under this NOFA as follows:

HUD will ensure documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will publish notice of awards made in response to this NOFA in the Federal Register.

HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See subpart C, and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

Prohibition on Advance Release of Funding Information. HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, found at 24 CFR part 4, applies to the funding competition announced today. The requirements of that rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815 (this is not a toll-free number). A telecommunications device for hearing- and speech-impaired persons (TDD) is available at 1–800–877–8339 (Federal Information Relay Service). The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Field Office Counsel, or Headquarters Counsel for the program to which the question pertains.

Prohibition Against Lobbying Activities. The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (The ''Byrd Amendment'') and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative branches of the federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance. A standard disclosure form, SF–LLL, ''Disclosure Form to Report Lobbying,'' must be used to disclose lobbying with other than federally appropriated funds at the time of application.

Drug-Free Workplace Certification. In accordance with 24 CFR 24.630, an applicant must submit its Certification for a Drug-Free Workplace (Form HUD–50070).

Submissions. An application that is mailed before May 21, 1996 but received within ten (10) days after that date will be deemed to have been received by that date if postmarked by the United States Postal Service by no later than May 18, 1996. An overnight delivery item received after May 21, 1996 will be deemed to have been received by that date upon submission of documentary evidence that it was placed in transit with the overnight delivery service by no later than May 20, 1996.

Dated: February 22, 1996.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

Appendix A. List of HUD Field Offices (1–5–96)

Telephone numbers for Telecommunications Devices for the Deaf (TDD machines) are listed for CPD Directors in HUD Field Offices; all HUD numbers, including those noted *, may be reached via TDD by dialing the Federal Information Relay Service on 1–800–877–TDDY or (1–800–877–8339) or (202) 708–9300.

Alabama—William H. Dirl, Beacon Ridge Tower, 600 Beacon Pkwy. West, Suite 300, Birmingham, AL 35209–3144; (205) 290–7645; TDD (205) 290–7624.

Alaska—Colleen Bickford, 949 E. 36th Avenue, Suite 401, Anchorage, AK 99508–4399; (907) 271–3669; TDD (907) 271–4328.

Arizona—Martin H. Mitchell, 400 N. 5th St., Suite 1600, Arizona Center, Phoenix AZ 85004; (602) 379–4754; TDD (602) 379–4461.

Arkansas—Billy M. Parsley, TCBY Tower, 425 West Capitol Ave., Suite 900, Little Rock, AR 72201–3488; (501) 324–6375; TDD (501) 324–5931.

California—(Southern) Herbert L. Roberts, 1615 W. Olympic Blvd., Los Angeles, CA 90015–3801; (213) 251–7235; TDD (213) 251–7038.

(Northern) Steve Sachs, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102–3448; (415) 436–6544; TDD (415) 556–8357.

Colorado—Guadalupe M. Herrera, First Interstate Tower North, 633 17th St., Denver, CO 80202–3607; (303) 672–5414; TDD (303) 672–5248.

Connecticut—Mary Ellen Morgan, 330 Main St., Hartford, CT 06106–1860; (860) 240–4665; TDD (860) 240–4522.

Delaware—Joyce Gaskins, Wanamaker Bldg., 100 Penn Square East, Philadelphia, PA 19107; (215) 656–0624; TDD (215) 597–5564.

District of Columbia (and MD and VA suburbs)—James H. McDaniel, 820 First St., NE., Washington, DC 20002; (202) 275–0994; TDD (202) 275–0772.

Florida—(Northern) James N. Nichol, 301 West Bay St., Suite 2200, Jacksonville, FL 32202–5121; (904) 232–3587; TDD (904) 232–1241.

(Miami-So. Dade) Richard P. Garrabrant, Gables Tower 1, 1320 South Dixie Hwy., Coral Gables, FL 33146–2911; (305) 662–4570; TDD (305) 662–4511.

Georgia—John Perry, Russell Fed. Bldg., Room 688, 75 Spring St., SW, Atlanta, GA 30303–3388; (404) 331–5139; TDD (404) 730–2654.

Hawaii (and Pacific)—Patty A. Nicholas, 7 Waterfront Plaza, Suite 500, 500 Ala Moana Blvd., Honolulu, HI 96813–4918; (808) 522–8180x264; TDD (808) 522–8193.

Idaho—John G. Bonham, 400 S.W. Sixth Ave., Suite 700, Portland, OR 97204–1632 (503) 326–7012; TDD * via 1–800–877–8339.

Illinois—James Barnes, 77 W. Jackson Blvd., Chicago, IL 60604–3507; (312) 353–1696; TDD (312) 353–7143.

Indiana—Robert F. Poffenberger, 151 N. Delaware St., Indianapolis, IN 46204–2526; (317) 226–5169; TDD * via 1–800–877–8339.

Iowa—Gregory A. Bevirt, Executive Tower Centre, 10909 Mill Valley Road, Omaha, NE 68154–3955; (402) 492–3144; TDD (402) 492–3183.

Kansas—William Rotert, Gateway Towers 2, 400 State Ave., Kansas City, KS 66101–2406; (913) 551–5484; TDD (913) 551–6972.

Kentucky—Ben Cook, P.O. Box 1044, 601 W. Broadway, Louisville, KY 40201–1044; (502) 582–6141; TDD (502) 582–5139.

Louisiana—Gregory J. Hamilton, 501 Magazine St., New Orleans, LA 70130; (504) 589–7212; TDD (504) 589–7237.

Maine—David Lafond, Norris Cotton Fed. Bldg., 275 Chestnut St., Manchester, NH 03101–2487; (603) 666–7640; TDD (603) 666–7518.

Maryland—Harold Young, 10 South Howard Street, 5th Floor, Baltimore, MD 21202–0000; (410) 962–2520x3116; TDD (410) 962–0106.

Massachusetts—Robert Paquin, Acting Director, Thomas P. O'Neill, Jr., Fed. Bldg., 10 Causeway St., Boston, MA 02222–1092; (617) 565–5342; TDD (617) 565–5453.

Michigan—Richard Paul, Patrick McNamara Bldg., 477 Michigan Ave., Detroit, MI 48226–2592; (313) 226–4343; TDD * via 1–800–877–8339.

Minnesota—Shawn Huckleby, 220 2nd St. South, Minneapolis, MN 55401–2195; (612) 370–3019; TDD (612) 370–3186.

Mississippi—Jeanie E. Smith, Dr. A. H. McCoy Fed. Bldg., 100 W. Capitol St., Room 910, Jackson, MS 39269–1096; (601) 965–4765; TDD (601) 965–4171.

Missouri—(Eastern) James Geraghty, Acting Director, 1222 Spruce St., St. Louis, MO 63103–2836; (314) 539–6524; TDD (314) 539–6331.

(Western) William Rotert, Gateway Towers 2, 400 State Ave., Kansas City, KS 66101–2406; (913) 551–5484; TDD (913) 551–6972.

Montana—Guadalupe Herrera, First Interstate Tower North, 633 17th St., Denver, CO 80202–3607; (303) 672–5414; TDD (303) 672–5248.

Nebraska—Gregory A. Bevirt, Executive Tower Centre, 10909 Mill Valley Road, Omaha, NE 68154–3955; (402) 492–3144; TDD (402) 492–3183.

Nevada—(Las Vegas, Clark Cnty) Martin H. Mitchell, 400 N. 5th St., Suite 1600, 2 Arizona Center, Phoenix, AZ 85004; (602) 379–4754; TDD (602) 379–4461.

(Remainder of State) Steve Sachs, 450 Golden Gate Ave., P.O. Box 36003, San Francisco, CA 94102–3448; (415) 436–6544; TDD (415) 556–8357.

New Hampshire—David Lafond, Norris Cotton Fed. Bldg., 275 Chestnut St., Manchester, NH 03101–2487; (603) 666–7640; TDD (603) 666–7518.

New Jersey—Frank Sagarese, 1 Newark Center, Newark, NJ 07102; (201) 622–7900x3300; TDD (201) 645–3298.

New Mexico—Katie Worsham, 1600 Throckmorton, P.O. Box 2905, Fort Worth, TX 76113–2905; (817) 885–5483; TDD (817) 885–5447.

New York—(Upstate) Michael F. Merrill, Lafayette Ct., 465 Main St., Buffalo, NY 14203–1780; (716) 551–5768; TDD * via 1–800–877–8339.

(Downstate) Joseph D'Agosta, 26 Federal Plaza, New York, NY 10278–0068; (212) 264–0771; TDD (212) 264–0927.

North Carolina—Charles T. Ferebee, Koger Building, 2306 West Meadowview Road, Greensboro, NC 27407; (910) 547–4005; TDD (910) 547–4055.

North Dakota—Guadalupe Herrera, First Interstate Tower North, 633 17th St., Denver, CO 80202–3607; (303) 672–5414; TDD (303) 672–5248.

Ohio—John E. Riordan, 200 North High St., Columbus, OH 43215–2499; (614) 469–6743; TDD (614) 469–6694.

Oklahoma—David Long, 500 West Main Place, Suite 400, Oklahoma City, OK 73102; (405) 553–7571; TDD * via 1–800–877–8339.

Oregon—John G. Bonham, 400 S.W. Sixth Ave., Suite 700, Portland, OR 97204–1632 (503) 326–7012; TDD * via 1–800–877–8339.

Pennsylvania—(Western) Bruce Crawford, 339 Sixth Ave., Pittsburgh, PA 15222–2515; (412) 644–5493; TDD (412) 644–5747.

(Eastern) Joyce Gaskins, Wanamaker Bldg., 100 Penn Square East, Philadelphia, PA 19107; (215) 656–0624; TDD (215) 597–5564.

Puerto Rico (and Caribbean)—Carmen R. Cabrera, 159 Carlos Chardon Ave., San Juan, PR 00918–1804; (809) 766–5576; TDD (809) 766–5909.

Rhode Island—Robert Paquin, Acting Director, Thomas P. O'Neill, Jr., Fed. Bldg., 10 Causeway St., Boston, MA 02222–1092; (617) 565–5342; TDD (617) 565–5453.

South Carolina—Louis E. Bradley, Fed. Bldg., 1835 Assembly St., Columbia, SC 29201; (803) 765–5564; TDD (803) 253–3071.

South Dakota—Guadalupe Herrera, First Interstate Tower North, 633 17th St., Denver, CO 80202–3607; (303) 672–5414; TDD (303) 672–5248.

Tennessee—Virginia Peck, 710 Locust St., Knoxville, TN 37902–2526; (423) 545–4391; TDD (423) 545–4559.

Texas—(Northern) Katie Worsham, 1600 Throckmorton, P.O. Box 2905, Fort Worth, TX 76113–2905; (817) 885–5483; TDD (817) 885–5447.

(Southern) John T. Maldonado, Washington Sq., 800 Dolorosa, San Antonio, TX 78207–4563; (210) 229–6820; TDD (210) 229–6885.

Utah—Guadalupe Herrera, First Interstate Tower North, 633 17th St., Denver, CO 80202–3607; (303) 672–5414; TDD (303) 672–5248.

Vermont—David Lafond, Norris Cotton Fed. Bldg., 275 Chestnut St., Manchester, NH 03101–2487; (603) 666–7640; TDD (603) 666–7518.

Virginia—Joseph Aversano, 3600 W. Broad St., P.O. Box 90331, Richmond, VA 23230–0331; (804) 278–4503; TDD (804) 278–4501.

Washington—John Peters, Federal Office Bldg., 909 First Ave., Suite 200, Seattle, WA 98104–1000; (206) 220–5150; TDD (206) 220–5185.

West Virginia—Bruce Crawford, 339 Sixth Ave., Pittsburgh, PA 15222–2515; (412) 644–5493; TDD (412) 644–5747.

Wisconsin—Lana J. Vacha, Henry Reuss Fed. Plaza, 310 W. Wisconsin Ave., Ste. 1380, Milwaukee, WI 53203–2289; (414) 297–3113; TDD * via 1–800–877–8339.

Wyoming—Guadalupe Herrera, First Interstate Tower North, 633 17th St., Denver, CO 80202–3607; (303) 672–5414; TDD (303) 672–5248.

Appendix B. Areas Eligible to Receive HOPWA 1996 Formula Allocations and Not Eligible for Long-term Projects

The following are the areas that are eligible to receive HOPWA formula allocations in FY 1996. State or local governments located in or serving eligible persons in these areas are *only eligible to apply for grants for Special Projects of National Significance* under the HOPWA 1996 competition. The Long-term category of assistance, grants for projects that are part of long-term comprehensive strategies for providing housing and related services, is reserved by statute for areas that are not eligible to receive HOPWA formula awards, i.e. any area outside of the list below.

1. All areas in the states of:

Alabama
Arkansas
California
Connecticut
District of Columbia
Florida
Georgia
Hawaii
Illinois
Indiana
Kentucky
Louisiana
Massachusetts
Michigan
Mississippi
New Jersey
New York
North Carolina
Ohio
Oklahoma
Pennsylvania
Puerto Rico
South Carolina
Tennessee
Texas
Virginia
Washington State
Wisconsin.

2. Areas in the following metropolitan areas in the states of Arizona, Colorado, Kansas, Maryland, Minnesota, Missouri, Nevada, New Hampshire, Oregon and West Virginia:

1120 Boston MA–NH PMSA (part)—Rockingham County, NH (part): Seabrook town, NH, South Hampton town, NH

0720 Baltimore, MD PMSA—Anne Arundel County, MD, Baltimore County, MD, Carroll County, MD, Harford County, MD, Howard County, MD, Queen Anne's County, MD, Baltimore City, MD

8840 Washington, DC–MD–VA–WV PMSA (part)—Calvert County, MD, Charles County, MD, Frederick County, MD, Montgomery County, MD, Berkeley County, WV, Jefferson County, WV

5120 Minneapolis-St. Paul, MN–WI MSA (part)—Anoka County, MN, Carver County, MN, Chisago County, MN, Dakota County, MN, Hennepin County, MN, Isanti County, MN, Ramsey County, MN, Scott County, MN, Sherburne County, MN, Washington County, MN, Wright County, MN

3760 Kansas City, MO–KS MSA (part)—Cass County, MO, Clay County, MO, Clinton County, MO, Jackson County, MO, Lafayette County, MO, Platte County, MO, Ray County, MO, Johnson County, KS, Leavenworth County, KS, Miami County, KS, Wyandotte County, KS

7040 St. Louis, MO–IL MSA (part)—Crawford County, MO (part): Sullivan City, MO, Franklin County, MO, Jefferson County, MO, Lincoln County, MO, St. Charles County, MO, St. Louis County, MO, Warren County, MO, St. Louis City, MO

2080 Denver, CO PMSA—Adams County, CO, Arapahoe County, CO, Denver County, CO, Douglas County, CO, Jefferson County, CO

6200 Phoenix-Mesa, AZ MSA—Maricopa County, AZ, Pinal County, AZ

4120 Las Vegas, NV–AZ MSA—Clark County, NV, Nye County, NV, Mohave County, AZ

6440 Portland-Vancouver, OR–WA PMSA (part)—Clackamas County, OR, Columbia

County, OR, Multnomah County, OR, Washington County, OR, Yamhill County, OR

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Part VI

Department of Housing and Urban Development

24 CFR Parts 111 and 115

Regulatory Reinvention; Certification and Funding of State and Local Fair Housing Enforcement Agencies; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Parts 111 and 115

[Docket No. FR–3322–F–01]

RIN 2529–AA60

Regulatory Reinvention; Certification and Funding of State and Local Fair Housing Enforcement Agencies

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule represents another step in HUD's continuing efforts to reinvent and streamline its regulations. The Fair Housing Act provides that the Secretary of HUD shall refer complaints alleging a discriminatory housing practice to State or local enforcement agencies certified by the Secretary. Currently, HUD's regulations at 24 CFR part 115 set forth the criteria the Secretary will utilize to certify such agencies. HUD's regulations at 24 CFR part 111 establish the requirements for the Fair Housing Assistance Program (FHAP), through which HUD provides assistance to certified fair housing enforcement agencies. This interim rule consolidates parts 111 and 115, thus providing all necessary requirements in a single part and eliminating unnecessary or repetitive regulatory provisions.

DATES: Effective date: March 29, 1996.
Comments due date: April 29, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding the interim rule to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m. Eastern Time) at the above address.

FOR FURTHER INFORMATION CONTACT: Marcella Brown, Director, Fair Housing Assistance Program Division, Office of Fair Housing and Equal Opportunity, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–0455. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708–0113 or 1–800–877–8339 (Federal Information Relay Service TDD). (Except for the ''800'' number, these are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

The Fair Housing Act (42 U.S.C. 3600–3620) (the Act) provides that whenever a complaint alleges a discriminatory housing practice, arising in the jurisdiction of a State or local agency which has been certified by the Secretary under section 810(f) of the Act, HUD shall refer the complaint to that State or local agency. HUD has implemented section 810(f) at 24 CFR part 115, which establishes the criteria the Secretary will utilize to certify State and local fair housing enforcement agencies.

Section 817 of the Act provides that the Secretary may reimburse State and local fair housing enforcement agencies which assist the Secretary in enforcing the Act. HUD has implemented section 817 at 24 CFR part 111, which sets forth the requirements for the Fair Housing Assistance Program (FHAP). Through the FHAP, HUD provides assistance to certified State and local fair housing enforcement agencies. This assistance is designed to provide support for complaint processing, training, technical assistance, data and information systems, and other fair housing projects.

Pursuant to President Clinton's memorandum of March 4, 1995, *Regulatory Reinvention*, HUD conducted a comprehensive, page-by-page review of its regulations. This interim rule marks another step in HUD's continuing efforts to streamline, update and generally improve its regulations. Specifically, the rule consolidates parts 111 and 115, thus providing all necessary requirements for certification and FHAP participation in part 115. This interim rule also eliminates burdensome or redundant regulatory provisions currently located in parts 111 and 115. The Department welcomes comments on how this interim rule may be made more understandable and less burdensome.

II. Justification for Interim Rulemaking

It is HUD's policy to publish rules for public comment before their issuance for effect, in accordance with its own regulations on rulemaking found at 24 CFR part 10. However, part 10 provides that prior public comment will be omitted if HUD determines that it is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.1). HUD finds that in this case prior public comment is contrary to the public interest, since immediate implementation of this interim rule will benefit the public. Specifically, this interim rule will assist FHAP participants by providing all necessary requirements in a single part and eliminating burdensome and redundant provisions. Further, the streamlining amendments made by this interim rule will allow HUD to administer the FHAP in a more efficient manner, thus strengthening its ability to enforce the Fair Housing Act.

III. Other Matters

A. Environmental Impact

This rulemaking does not have an environmental impact. This rulemaking simply amends an existing regulation by consolidating and streamlining provisions and does not alter the environmental effect of the regulations being amended. A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) at the time of development of regulations implementing Section 214 of the Housing and Community Development Act of 1980. That Finding remains applicable to this rule, and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500.

B. Executive Order 12612, Federalism

The General Counsel, as the Designated Official, under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this interim rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This interim rule merely consolidates in a single part the requirements for ''substantially equivalent'' certification and participation in the FHAP. It effects no changes in the current relationships between the Federal government, the States and their political subdivisions in connection with HUD programs.

C. Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive

Order 12606, *The Family*, has determined that this interim rule will not have a potential significant impact on family formation, maintenance, and general well-being and, thus, is not subject to review under the Order. This interim rule only affects State and local fair housing enforcement agencies which seek certification under section 810(f) of the Act and participation in the FHAP. No significant change in existing HUD policies or programs will result from promulgation of this interim rule, as those policies and programs relate to family concerns.

D. Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this interim rule, and in so doing certifies that this interim rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

24 CFR Part 111

Fair housing, Grant programs—housing and community development, Reporting and recordkeeping requirements.

24 CFR Part 115

Administrative practice and procedure, Aged, Fair housing, Individuals with disabilities, Intergovernmental relations, Mortgages, Reporting and recordkeeping requirements.

Accordingly, under the authority at 42 U.S.C. 3535(d) 24 CFR parts 111 and 115 are amended as follows:

PART 111—[REMOVED]

1. Part 111 is removed.
2. Part 115 is revised to read as follows:

PART 115—CERTIFICATION AND FUNDING OF STATE AND LOCAL FAIR HOUSING ENFORCEMENT AGENCIES

Subpart A—General

Sec.
115.100 Definitions.
115.101 Program administration.
115.102 Public notices.

Subpart B—Certification of Substantially Equivalent Agencies

115.200 Purpose.
115.201 Basis of determination.
115.202 Criteria for Adequacy of Law.
115.203 Performance standards.
115.204 Consequences of Certification.
115.205 Technical assistance.
115.206 Request for certification.
115.207 Procedure for interim certification.
115.208 Suspension of interim certification.
115.209 Denial of interim certification.
115.210 Procedure for certification.
115.211 Suspension of certification.
115.212 Withdrawal of certification.

Subpart C—Fair Housing Assistance Program (FHAP)

115.300 Purpose.
115.301 Agency eligibility criteria.
115.302 Capacity Building Funds.
115.303 Eligible activities for Capacity Building Funds.
115.304 Agencies eligible for contributions funds.
115.305 Special Enforcement Effort (SEE) funds.
115.306 Training funds.
115.307 Additional requirements for participation in the FHAP.
115.308 Standards for FHAP program review.
115.309 Reporting and recordkeeping requirements.
115.310 Subcontracting under the FHAP.
115.311 Corrective and remedial action.

Authority: 42 U.S.C. 3600–3620 and 3535(d).

Subpart A—General

§ 115.100 Definitions.

(a) The terms ''Fair Housing Act'' and ''HUD'', as used in this part, are defined in 24 CFR 5.100.

(b) The terms ''Aggrieved person'', ''Complainant'', ''Conciliation'', ''Conciliation agreement'', ''Discriminatory housing practice'', ''Dwelling'', ''Handicap'', ''Person'', ''Respondent'', ''Secretary'', and ''State'', as used in this part, are set forth in section 802 of the Fair Housing Act.

(c) *Other definitions.* The following definitions also apply to this part:

Act means the Fair Housing Act, as defined in 24 CFR 5.100.

Assistant Secretary means the Assistant Secretary for Fair Housing and Equal Opportunity.

Certified Agency is an agency to which the Assistant Secretary for Fair Housing and Equal Opportunity has granted interim certification or certification, in accordance with the requirements of this part.

Cooperative Agreement is the assistance instrument HUD will use to provide funds. The Cooperative Agreement will contain attachments and appendices establishing requirements relating to the operation or performance of the agency.

Cooperative Agreement Officer (CAO) is the administrator of the funds awarded pursuant to this part and is the Director of a Fair Housing Enforcement Center in the Office of Fair Housing and Equal Opportunity.

Director of FHEO means a Director of a Fair Housing Enforcement Center.

Dual-Filed Complaint means a housing discrimination complaint which has been filed with both the Fair Housing Enforcement Center and the certified agency.

FHEO means the Office of Fair Housing and Equal Opportunity.

FHAP means the Fair Housing Assistance Program.

§ 115.101 Program administration.

(a) *Authority and Responsibility.* The Secretary has delegated the authority and responsibility for administering this part to the Assistant Secretary.

(b) *Delegation of Authority.* The Assistant Secretary delegates the authority and responsibility for administering this part to each Director of a Fair Housing Enforcement Center. However, with respect to the duties and responsibilities for administering subpart B of this part, the Assistant Secretary retains the right to make final decisions concerning the granting and maintenance of substantial equivalency certification and interim certification.

§ 115.102 Public notices.

(a) Periodically, the Assistant Secretary will publish the following public notices in the Federal Register:

(1) A list of all agencies which have interim certification or certification; and

(2) A list of agencies to which a notice of denial of interim certification has been issued or for which withdrawal of certification is being proposed.

(b) The Assistant Secretary will publish in the Federal Register a notice soliciting public comment before granting certification to a State or local agency. The notice will invite the public to comment on the relevant State and local laws, as well as on the performance of the agency in enforcing its law. All comments will be considered before a final decision on certification is made.

Subpart B—Certification of Substantially Equivalent Agencies

§ 115.200 Purpose.

This subpart implements section 810(f) of the Fair Housing Act. The purpose of this subpart is to set forth:

(a) The basis for agency interim certification and certification;

(b) The procedure by which a determination to certify is made by the Assistant Secretary;

(c) The basis and procedures for denial of interim certification;

(d) The basis and procedures for withdrawal of certification;

(e) The consequences of certification;

(f) The basis and procedures for suspension of interim certification or certification; and

(g) The funding criteria for interim certified and certified agencies.

§ 115.201 Basis of determination.

A determination to certify an agency as substantially equivalent involves a two-phase procedure. The determination requires examination and an affirmative conclusion by the Assistant Secretary on two separate inquiries:

(a) Whether the law, administered by the agency, on its face, satisfies the criteria set forth in section 810(f)(3)(A) of the Act; and

(b) Whether the current practices and past performance of the agency demonstrate that, in operation, the law in fact provides rights and remedies which are substantially equivalent to those provided in the Act.

§ 115.202 Criteria for Adequacy of Law.

(a) In order for a determination to be made that a State or local fair housing agency administers a law which, on its face, provides rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided in the Act, the law or ordinance must:

(1) Provide for an administrative enforcement body to receive and process complaints and provide that:

(i) Complaints must be in writing;

(ii) Upon the filing of a complaint the agency shall serve notice upon the complainant acknowledging the filing and advising the complainant of the time limits and choice of forums provided under the law;

(iii) Upon the filing of a complaint the agency shall promptly serve notice on the respondent or person charged with the commission of a discriminatory housing practice advising of his or her procedural rights and obligations under the law or ordinance together with a copy of the complaint;

(iv) A respondent may file an answer to a complaint.

(2) Delegate to the administrative enforcement body comprehensive authority, including subpoena power, to investigate the allegations of complaints, and power to conciliate complaints, and require that:

(i) The agency commence proceedings with respect to the complaint before the end of the 30th day after receipt of the complaint;

(ii) The agency investigate the allegations of the complaint and complete the investigation within the time-frame established by section 810(a)(1)(B)(iv) of the Act or comply with the notification requirements of section 810(a)(1)(C) of the Act.

(iii) The agency make final administrative disposition of a complaint within one year of the date of receipt of a complaint, unless it is impracticable to do so. If the agency is unable to do so it shall notify the parties, in writing, of the reasons for not doing so;

(iv) Any conciliation agreement arising out of conciliation efforts by the agency shall be an agreement between the respondent, the complainant, and the agency and shall require the approval of the agency;

(v) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the agency determines that disclosure is not required to further the purposes of the law or ordinance.

(3) Not place any excessive burdens on the complainant that might discourage the filing of complaints, such as:

(i) A provision that a complaint must be filed within any period of time less than 180 days after an alleged discriminatory housing practice has occurred or terminated;

(ii) Anti-testing provisions;

(iii) Provisions that could subject a complainant to costs, criminal penalties or fees in connection with filing of complaints.

(4) Not contain exemptions that substantially reduce the coverage of housing accommodations as compared to section 803 of the Act.

(5) Provide the same protections as those afforded by sections 804, 805, 806, and 818 of the Act, consistent with HUD's implementing regulations found at 24 CFR part 100.—

(i) As used in section 804(f)(3)(C) of the Act, the term ''covered multifamily dwellings'' means buildings consisting of four or more units if such buildings have one or more elevators and ground floor units in other buildings consisting of four or more units.

(ii) The law or ordinance administered by the State or local fair housing agency may provide that compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as ''ANSI A117.1–1986'') suffices to satisfy the requirements of section 804(f)(3)(C)(iii) of the Act.

(b) In addition to the factors described in paragraph (a) of this section, the provisions of the State or local law must afford administrative and judicial protection and enforcement of the rights embodied in the law.

(1) The agency must have authority to:

(i) Grant or seek prompt judicial action for appropriate temporary or preliminary relief pending final disposition of a complaint if such action is necessary to carry out the purposes of the law or ordinance;

(ii) Issue and seek enforceable subpoenas;

(iii) Grant actual damages in an administrative proceeding or provide adjudication in court at agency expense to allow the award of actual damages to an aggrieved person;

(iv) Grant injunctive or other equitable relief, or be specifically authorized to seek such relief in a court of competent jurisdiction;

(v) Provide an administrative proceeding in which a civil penalty may be assessed or provide an adjudication in court at agency expense, allowing the assessment of punitive damages against the respondent.

(2) Agency actions must be subject to judicial review upon application by any party aggrieved by a final agency order.

(3) Judicial review of a final agency order must be in a court with authority to grant to the petitioner, or to any other party, such temporary relief, restraining order, or other order as the court determines is just and proper; affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and enforce the order to the extent that the order is affirmed or modified.

(c) The requirement that the state or local law prohibit discrimination on the basis of familial status does not require that the state or local law limit the applicability of any reasonable local, state or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(d) The state or local law may assure that no prohibition based on discrimination because of familial status applies to housing for older persons substantially as described in 24 CFR part 100, subpart E.

(e) A determination of the adequacy of a state or local fair housing law ''on its face'' is intended to focus on the meaning and intent of the text of the law, as distinguished from the effectiveness of its administration. Accordingly, this determination is not limited to an analysis of the literal text of the law but must take into account all relevant matters of state or local law. Regulations, directives, rules of procedure, judicial decisions, or interpretations of the fair housing law by competent authorities will be considered in making this determination.

(f) A law will be found inadequate ''on its face'' if it permits any of the agency's decision-making authority to be contracted out or delegated to a non-governmental authority. For the

purposes of this paragraph, ''decision-making authority'' shall include:

(1) Acceptance of the complaint;

(2) Approval of the conciliation agreement;

(3) Dismissal of a complaint;

(4) Any action specified in §§ 115.202(a)(2)(iii) or 115.202(b)(1); and

(5) Any decision-making regarding whether the matter will or will not be pursued.

(g) The state or local law must provide for civil enforcement of the law or ordinance by an aggrieved person by the commencement of an action in an appropriate court at least one year after the occurrence or termination of an alleged discriminatory housing practice. The court must be empowered to:

(1) Award the plaintiff actual and punitive damages;

(2) Grant as relief, as it deems appropriate, any temporary or permanent injunction, temporary restraining order or other order;

(3) Allow reasonable attorney's fees and costs.

§ 115.203 Performance standards.

A state or local fair housing enforcement agency must meet all of the performance standards listed below in order to obtain or maintain certification.

(a) Engage in timely, comprehensive and thorough fair housing complaint investigation, conciliation and enforcement activities. The performance assessment will consider the following to determine the effectiveness of an agency's fair housing complaint processing, consistent with such guidance as may be issued by HUD:

(1) The agency's case processing procedures;

(2) The thoroughness of the agency's case processing;

(3) A review of cause and no cause determinations for quality of investigations and consistency with appropriate standards;

(4) A review of conciliation agreements and other settlements; and

(5) A review of the agency's administrative closures; and

(6) A review of the agency's enforcement procedures.

(b)(1) Commence proceedings with respect to a complaint:

(i) Before the end of the 30th day after receipt;

(ii) Carry forward such proceedings with reasonable promptness;

(iii) Make final administrative disposition within one year; and

(iv) Within 100 days of receipt of the complaint complete the identified proceedings.

(2) To meet this standard, the performance assessment will consider the timeliness of the agency's actions with respect to its complaint processing, including, but not limited to:

(i) Whether the agency began its processing of fair housing complaints within 30 days of receipt;

(ii) Whether the agency completes the investigative activities with respect to a complaint within 100 days from the date of receipt or, if it is impracticable to do so, notifies the parties in writing of the reason(s) for the delay;

(iii) Whether the agency administratively disposes of a complaint within one year from the date of receipt or, if it is impracticable to do so, notifies the parties in writing of the reasons for the delay; and

(iv) Whether the agency completed the investigation of the complaint and prepared a complete final investigative report.

(3) The performance assessment will also consider documented conciliation attempts and activities and a review of the bases for administrative disposition of complaints.

(c) Conduct compliance reviews of settlements, conciliation agreements and orders issued by or entered into to resolve discriminatory housing practices. The performance assessment will include, but not be limited to:

(1) An assessment of the agency's procedures for conducting compliance reviews;

(2) Terms and conditions of agreements and orders issued;

(3) application of its authority to seek actual damages, as appropriate; and

(4) Application of its authority to seek and assess civil penalties or punitive damages.

(d) Consistently and affirmatively seek and obtain the type of relief designed to prevent recurrences of such practices. The performance assessment will include, but not be limited to:

(1) An assessment of the types of relief sought and obtained by the agency with consideration of the inclusion of affirmative provisions designed to protect the public interest;

(2) The adequacy of the disposition of the complaint;

(3) The relief sought and awarded;

(4) The number of complaints closed with relief and the number closed without relief; and

(5) Whether all the issues and bases were investigated adequately and appropriately disposed of.

(e) Consistently and affirmatively seek the elimination of all prohibited practices under its fair housing law. An assessment under this standard will include, but not be limited to:

(1) A discussion and confirmation of the law or ordinance administered by the agency;

(2) The identification of any amendments, court decisions or other rulings or documentation that may affect the agency's ability to carry out provisions of its fair housing law or ordinance;

(3) Identification of the education and outreach efforts of the agency; and

(4) Identification and discussion of any special requirements of the fair housing law or ordinance.

§ 115.204 Consequences of Certification.

(a) Whenever a complaint received by the Assistant Secretary alleges violations of a state or local fair housing law or ordinance administered by an agency that has been certified as substantially equivalent, the complaint will be referred to the agency, and no further action shall be taken by the Assistant Secretary with respect to such complaint except as provided for by the Act, this part, 24 CFR part 103, subpart C, and any written agreements executed by the Agency and the Assistant Secretary.

(b) If HUD determines that a complaint has not been processed in a timely manner in accordance with the performance standards set forth in § 115.203, HUD may reactivate the complaint, conduct its own investigation and conciliation efforts, and make a determination consistent with 24 CFR part 103.

(c) Notwithstanding paragraph (a) of this section, whenever the Assistant Secretary has reason to believe that a complaint demonstrates a basis for the commencement of proceedings against any respondent under section 814(a) of the Act or for proceedings by any governmental licensing or supervisory authorities, the Assistant Secretary shall transmit the information upon which such belief is based to the Attorney General, Federal financial regulatory agencies, other Federal agencies, or other appropriate governmental licensing or supervisory authorities.

§ 115.205 Technical assistance.

(a) The Assistant Secretary, through the FHEO Field Office, may provide technical assistance to the agencies. The agency may request such technical assistance or the FHEO Field Office may determine the necessity for technical assistance and require the agency's cooperation and participation.

(b) The Assistant Secretary, through FHEO Headquarters or Field staff, will require that the agency participate in training conferences and seminars that will enhance the agency's ability to process complaints alleging discriminatory housing practices.

§ 115.206 Request for certification.

(a) A request for certification under this subpart B shall be filed with the Assistant Secretary by the State or local official having principal responsibility for administration of the State or local fair housing law. The request shall be supported by the following materials and information:

(1) The text of the jurisdiction's fair housing law, the law creating and empowering the agency, any regulations and directives issued under the law, and any formal opinions of the State Attorney General or the chief legal officer of the jurisdiction that pertain to the jurisdiction's fair housing law.

(2) Organizational information of the agency responsible for administering and enforcing the law.

(3) Funding and personnel made available to the agency for administration and enforcement of the fair housing law during the current operating year, and not less than the preceding three operating years (or such lesser number during which the law was in effect).

(4) If available, data demonstrating that the agency's current practices and past performance comply with the performance standards described in § 115.203.

(5) Any additional information which the submitting official may wish to be considered.

(b) The request and supporting materials shall be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410. A copy of the request and supporting materials will be kept available for public examination and copying at:

(1) The office of the Assistant Secretary; and

(2) The HUD Field Office in whose jurisdiction the State or local jurisdiction seeking recognition is located; and

(3) The office of the State or local agency charged with administration and enforcement of the State or local law.

§ 115.207 Procedure for interim certification.

(a) Upon receipt of a request for certification filed under § 115.206 of this part, the Assistant Secretary may request further information necessary for a determination to be made under this section. The Assistant Secretary may consider the relative priority given to fair housing administration, as compared to the agency's other duties and responsibilities, as well as the compatibility or potential conflict of fair housing objectives with these other duties and responsibilities.

(b) *Interim certification*. If the Assistant Secretary determines, after application of the criteria set forth in § 115.202 that the State or local law or ordinance, on its face, provides substantive rights, procedures, remedies, and judicial review procedures for alleged discriminatory housing practices that are substantially equivalent to those provided in the Act, the Assistant Secretary may offer to enter into an Agreement for the Interim Referral of Complaints and Other Utilization of Services (Interim Agreement). The interim agreement will outline the procedures and authorities upon which the interim certification is based.

(c) Such interim agreement, after it is signed by all appropriate signatories, will result in the agency receiving interim certification.

(d)(1) Interim agreements shall be for a term of no more than three years. The Assistant Secretary, through the FHEO Field Office, will conduct one or more on-site assessments to determine whether the agency administers its fair housing law or ordinance in a manner that is substantially equivalent to the Act.

(2) *Performance Improvement Plan*. If the agency is not administering its law or ordinance in a manner that is substantially equivalent, the Assistant Secretary, may, but need not, offer a Performance Improvement Plan (PIP) to the agency. The PIP will outline the agency's deficiencies, identify necessary corrective actions, and include a timetable for completion.

(3) If the agency receives a PIP, funding under the FHAP may be suspended for the duration of the PIP. Once the agency has implemented corrective actions to eliminate the deficiencies, and such corrective actions are accepted by the Assistant Secretary, funding may be reinstated.

§ 115.208 Suspension of interim certification.

(a)(1) The Assistant Secretary will suspend the agency's interim certification if the Assistant Secretary has reason to believe that the State or locality may have limited the effectiveness of the agency's implementation of the fair housing law or ordinance by:

(i) Amending the fair housing law or ordinance;

(ii) Adopting rules or procedures concerning the fair housing law or ordinance; or

(iii) Issuing judicial or other authoritative interpretations of the fair housing law or ordinance.

(2) If the Assistant Secretary suspends interim certification under paragraph (a)(1) of this section, such suspension will remain in effect until the Assistant Secretary conducts a review of the changes in language and/or interpretation and determines whether the law or ordinance remains substantially equivalent to the Act on its face or in its operations.

(i) If the Assistant Secretary determines that, notwithstanding the actions taken by the State or locality as described in paragraph (a)(1) of this section, the law or ordinance remains substantially equivalent on its face and in operation to the Act, the Assistant Secretary will rescind the suspension and reinstate the agency's interim certification and/or recommend the agency for certification. HUD will provide reimbursement for cases processed during the period of the suspension.

(ii) If the Assistant Secretary determines that the actions taken by the State or locality do limit the agency's effectiveness interim certification will be denied pursuant to § 115.209.

(b)(1) The Assistant Secretary will suspend the interim certification of an agency charged with the administration of a fair housing law or ordinance if the Assistant Secretary has reason to believe that the agency's performance does not comply with the criteria set forth by this part. Such suspension shall not exceed 180 days.

(2) If the agency is suspended pursuant to paragraph (b) of this section, the FHEO Field Office will not provide payment for complaints processed within that period of time unless and until the Assistant Secretary determines that the agency is fully in compliance with § 115.203. The FHEO Field Office will provide technical assistance to the agency during this period of time.—

(i) During the period of a suspension the Assistant Secretary shall not refer complaints to the agency.

(ii) Suspension under this section also renders the agency ineligible to receive Fair Housing Assistance Program Funds under subpart C of this part, pending correction of the deficiencies by the agency.

(3) Before the end of the suspension, a final performance assessment will be provided to the Assistant Secretary upon which a determination will be made as to the adequacy of the agency's performance.

§ 115.209 Denial of interim certification.

(a) If the Assistant Secretary determines, after application of the criteria set forth in this Part that the State and local law or ordinance, on its face or in its operation, does not provide substantive rights, procedures, remedies, and availability of judicial review for alleged discriminatory housing practices which are substantially equivalent to those provided in the Fair Housing Act, the Assistant Secretary shall inform the State or local official in writing of the reasons for that determination.

(b) The agency, within 20 days from the date of the receipt of this notice, may submit, in writing, any opposition to the planned denial of Interim Certification to the Assistant Secretary. The Assistant Secretary will evaluate all pertinent written comments, information, and documentation. If, after reviewing all materials submitted by the agency, the Assistant Secretary is still of the opinion that interim certification should be denied, the Assistant Secretary will inform the agency in writing of that determination.

(c) If the agency does not, within 20 days of receipt of the Assistant Secretary's notice of denial of interim certification, make a request of the Assistant Secretary under paragraph (b) of this section to submit additional data, views, or comments, no further action shall be required of the Assistant Secretary and denial of interim certification shall occur.

§ 115.210 Procedure for certification.

(a)(1) *Certification*. If the Assistant Secretary determines, after application of the criteria set forth in §§ 115.202, 115.203 and this section, that the State or local law or ordinance, both ''on its face'' and ''in operation,'' provides substantive rights, procedures, remedies, and judicial review procedures for alleged discriminatory housing practices that are substantially equivalent to those provided in the Act, the Assistant Secretary may enter into a Memorandum of Understanding (MOU) with the agency. The MOU is a written agreement providing for the referral of complaints to the agency and for communication procedures between the agency and HUD that are adequate to permit the Assistant Secretary to monitor the agency's continuing substantial equivalency certification. A MOU, after it is signed by all appropriate signatories, may authorize an agency to be a certified agency for a period of not more than five years.

(2) *Performance Improvement Plan*. If the agency is not administering its law or ordinance in a manner that is substantially equivalent, the Assistant Secretary, may, but need not, offer a Performance Improvement Plan (PIP) to the agency. The PIP will outline the agency's deficiencies, identify necessary corrective actions, and include a timetable for completion.

(3) If the agency receives a PIP, funding under the FHAP may be suspended for the duration of the PIP. Once the agency has implemented corrective actions to eliminate the deficiencies, and such corrective actions are accepted by the Assistant Secretary, funding may be reinstated.

(b) The Assistant Secretary shall annually assess the performance of an agency to determine whether it continues to qualify for certification under this part. If the Assistant Secretary affirmatively concludes that the agency's law and performance have complied with the requirements of this part in each of the five years, the Assistant Secretary may offer the agency an updated Memorandum of Understanding.

(c) An agency shall receive interim certification prior to receiving certification.

§ 115.211 Suspension of certification.

(a)(1) The Assistant Secretary will suspend the agency's certification if the Assistant Secretary has reason to believe that the State or locality may have limited the effectiveness of the agency's implementation of the fair housing law or ordinance by:

(i) Amending the fair housing law or ordinance;

(ii) Adopting rules or procedures concerning the fair housing law or ordinance; or

(iii) Issuing judicial or other authoritative interpretations of the fair housing law or ordinance.

(2) If the Assistant Secretary suspends certification under paragraph (a)(1) of this section, such suspension will remain in effect until the Assistant Secretary conducts a review of the changes in language and/or interpretation and determines whether the law or ordinance remains substantially equivalent on its face and in its operation to the Act.—

(i) If the Assistant Secretary determines that the law or ordinance remains substantially equivalent on its face and in operation to the Act, the Assistant Secretary will rescind the suspension and reinstate the agency's interim certification and/or recommend the agency for certification. HUD will provide reimbursement for cases processed during the period of the suspension.

(ii) If the Assistant Secretary determines that the actions taken by the State or locality do limit the agency's effectiveness, certification will be withdrawn pursuant to § 115.212.

(b)(1) The Assistant Secretary will suspend the certification of an agency charged with the administration of a fair housing law or ordinance, if the Assistant Secretary has reason to believe that the agency's performance does not comply with the criteria set forth by this part. Such suspension shall not exceed 180 days.

(2) If the agency is suspended pursuant to paragraph (b) of this section, the FHEO Field Office will not provide payment for complaints processed within that period of time unless and until the Assistant Secretary determines that the agency is fully in compliance with 115.202 of this part. The FHEO Field Office will provide technical assistance to the agency during this period of time.—

(i) During the period of a suspension the Assistant Secretary shall not refer complaints to the agency.

(ii) Suspension under this section also renders the agency ineligible to receive Fair Housing Assistance Program Funds under subpart C of this part, pending correction of the deficiencies by the agency.

(3) Before the end of the suspension, a final performance assessment will be provided to the Assistant Secretary upon which a determination will be made as to the adequacy of the agency's performance.

§ 115.212 Withdrawal of certification.

(a) If the Assistant Secretary finds, as a result of a review undertaken in accordance with this part, that the agency's fair housing law or ordinance no longer meets the requirements of this part, the Assistant Secretary shall propose to withdraw the certification previously granted.

(b) The Assistant Secretary will propose withdrawal of certification under paragraph (a) of this section unless further review and information or documentation establishes that the current law and/or the agency's administration of the law meets the criteria set out in this part.

(c) If the Assistant Secretary determines, after application of the criteria set forth in this Part, that the state or local law or ordinance, in operation, does not provide substantive rights, procedures, remedies, and availability of judicial review for alleged discriminatory housing practices which are substantially equivalent to those provided in the Fair Housing Act, the Assistant Secretary shall inform the

State or local official in writing of the reasons for that determination.

Subpart C—Fair Housing Assistance Program (FHAP)

§ 115.300 Purpose.

The purpose of the Fair Housing Assistance Program (FHAP) is to provide assistance to State and local fair housing enforcement agencies. The intent of this funding program is to build a coordinated intergovernmental enforcement effort to further fair housing and to encourage the agencies to assume a greater share of the responsibility for the administration and enforcement of their fair housing laws and ordinances. This financial assistance is designed to provide support for:

(a) The processing of dual-filed complaints;

(b) Training under the Fair Housing Act and the agencies' fair housing law;

(c) The provision of technical assistance;

(d) The creation and maintenance of data and information systems; and

(e) The development and enhancement of other fair housing enforcement projects.

§ 115.301 Agency eligibility criteria.

Any agency with certification or interim certification under subpart A of this part, and which has entered into a MOU or interim agreement, is eligible to participate in the FHAP.

§ 115.302 Capacity Building Funds.

(a) Capacity Building Funds (CBF) are funds that HUD may provide to an agency with interim certification during the agency's first three years of participation in the FHAP. Agencies receiving CBF are not eligible to receive contributions funds under § 115.304.

(b) Capacity Building Funds will be provided in a fixed annual amount to be utilized for the eligible activities established pursuant to § 115.303. However, in the second and third year of the agency's participation in the FHAP, HUD has the option to permit the agency to receive Capacity Building funding on a per case basis, rather than in a single annual amount.

(c) In order to receive capacity building funds, agencies will be required to submit a statement of work which identifies:

(1) The objectives and activities to be carried out with the CBFs received;

(2) A plan for training all of the agency's employees involved in the administration of the agency's fair housing law or ordinance;

(3) A statement of the agency's intention to participate in HUD-sponsored training in accordance with the training requirements set out in the cooperative agreement;

(4) A description of the agency's complaint processing data and information system or, alternatively, whether the agency plans to use capacity building funds to purchase and install a data system; and

(5) A description of any other fair housing activities that the agency will undertake with its capacity building funds.—

(i) All such activities must address matters affecting fair housing enforcement which are cognizable under the Fair Housing Act. Any activities which do not address the implementation of the agency's fair housing law or ordinance, and which are therefore not cognizable under the Fair Housing Act, will be disapproved.

(ii) Reserved.

§ 115.303 Eligible activities For Capacity Building Funds.

The primary purposes of capacity building funding is to provide for complaint activities and to support activities that produce increased awareness of fair housing rights and remedies. All such activities must support the agency's administration of its fair housing law or ordinance and address matters affecting fair housing which are cognizable under the Fair Housing Act. HUD will periodically publish a list of eligible activities in the Federal Register.

§ 115.304 Agencies Eligible for Contributions Funds.

(a) An agency that has received Capacity Building Funds for three consecutive years is eligible for contributions funding. Contributions funding consists of three categories:

(1) Complaint Processing (CP) Funds;

(2) Administrative Costs (AC) Funds; and

(3) Special Enforcement Efforts (SEE) Funds (§ 115.305 sets forth the requirements for SEE funding).

(b) *Complaint Processing Funds.* (1) Agencies receiving CP funds will receive such support based solely on the number of complaints processed by the agency and accepted for payment by the Director of FHEO during a consecutive, specifically identified, 12-month period. Normally this period will be the previous year's funding cycle.

(2) Funding for agencies in their fourth year of participation in the FHAP will be based on the number of complaints acceptably processed by the agency during the agency's third year of participation in the FHAP.

(c) *Administrative Cost (AC) Funds.* Agencies which acceptably process 100 or more cases will receive no less than 10 percent of the agency's annual FHAP payment amount for the preceding year, in addition to case processing funds, contingent on fiscal year appropriations. Agencies that acceptably process fewer than 100 cases will receive a flat rate contingent on fiscal year appropriations.

(1) Agencies will be required to provide HUD with a statement of how they intend to use the AC funds. HUD may require that some or all AC funding be directed to activities designed to create, modify, or improve local, regional, or national information systems concerning fair housing matters (including the purchase of state of the art computer systems and getting on line or internet access, etc.).

(2) [Reserved.]

§ 115.305 Special Enforcement Effort (SEE) funds.

(a) SEE funds are funds that HUD will provide to an agency to enhance enforcement activities of the agency's fair housing law or ordinance. SEE funds will be a maximum of 20% of the agency's total FHAP cooperative agreement for the previous contract year, based on approval of eligible activity or activities, and based on the appropriation of funds. All agencies receiving contributions funds are eligible to receive SEE funds if they meet three of the six criteria set out below:

(1) The agency has taken action to enforce a subpoena or make use of its prompt judicial action authority within the past year;

(2) The agency has held at least one administrative hearing or has had at least one case on a court's docket for civil proceedings during the past year;

(3) At least ten percent of the agency's fair housing caseload resulted in written conciliation agreements providing monetary relief for the complainant as well as remedial action, monitoring, reporting and public interest relief provisions;

(4) The agency has had in the most recent three years, or is currently handling, at least one major fair housing systemic investigation requiring an exceptional amount of expenditure of funds;

(5) The agency's administration of its fair housing law or ordinance received meritorious mention for its complaint processing or other fair housing activities that were innovative; or

(6) The agency must have fully investigated 10 fair housing complaints during the previous funding year.

(b) Notwithstanding the eligibility criteria set forth in paragraph (a) of this section, an agency will be ineligible for

SEE funds if 20% or more of an agency's fair housing complaints result in administrative closures.

(c) SEE funding amounts are subject to the FHAP appropriation by Congress and will be described in writing in the cooperative agreements annually. HUD will periodically publish a list of activities eligible for SEE funding in the Federal Register.

§ 115.306 Training funds.

(a) All agencies are eligible to receive training funds. Training funds are fixed amounts based on the number of agency employees to be trained and shall be allocated based on the FHAP appropriation. Training funds may be used only for HUD-approved or HUD-sponsored training. Agency initiated training or other formalized training may be included in this category. However, such training must first be approved by the Cooperative Agreement Officer (CAO) and the Government Technical Representative (GTR). Specifics on the amount of training funds that an agency will receive and, if applicable, amounts that may be deducted, will be set out in the cooperative agreement each year.

(b) All staff of the agency responsible for the administration of the fair housing law or ordinance must participate in mandatory FHAP training sponsored by HUD at the national and field office levels. If the agency does not participate in the mandatory national and field office HUD-sponsored training, training funds will be deducted from their overall training amount.

§ 115.307 Additional requirements for participation in the FHAP.

(a) Agencies which participate in the FHAP must:

(1) Conform to reporting and record maintenance requirements determined by the Assistant Secretary;

(2) Agree to on-site technical assistance and guidance and implementation of corrective actions set out by the Department in response to deficiencies found during the technical assistance or performance assessment evaluations of the agency's operations;

(3) Agree to implement and adhere to policies and procedures (as their laws and ordinances will allow) provided to the agencies by the Assistant Secretary, including but not limited to guidance on investigative techniques, case file preparation and organization, implementation of data elements for complaint tracking, etc.;

(4) Spend at least twenty (20) percent of its total annual budget on fair housing activities; and

(5) Not unilaterally reduce the level of financial resources currently committed to fair housing complaint processing (budget and staff reductions or other actions outside the control of the agency will not, alone, result in a negative determination for the agency's participation in the FHAP).

(b) The agency's refusal to provide information, assist in implementation, or carry out the requirements of paragraph (a) of this section may result in the denial or interruption of its receipt of FHAP funds.

§ 115.308 Standards for FHAP program review.

HUD will conduct reviews of the agency's cooperative agreement implementation. This review will also identify:

(a) How the agency used the FHAP funds received;

(b) Whether its draw-down of funds was timely;

(c) Whether the agency has been audited and received copies of the audit reports in accordance with applicable rules and regulations for State and local governmental entities; and

(d) If the agency complied with all certifications and assurances required by HUD in the cooperative agreement.

§ 115.309 Reporting and recordkeeping requirements.

(a) The agency shall establish and maintain records demonstrating:

(1) Its financial administration of the FHAP funds; and

(2) Its performance under the FHAP.

(b) In accordance with the cooperative agreement in effect between the agency and HUD, the agency will provide to HUD the agency reports maintained pursuant to paragraph (a) of this section. The agency will provide reports to HUD in accordance with the cooperative agreement in effect between the agency and HUD for frequency and content, regarding complaint processing, training, data and information systems, enforcement and other activities explaining how FHAP funds were expended and used.

(c) The agency will permit reasonable public access to its records, consistent with the jurisdiction's requirements for release of information. Documents relevant to the agency's participation in FHAP must be made available at the agency's office during normal working hours (except that documents with respect to ongoing fair housing complaint investigations are exempt from public review consistent with Federal and/or State law).

(d) The Secretary, the Inspector General of HUD, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to all pertinent books, accounts, reports, files, and other payments for surveys, audits, examinations, excerpts, and transcripts as they relate to the agency's participation in FHAP.

(e) All files will be kept in such fashion as to permit audits under applicable procurement regulations and guidelines and the Single Audit requirements for State and local agencies.

(f) The FHAP financial records and files will be kept at least three years on-site after any cooperative agreement has terminated.

§ 115.310 Subcontracting under the FHAP.

If an agency subcontracts to a public or private agency any activity for which the subcontractor will receive FHAP funds, the agency must ensure and certify in writing that the subcontractor is:

(a) Using services and facilities that are accessible in accordance with the Americans with Disability Act (ADA) (29 U.S.C. 706) and Section 504 of the 1973 Rehabilitation Act (29 U.S.C. 792);

(b) Complying with the standards of Section 3 of the Housing and Urban Development Act (12 U.S.C. 1701u); and

(c) Furthering fair housing.

§ 115.311 Corrective and remedial action.

(a) If HUD makes a preliminary determination that an agency has not complied with § 115.309, the agency will be given written notice of this determination and an opportunity to show, through demonstrable facts and data, that it has done so within a time prescribed by HUD.

(b) If an agency fails to demonstrate to HUD's satisfaction that it has met program review standards, HUD will request the agency to submit and comply with proposals for action to correct, mitigate, or prevent performance deficiencies, including, but not limited to:

(1) Preparing and/or following a schedule of actions for carrying out the affected fair housing activities;

(2) Establishing and/or following a management plan that assigns responsibilities for carrying out the actions required;

(3) Canceling or revising activities likely to be affected by a performance deficiency before expending FHAP funds for the activities; and

(4) Redistributing or suspending disbursement of FHAP funds that have not yet been disbursed.

(c) HUD may condition the use of FHAP award amounts with respect to an agency's succeeding fiscal year's allocation on the satisfactory

completion by the agency of appropriate corrective actions. When the use of funds is so conditioned, HUD will specify the deficiency(ies), the required corrective action(s), and the time allowed for taking these actions. Failure of the agency to complete the actions as specified will result in a reduction or withdrawal of the FHAP allocation in an amount not to exceed the amount conditionally granted.

Dated: January 31, 1996.

Elizabeth K. Julian,

Acting Assistant Secretary for Fair Housing and Equal Opportunity.

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federal register

Wednesday
February 28, 1996

Part VII

The President

Proclamation 6866—American Red Cross Month, 1996

Federal Register
Vol. 61, No. 40
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Presidential Documents

Title 3—

The President

Proclamation 6866 of February 26, 1996

American Red Cross Month, 1996

By the President of the United States of America

A Proclamation

Since its founding in 1881 by Clara Barton, the American Red Cross has brought hope and healing to citizens and communities across the country. Today, some 1.4 million trained volunteers work to fulfill the Red Cross' mission by providing relief to disaster victims; by ensuring that our Nation has an adequate and safe blood supply; by training millions of Americans in essential lifesaving and safety techniques; and by assisting members of our Armed Forces, their families, and our distinguished veterans.

This past year, the American Red Cross has carried on its extraordinary legacy across the country and around the world. When a bomb destroyed the Alfred P. Murrah Federal Building in Oklahoma City on April 19, the Red Cross was there within minutes to assist those whose loved ones were killed in the tragic blast. After a series of record-breaking storms and hurricanes ruined houses and displaced people, the Red Cross served more than a million meals and helped victims to begin rebuilding their lives. And today, as OPERATION JOINT ENDEAVOR works to secure the peace in Bosnia, the Red Cross is facilitating emergency communications between our troops and their families at home.

The Red Cross has earned our Nation's deepest respect and appreciation for its important lifesaving and life-rebuilding work and for its countless daily efforts to promote health and safety. This month and throughout the year, let us take time to recognize this vital organization and do all we can to further its goals of preventing, preparing for, and responding to emergencies.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America and Honorary Chairman of the American Red Cross, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 1996, as American Red Cross Month. I urge all the people of the United States to support Red Cross chapters nationwide by volunteering and participating in Red Cross blood drives.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of February, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.

William J. Clinton

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The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Agricultural Marketing Service

Melons grown in Texas; published 2-28-96

AGRICULTURE DEPARTMENT

Immigration Reform and Control Act:

Immigration and Nationality Act; replenishment agricultural worker program expiration; CFR part removed; published 1-29-96

Special agricultural worker program expiration; CFR part removed; published 1-29-96

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

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Marine mammals; protected species general permits; published 2-28-96

COMMODITY FUTURES TRADING COMMISSION

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Futures commission merchants; disciplinary actions notification requirement; published 1-29-96

Foreign futures and options transactions:

Tokyo Grain Exchange; published 1-29-96

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Clean Air Act:

State operating permits programs--

South Dakota; published 1-29-96

Water programs:

Oil discharge program; editorial revision; published 2-28-96

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

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MANAGEMENT AND BUDGET OFFICE

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Cost Accounting Standards Board--

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TRANSPORTATION DEPARTMENT

Federal Aviation Administration

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Loan guaranty:

Discount points financed in connection with interest rate reduction refinancing loans; limitation; published 2-28-96

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Agricultural Marketing Service

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Potatoes (Irish) grown in--

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Specialty crops; import regulations:

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Rural Utilities Service

Consultants funded by borrowers; use; comments due by 3-4-96; published 1-2-96

Electric loans:

RUS borrowers; audit policy and certified public accountant requirements; comments due by 3-4-96; published 1-3-96

COMMERCE DEPARTMENT

Export Administration Bureau

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COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

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Pacific Coast groundfish; comments due by 3-8-96; published 1-23-96

Tuna Management in the Mid-Atlantic Negotiated Rulemaking Committee:

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INTERIOR DEPARTMENT

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