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Presidential Documents

Title 3—

The President

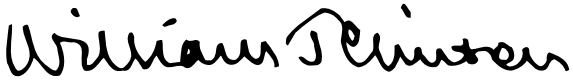
Presidential Determination No. 97–8 of November 27, 1996

Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), I hereby determine that it is important to the national interest that up to $15 million be made available from the United States Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected needs of refugees and migrants. These funds may be used to meet the urgent and unexpected needs of refugees, victims of conflict, and other persons at risk in and from northern Iraq. These funds may be used on a multilateral or bilateral basis as appropriate to provide contributions to international organizations, private voluntary organizations, governments, and other governmental and nongovernmental agencies. These funds may be used as reimbursement for expenses already incurred by the Department of State for these purposes and to pay related Department of State administrative expenses.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and the obligation of funds under this authority and to publish this memorandum in the Federal Register.



THE WHITE HOUSE,
Washington, November 27, 1996.

Justification for Presidential Determination Authorizing the Use of up to $15,000,000 From the United States Emergency Refugee and Migration Assistance Fund

Under section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c) (1), the President may authorize the furnishing of assistance from the United States Emergency Refugee and Migration Assistance Fund (the Fund) to meet ''unexpected urgent refugee and migration'' needs whenever he determines it is ''important to the national interest'' to do so. The President may furnish assistance and make contributions under this act notwithstanding any provisions of law which restrict assistance to foreign countries.

Between September 14 and September 18 the U.S. facilitated the evacuation of approximately 2,100 Kurdish employees of the U.S. Government and their dependents (Quick Transit I) who were considered to be at risk due to their close association with the U.S. Government. A second group has been evacuated. Due to the recent expansion of the Iraqi Government security presence in Northern Iraq, there are other persons who may need to be evacuated.

A drawdown from the Fund of up to $15,000,000 is required to respond to these unexpected urgent refugee and migration needs related to the crisis in Northern Iraq. These funds may be used as reimbursement for expenses already incurred by the Department of State for these purposes and to pay related Department of State administrative expenses. These funds also may be used to provide contributions to international organizations, private voluntary organizations, governments, and other governmental and non-governmental agencies. The need for these funds is urgent and was not foreseen in the appropriation and programming of the FY 1997 Migration and Refugee Assistance funds.

This drawdown furthers the U.S. national interest by providing humanitarian support where it is urgently needed.

[FR Doc. 96–31598
Filed 12–10–96; 8:45 am]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 97–9 of December 2, 1996

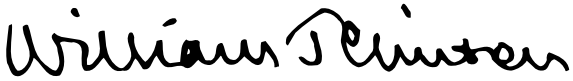
Drawdown of Articles, Services, and Military Education and Training From DOD to Provide Anti-Narcotics Assistance to Mexico

Memorandum for the Secretary of State [and] the Secretary of Defense

Pursuant to the authority vested in me by section 506(a)(2) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2318(a)(2) (''the Act''), I hereby determine that it is in the national interest of the United States to draw down articles, services, and military education and training from the inventory and resources of the Department of Defense for the purpose of providing anti-narcotics assistance to Mexico.

Therefore, I direct the drawdown of up to $37 million of such articles, services, and military education and training from the Department of Defense for the Government of Mexico for the purposes and under the authorities of Chapter 8 of Part I of the Act.

The Secretary of State is authorized and directed to report this determination to the Congress immediately and to arrange for its publication in the Federal Register.



THE WHITE HOUSE,
Washington, December 2, 1996.

[FR Doc. 96–31599
Filed 12–10–96; 8:45 am]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 97–10 of December 3, 1996

Continued Vietnamese Cooperation in Accounting for United States Prisoners of War and Missing in Action (POW/MIA)

Memorandum for the Secretary of State

Consistent with section 609 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1997, as contained in the Omnibus Consolidated Appropriations Act, 1997, Public Law 104–208, I hereby determine, based on all relevant information available to the United States Government, that the Government of the Socialist Republic of Vietnam continues to cooperate in full faith with the United States in four areas of accounting for American POW/MIA's:

1. Resolving discrepancy cases, live sightings and field activities;

2. Recovering and repatriating American remains;

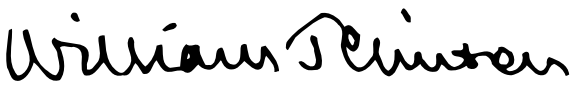
3. Accelerating efforts to provide documents that will help lead to the fullest possible accounting of POW/MIA's; and

4. Providing further assistance in implementing trilateral investigations with Laos.

I have been advised by the Department of Justice and believe that section 609 is unconstitutional because it purports to condition the execution of responsibilities—the authority to recognize, and to maintain diplomatic relations with, a foreign government—that the Constitution commits exclusively to the President. I am, therefore, providing this determination as a matter of comity while preserving my position that the condition enacted in section 609 is unconstitutional.

In making this determination, I wish to reaffirm my continuing personal commitment to the entire POW/MIA community, especially to the immediate families, relatives, friends, and supporters of these brave individuals, and to reconfirm that the central, guiding principle of my Vietnam policy is to achieve the fullest possible accounting for our prisoners of war and missing in action.

You are authorized and directed to report this determination to the appropriate committees of the Congress and to publish it in the Federal Register.



THE WHITE HOUSE,
Washington, December 3, 1996.

[FR Doc. 96–31600
Filed 12–10–96; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

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

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

General Administrative Regulations; Reinsurance Agreement—Standards for Approval; Correction

AGENCY: Federal Crop Insurance Corporation.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to the final regulations for the General Administrative Regulations which were published Tuesday, July 2, 1996 (61 FR 34367). The regulations related to obligations of participating reinsured companies with respect to the sale and service of crop insurance to eligible producers.

EFFECTIVE DATE: June 27, 1996.

FOR FURTHER INFORMATION CONTACT: Diana Moslak, Account Executive, Risk Management Agency, Insurance Services, Reinsurance Services Division, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 720–2832.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction, supersede § 400.168, paragraph (c), to the extent that the final regulations make reference to a regulation (subpart U of part 400) that does not exist at this time. This erroneous reference may prove misleading to participating reinsured companies with respect to the sale and service of crop insurance to eligible producers.

Need for Correction

As published, the final regulations contain an error which may prove misleading and are in need of correction.

Correction of Publication

Accordingly, the publication on July 2, 1996 of the final regulations at 61 FR 34367 is corrected as follows:

§ 400.168 [Corrected]

On page 34368, in the second column, in § 400.168, paragraph (c), in the eighth and ninth lines, the words ''in accordance with subpart U of part 400'' are removed.

Signed in Washington, DC, on December 4, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 96–31427 Filed 12–10–96; 8:45 am]

BILLING CODE 3410–FA–P

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1924, 1942, 1948, and 1980

RIN 0575–AB59

Planning and Performing Construction and Other Development

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: The Rural Housing Service (RHS), Rural Business- Cooperative Service (RBS), Rural Utilities Service (RUS) and Farm Service Agency (FSA) are amending their regulations regarding construction and other development for farm, housing, community and business programs. This action provides RHS, RBS, RUS and FSA borrowers, grant recipients and the public with rules for compliance with seismic safety requirements for new building construction using RHS, RBS, RUS and FSA loan, grant and guaranteed funds. This action is necessary to set forth the Agencies' policies and requirements to meet the implementation requirements of Executive Order 12699, ''Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction,'' 55 FR 835 (January 5, 1990). This Executive Order addresses compliance with the building safety provisions of the Earthquake Hazards Reduction Act of 1977, as amended.

EFFECTIVE DATE: January 10, 1997.

FOR FURTHER INFORMATION CONTACT: Samuel J. Hodges III, Architect, Program Support Staff, Rural Housing Service, U.S. Department of Agriculture, STOP 0761, 1400 Independence Ave., SW., Washington, DC 20250–0761, Telephone: (202) 720-9653.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act

The information collection requirements contained in these regulations have been previously approved by OMB under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control numbers 0575–0042, 0575–0015, 0575-0130, and 0575–0024, in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This final rule does not revise or impose any new information collection or recordkeeping requirements from those approved by OMB.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' It is the determination of the issuing agencies that this action does not constitute a major Federal action significantly affecting the quality of the human environment, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the head of the Agencies certify that this rule will not have a significant economic impact on a substantial number of small entities.

The undersigned have determined that this action will not have a significant economic impact on a substantial number of small entities because the regulatory changes affect processing of loans and eligibility for the programs.

Unfunded Mandate Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the affected Agencies generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the affected Agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Civil Justice Reform

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. In accordance with this rule: (1) All state and local laws and regulations that are in conflict with this rule will be preempted; (2) No retroactive effect will be given to this rule; and (3) Administrative proceedings in accordance with 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Intergovernmental Review

This action affects the following programs as listed in the Catalog of Federal Domestic Assistance:

10.405 Farm Labor Housing Loans and Grants
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans
10.415 Rural Rental Housing Loans
10.420 Rural Self-Help Housing Technical Assistance
10.433 Housing Preservation Grants
10.766 Community Facilities Loans
10.767 Intermediary Relending Program
10.768 Business and Industrial Loans
10.770 Water and Waste Disposal Loans and Grants

All of the affected programs, except 10.410 Low Income Housing Loans, are subject to the provisions of Executive Order 12372 that requires intergovernmental consultation with State and local officials.

Background

General

The affected Agencies make grants, loans, and loan guarantees for the planning and performing of construction and other development work in rural areas. The Agencies require borrowers and grant recipients to meet applicable requirements mandated by Federal statutes, regulations, and executive orders to obtain Agency financing. One such requirement is compliance with Executive Order 12699, which implements the building safety provisions of the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 *et seq.*).

Therefore, the Agencies are amending their regulations regarding construction and other development for farm credit housing, community facilities and business programs to address the requirements of Executive Order 12699. This action clarifies the seismic requirements applicable to RHS, RBS, RUS, and FSA programs; informs architects, engineers and contractors retained by borrowers and grant recipients of the seismic safety requirements applicable to new building construction projects; and facilitates understanding of and compliance with the requirements.

Seismic Introduction

The Earthquake Hazards Reduction Act of 1977 (the Act), as amended, was enacted to reduce risks to life and property from future earthquakes in the United States through establishment and maintenance of an effective earthquake hazards reduction program. The Act also directs the President ''to establish and maintain an effective earthquake hazards reduction program'' (the National Earthquake Hazards Reduction Program or NEHRP). The Federal Emergency Management Agency (FEMA) is the designated agency with primary responsibilities to plan and coordinate NEHRP. The objectives of NEHRP include the development of technologically and economically feasible design and construction methods to make structures earthquake resistant; the development and promotion of improved understanding and capability with respect to seismic risk; the education of the public as to earthquake phenomena; and other areas of seismic research.

Executive Order 12699 requires that measures to assure seismic safety be imposed on federally assisted new building construction to the extent permitted by law. The Executive Order requires each Federal agency assisting in the financing through Federal grants or loans, or guaranteeing the financing through loan or mortgage insurance programs of newly constructed buildings to initiate a plan to assure appropriate consideration of seismic safety.

To support the implementation of Executive Order 12699, the Interagency Committee on Seismic Safety in Construction (ICSSC), composed of members representing Federal agencies involved with construction or responsible for governmental assistance for construction, recommends the use of seismic codes and standards which are substantially equivalent to the ''NEHRP Recommended Provisions for the Development of Seismic Regulations for New Buildings.'' This guideline that represents the state-of-the-art in seismic design, has been widely reviewed, and is currently incorporated into national standards and most model codes that can be adopted by state and local building codes.

Seismic Design

Unlike hurricanes, earthquakes cannot be predicted; they strike without warning with great destructive forces. Most casualties occur when ground shaking causes buildings and other structures to collapse and objects to fall upon people. For these reasons, buildings and other structures need to be designed to resist earthquake forces.

Structural performance in earthquakes indicates that severe damage to and collapse of buildings almost always are the consequence of inadequate design or construction. The successful performance of buildings designed and constructed in accordance with seismic standards shows that effects of severe earthquakes can be resisted economically.

In order to reduce hazards from earthquakes, buildings should be designed according to appropriate seismic standards and codes. Executive Order 12699 requires the use of and conformance to seismic standards and codes for all new federally assisted buildings to the extent permitted by law. The Federal government has established NEHRP to reduce the hazard due to earthquakes and ICSSC to assist Federal agencies with earthquake hazard reduction implementation measures. ICSSC has identified standards and model building codes that meet the requirements of the Executive Order and recommends their use. Therefore, the Agencies are *requiring* that new construction

financed by programs deriving their statutory from the Consolidated Farm and Rural Development Act, 7 U.S.C. 1921, *et seq.*, comply with the seismic requirements of these model building codes and *recommending* that the construction and housing under programs authorized by title V of the Housing Act of 1949, as amended, 42 U.S.C. 1491, *et seq.*, scomply with the seismic requirements of these model building codes.

Discussion of Comments

A proposed rule was published in the Federal Register (60 FR 44283) on August 25, 1995, providing for a 60-day comment period. The rule proposed that RHS, RBS, RUS and FSA amend their regulations regarding construction and other development in order to meet the implementation requirements of Executive Order 12699.

Interested persons were afforded an opportunity to comment and participate in the making of this rule. Due consideration has been given to the 5 letters received commenting on the various aspects in the proposed rule.

Three comments suggested that development work be designed and constructed in accordance with the seismic requirements of the most recently adopted model building code. After review of the May 95 National Institute of Standards and Technology (NIST) report, Comparison of the Seismic Provisions of Model Building Codes and Standards to the 1991 NEHRP Recommended Provisions, this regulation provides for the use of the most recently adopted model building code in the final rule. The following editions of the model codes are referenced in the final rule as the baseline or minimum for providing a level of seismic safety substantially equivalent to that provided by NEHRP Recommended Provisions:

—1991 ICBO Uniform Building Code
—1993 BOCA National Building Code
—1992 SBCCI Standard Building Code

One comment recommended the Agency recognize the Council of American Building Officials (CABO) One and Two Family Dwelling Code with amendments for the purpose of compliance with seismic requirements in addition to the three model building codes. Comparison of the CABO Code with the 1991 NEHRP provisions in the NIST report found that conventional light frame dwellings of two stories or 35 feet in height maximum, constructed under the 1992 CABO One and Two Family Dwelling Code provide the same level of seismic safety as those designed using the 1991 NEHRP provisions. However, townhouses where the Av ≥ 0.05 will not meet the level of safety prescribed by the NEHRP provisions. Also, dwellings of masonry designed using the CABO One and Two Family Dwelling Code will not provide a similar level of seismic safety except where Av < 0.05. The CABO seismic requirements for townhouses and masonry construction are not comparable to those in the NEHRP recommended provisions. Therefore, ICSSC recommendation of model codes appropriate for use does not include the CABO code.

The Agency recognizes that the CABO code is not completely in compliance with the NEHRP recommended provisions. However, section 509(a) of the Housing Act of 1949, 49 U.S.C. 1479(a), requires the Secretary to approve a residential building for financing under title V of the Housing Act of 1949 if the building is constructed in accordance with the standards contained in any of the voluntary national model building codes. The Housing Act of 1949 requires the Agency to finance decent, safe and sanitary housing, and section 4(b) of the Executive Order requires the Agency to amend its regulations to comply with NEHRP only ''to the extent permitted by law'' to reduce the hazards from earthquakes. The Agency cannot disregard the requirements contained in the Housing Act and must continue to finance dwellings constructed in accordance with CABO, even though present CABO standards do not comply with NEHRP. However, it is important to design buildings according to appropriate seismic standards and codes. Therefore, the Agency recommends, but cannot require, that all townhouses and masonry dwellings financed by the Rural Housing Service housing programs meet the seismic requirements of one of the voluntary national model codes that provide a level of safety substantially equivalent to that intended by the NEHRP recommended provisions. This will ensure that the Agency provides decent, safe and sanitary housing for its borrowers and meet the intent of the Executive Order.

The proposed rule contained the Agency's seismic requirements for single family housing in exhibit N, of 7 CFR part 1924, subpart A. This exhibit has been eliminated from the final rule and the single family housing seismic requirements are included in the body of 7 CFR part 1924, subpart A.

One comment suggested that regulations should reference the 1994 NEHRP Maps that delineate by counties geographic areas that are affected by the Av threshold criteria. The ICSSC recommendation of appropriate codes specifically states that codes which are substantially equivalent to the most recent or immediately preceding edition of the NEHRP recommended provisions may be considered adequate. The Agency used the 1991 NEHRP Maps for the proposed rule. However, for the final rule the Agency used the 1994 NEHRP Maps. There is no difference in the 1991 and 1994 Av Maps.

One comment requested a definition of the term ''earthquake resistant'' in light of the 1994 NEHRP recommended provisions that state ''prevention of damage even in an earthquake event with a reasonable probability of occurrence cannot be achieved economically for most buildings.'' The point of this statement is that the seismic safety provisions of our building codes are intended to prevent fatalities; they do not claim to be able to prevent property damage. A building constructed to meet modern code requirements is considered a success if, after the earthquake, no one has been killed by collapse or partial collapse of the building. The building will likely be damaged to some extent and may, in some cases, be so badly damaged that it is not economically feasible to repair. Therefore, in terms of earthquake resistance, the successful performance of buildings designed and constructed in accordance with seismic standards shows that the life-threatening effects of a severe earthquake can be resisted economically. The level of earthquake resistance provided by up-to-date seismic design codes and practices is intended to protect human life, not to prevent damage to the building.

Finally, one comment suggested that the proposed rule would drive up the cost of new construction in the face of dwindling development resources and make new construction more difficult to finance. This commenter also suggested an alternative, as he stated, ''to dumping large sums of both private and public money into housing projects that could be shaken into rubble by an earthquake.'' This alternative suggestion would promote the development of housing that uses alternative building materials that are less expensive to replace and more durable than today's building materials. The Agency does not believe that this rule will drive up the cost of housing and therefore, did not change the final rule nor adopt the suggested alternative as a result of this comment.

List of Subjects

7 CFR Part 1924

Agriculture, Construction and repair, Construction management, Energy conservation, Housing, Loan programs—Agriculture, Low and moderate income housing.

7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas, Waste treatment and disposal—Domestic, Water supply—Domestic.

7 CFR Part 1948

Business and Industry, Credit, Economic development, Rural areas.

7 CFR Part 1980

Loan programs—Agriculture, Loan programs—Business and industry—Rural development assistance, Loan programs—Housing and community development, Loan programs—Community programs—Rural development assistance.

Therefore, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1924—CONSTRUCTION AND REPAIR

1. The authority citation for part 1924 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C 1989; 42 U.S.C 1480.

Subpart A—Planning and Performing Construction And Other Development

2. Section 1924.5 is amended by adding paragraph (d)(4) to read as follows:

§ 1924.5 Planning development work.

* * * * *

(d) * * *

(4) Except as provided in paragraphs (d)(4)(i) through (iii) of this section, new building construction and additions shall be designed and constructed in accordance with the earthquake (seismic) requirements of the applicable Agency's development standard (building code). The analysis and design of structural systems and components shall be in accordance with applicable requirements of an acceptable model building code.

(i) Agricultural buildings that are not intended for human habitation are exempt from these earthquake (seismic) requirements.

(ii) Single family conventional light wood frame dwellings of two stories or 35 feet in height maximum shall be designed and constructed in accordance with the 1992 Council of American Building Officials (CABO) One and Two Family Dwelling Code or the latest edition.

(iii) Single family housing of masonry design and townhouses of wood frame construction and additions financed (either directly or through a guarantee) under title V of the Housing Act of 1949 are recommended to be designed and constructed in accordance with the earthquake (seismic) requirements of one of the building codes that provides an equivalent level of safety to that contained in the latest edition of the National Earthquake Hazard Reduction Program's (NEHRP) Recommended Provisions for the Development of Seismic Regulations for New Building (NEHRP Provisions).

(iv) Acknowledgment of compliance with the applicable seismic safety requirements for new construction will be contained in the certification of final plans and specification on the appropriate Agency Form.

* * * * *

PART 1942—ASSOCIATIONS

3. The authority citation for part 1942 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

Subpart A—Community Facility Loans

4. Section 1942.18 is amended by adding paragraph (d)(17) to read as follows:

§ 1942.18 Community Facilities—Planning, Bidding, Contracting, Constructing.

* * * * *

(d) * * *

(17) *Seismic safety.* (i) All new building construction shall be designed and constructed in accordance with the seismic provisions of one of the following model building codes or the latest edition of that code providing an equivalent level of safety to that contained in latest edition of the National Earthquake Hazard Reduction Program's (NEHRP) Recommended Provisions for the Development of Seismic Regulations for New Building (NEHRP Provisions):

(A) 1991 International Conference of Building Officials (ICBO) Uniform Building Code;

(B) 1993 Building Officials and Code Administrators International, Inc. (BOCA) National Building Code; or

(C) 1992 Amendments to the Southern Building Code Congress International (SBCCI) Standard Building Code.

(ii) The date, signature, and seal of a registered architect or engineer and the identification and date of the model building code on the plans and specifications will be evidence of compliance with the seismic requirements of the appropriate building code.

* * * * *

PART 1948—RURAL DEVELOPMENT

5. The authority citation for part 1948 is revised to read as follows:

Authority: 7 U.S.C. 1989.

Subpart C—Intermediary Relending Program (IRP)

6. Section 1948.117 is amended by adding paragraph (d) to read as follows:

§ 1948.117 Other regulatory requirements.

* * * * *

(d) *Seismic safety of new building construction.* (1) The Intermediary Relending Program is subject to the provisions of Executive Order 12699 that requires each Federal agency assisting in the financing, through Federal grants or loans, or guaranteeing the financing, through loan or mortgage insurance programs, of newly constructed buildings to assure appropriate consideration of seismic safety.

(2) All new buildings shall be designed and constructed in accordance with the seismic provisions of one of the following model building codes or the latest edition of that code providing an equivalent level of safety to that contained in the latest edition of the National Earthquake Hazard Reduction Program's (NEHRP) Recommended Provisions for the Development of Seismic Regulations for New Building (NEHRP Provisions):

(i) 1991 International Conference of Building Officials (ICBO) Uniform Building Code;

(ii) 1993 Building Officials and Code Administrators International, Inc. (BOCA) National Building Code; or

(iii) 1992 Amendments to the Southern Building Code Congress International (SBCCI) Standard Building Code.

(3) The date, signature, and seal of a registered architect or engineer and the identification and date of the model building code on the plans and specifications will be evidence of compliance with the seismic requirements of the appropriate building code.

PART 1980—GENERAL

7. The authority citation for part 1980 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 7 U.S.C. 4201 note; 42 U.S.C. 1480.

Subpart A—General

8. Section 1980.48 is added to read as follows:

§ 1980.48 Seismic safety of new building construction.

(a) The guaranteed loan programs are subject to the provisions of Executive Order 12699 which requires each Federal agency assisting in the financing, through Federal grants or loans, or guaranteeing the financing, through loan or mortgage insurance programs, of newly constructed buildings to assure appropriate consideration of seismic safety.

(b) All new buildings shall be designed and constructed in accordance with the seismic provisions of one of the following model building codes or the latest edition of that code providing an equivalent level of safety to that contained in the latest edition of the National Earthquake Hazard Reduction Program's (NEHRP) Recommended Provisions for the Development of Seismic Regulations for New Building (NEHRP Provisions):

(1) 1991 International Conference of Building Officials (ICBO) Uniform Building Code;

(2) 1993 Building Officials and Code Administrators International, Inc. (BOCA) National Building Code; or

(3) 1992 Amendments to the Southern Building Code Congress International (SBCCI) Standard Building Code.

(c) The date, signature, and seal of a registered architect or engineer and the identification and date of the model building code on the plans and specifications will be evidence of compliance with the seismic requirements of the appropriate building code.

Dated: October 21, 1996.

Jill Long Thompson,

Under Secretary, Rural Development.

Dated: October 15, 1996.

Eugene Moos,

Under Secretary, Farm and Foreign Agricultural Services.

[FR Doc. 96–31426 Filed 12–10–96; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 21, 50, 52, 54 and 100

RIN 3150–AD93

Reactor Site Criteria Including Seismic and Earthquake Engineering Criteria for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to update the criteria used in decisions regarding power reactor siting, including geologic, seismic, and earthquake engineering considerations for future nuclear power plants. The rule allows NRC to benefit from experience gained in the application of the procedures and methods set forth in the current regulation and to incorporate the rapid advancements in the earth sciences and earthquake engineering. This rule primarily consists of two separate changes, namely, the source term and dose considerations, and the seismic and earthquake engineering considerations of reactor siting. The Commission also is denying the remaining issue in petition (PRM–50–20) filed by Free Environment, Inc. et al.

EFFECTIVE DATE: January 10, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. Andrew J. Murphy, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6010, concerning the seismic and earthquake engineering aspects and Mr. Charles E. Ader, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–5622, concerning other siting aspects.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Objectives.
III. Genesis.
IV. Alternatives.
V. Major Changes.
A. Reactor Siting Criteria (Nonseismic).
B. Seismic and Earthquake Engineering Criteria.
VI. Related Regulatory Guides and Standard Review Plan Sections.
VII. Future Regulatory Action.
VIII. Referenced Documents.
IX. Summary of Comments on the Proposed Regulations.
A. Reactor Siting Criteria (Nonseismic).
B. Seismic and Earthquake Engineering Criteria.
X. Small Business Regulatory Enforcement Fairness Act
XI. Finding of No Significant Environmental Impact: Availability.
XII. Paperwork Reduction Act Statement.
XIII. Regulatory Analysis.
XIV. Regulatory Flexibility Certification.
XV. Backfit Analysis.

I. Background

The present regulation regarding reactor site criteria (10 CFR Part 100) was promulgated April 12, 1962 (27 FR 3509). NRC staff guidance on exclusion area and low population zone sizes as well as population density was issued in Regulatory Guide 4.7, ''General Site Suitability Criteria for Nuclear Power Stations,'' published for comment in September 1974. Revision 1 to this guide was issued in November 1975. On June 1, 1976, the Public Interest Research Group (PIRG) filed a petition for rulemaking (PRM–100–2) requesting that the NRC incorporate minimum exclusion area and low population zone distances and population density limits into the regulations. On April 28, 1977, Free Environment, Inc. et al., filed a petition for rulemaking (PRM–50–20). The remaining issue of this petition requests that the central Iowa nuclear project and other reactors be sited at least 40 miles from major population centers. In August 1978, the Commission directed the NRC staff to develop a general policy statement on nuclear power reactor siting. The ''Report of the Siting Policy Task Force'' (NUREG–0625) was issued in August 1979 and provided recommendations regarding siting of future nuclear power reactors. In the 1980 Authorization Act for the NRC, the Congress directed the NRC to decouple siting from design and to specify demographic criteria for siting. On July 29, 1980 (45 FR 50350), the NRC issued an Advance Notice of Proposed Rulemaking (ANPRM) regarding revision of the reactor site criteria, which discussed the recommendations of the Siting Policy Task Force and sought public comments. The proposed rulemaking was deferred by the Commission in December 1981 to await development of a Safety Goal and improved research on accident source terms. On August 4, 1986 (51 FR 23044), the NRC issued its Policy Statement on Safety Goals that stated quantitative health objectives with regard to both prompt and latent cancer fatality risks. On December 14, 1988 (53 FR 50232), the NRC denied PRM–100–2 on the basis that it would unnecessarily restrict NRC's regulatory siting policies and would not result in a substantial increase in the overall

protection of the public health and safety. The Commission is addressing the remaining issue in PRM–50–20 as part of this rulemaking action.

Appendix A, ''Seismic and Geologic Siting Criteria for Nuclear Power Plants,'' to 10 CFR Part 100 was originally issued as a proposed regulation on November 25, 1971 (36 FR 22601), published as a final regulation on November 13, 1973 (38 FR 31279), and became effective on December 13, 1973. There have been two amendments to 10 CFR Part 100, Appendix A. The first amendment, issued November 27, 1973 (38 FR 32575), corrected the final regulation by adding the legend under the diagram. The second amendment resulted from a petition for rulemaking (PRM 100–1) requesting that an opinion be issued that would interpret and clarify Appendix A with respect to the determination of the Safe Shutdown Earthquake. A notice of filing of the petition was published on May 14, 1975 (40 FR 20983). The substance of the petitioner's proposal was accepted and published as an immediately effective final regulation on January 10, 1977 (42 FR 2052).

The first proposed revision to these regulations was published for public comment on October 20, 1992, (57 FR 47802). The availability of the five draft regulatory guides and the standard review plan section that were developed to provide guidance on meeting the proposed regulations was published on November 25, 1992, (57 FR 55601). The comment period for the proposed regulations was extended two times. First, the NRC staff initiated an extension (58 FR 271; January 5, 1993) from February 17, 1993 to March 24, 1993, to be consistent with the comment period on the draft regulatory guides and standard review plan section. Second, in response to a request from the public, the comment period was extended to June 1, 1993 (58 FR 16377; March 26, 1993).

The second proposed revision to these regulations was published for public comment on October 17, 1994 (59 FR 52255). The NRC stated on February 8, 1995, (60 FR 7467) that it intended to extend the comment period to allow interested persons adequate time to provide comments on staff guidance documents. On February 28, 1995, the availability of the five draft regulatory guides and three standard review plan sections that were developed to provide guidance on meeting the proposed regulations was published (60 FR 10880) and the comment period for the proposed rule was extended to May 12, 1995 (60 FR 10810).

II. Objectives

The objectives of this regulatory action are to—

1. State basic site criteria for future sites that, based upon experience and importance to risk, have been shown as key to protecting public health and safety;
2. Provide a stable regulatory basis for seismic and geologic siting and applicable earthquake engineering design of future nuclear power plants that will update and clarify regulatory requirements and provide a flexible structure to permit consideration of new technical understandings; and
3. Relocate source term and dose requirements that apply primarily to plant design into 10 CFR Part 50.

III. Genesis

The regulatory action reflects changes that are intended to (1) benefit from the experience gained in applying the existing regulation and from research; (2) resolve interpretive questions; (3) provide needed regulatory flexibility to incorporate state-of-the-art improvements in the geosciences and earthquake engineering; and (4) simplify the language to a more ''plain English'' text.

The new requirements in this rulemaking apply to applicants who apply for a construction permit, operating license, preliminary design approval, final design approval, manufacturing license, early site permit, design certification, or combined license on or after the effective date of the final regulations. However, for those operating license applicants and holders whose construction permits were issued prior to the effective date of this final regulation, the reactor site criteria in 10 CFR Part 100, and the seismic and geologic siting criteria and the earthquake engineering criteria in Appendix A to 10 CFR Part 100 would continue to apply in all subsequent proceedings, including license amendments and renewal of operating licenses pursuant to 10 CFR Part 54.

Criteria not associated with the selection of the site or establishment of the Safe Shutdown Earthquake Ground Motion (SSE) have been placed in 10 CFR Part 50. This action is consistent with the location of other design requirements in 10 CFR Part 50.

Because the revised criteria presented in this final regulation does not apply to existing plants, the licensing bases for existing nuclear power plants must remain a part of the regulations. Therefore, the non-seismic and seismic reactor site criteria for current plants is retained as Subpart A and Appendix A to 10 CFR Part 100, respectively. The revised reactor site criteria is added as Subpart B in 10 CFR Part 100 and applies to site applications received on or after the effective date of the final regulations. Non-seismic site criteria is added as a new § 100.21 to Subpart B in 10 CFR Part 100. The criteria on seismic and geologic siting is added as a new § 100.23 to Subpart B in 10 CFR Part 100. The dose calculations and the earthquake engineering criteria is located in 10 CFR Part 50 (§ 50.34(a) and Appendix S, respectively). Because Appendix S is not self executing, applicable sections of Part 50 (§ 50.34 and § 50.54) are revised to reference Appendix S. The regulation also makes conforming amendments to 10 CFR Parts 21, 50, 52, and 54. Sections 21.3, 50.49(b)(1), 50.65(b)(1), 52.17(a)(1), and 54.4(a)(1)(iii) are amended to reflect changes in § 50.34(a)(1) and 10 CFR Part 100.

IV. Alternatives

The first alternative considered by the Commission was to continue using current regulations for site suitability determinations. This is not considered an acceptable alternative. Accident source terms and dose calculations currently primarily influence plant design requirements rather than siting. It is desirable to state basic site criteria which, through importance to risk, have been shown to be key to assuring public health and safety. Further, significant advances in understanding severe accident behavior, including fission product release and transport, as well as in the earth sciences and in earthquake engineering have taken place since the promulgation of the present regulation and deserve to be reflected in the regulations.

The second alternative considered was replacement of the existing regulation with an entirely new regulation. This is not an acceptable alternative because the provisions of the existing regulations form part of the licensing bases for many of the operating nuclear power plants and others that are in various stages of obtaining operating licenses. Therefore, these provisions should remain in force and effect.

The approach of establishing the revised requirements in new sections to 10 CFR Part 100 and relocating plant design requirements to 10 CFR Part 50 while retaining the existing regulation was chosen as the best alternative. The public will benefit from a clearer, more uniform, and more consistent licensing process that incorporates updated information and is subject to fewer interpretations. The NRC staff will

benefit from improved regulatory implementation (both technical and legal), fewer interpretive debates, and increased regulatory flexibility. Applicants will derive the same benefits in addition to avoiding licensing delays caused by unclear regulatory requirements.

V. Major Changes

A. Reactor Siting Criteria (Nonseismic)

Since promulgation of the reactor site criteria in 1962, the Commission has approved more than 75 sites for nuclear power reactors and has had an opportunity to review a number of others. In addition, light-water commercial power reactors have accumulated about 2000 reactor-years of operating experience in the United States. As a result of these site reviews and operational experience, a great deal of insight has been gained regarding the design and operation of nuclear power plants as well as the site factors that influence risk. In addition, an extensive research effort has been conducted to understand accident phenomena, including fission product release and transport. This extensive operational experience together with the insights gained from recent severe accident research as well as numerous risk studies on radioactive material releases to the environment under severe accident conditions have all confirmed that present commercial power reactor design, construction, operation and siting is expected to effectively limit risk to the public to very low levels. These risk studies include the early ''Reactor Safety Study'' (WASH–1400), published in 1975, many Probabilistic Risk Assessment (PRA) studies conducted on individual plants as well as several specialized studies, and the recent ''Severe Accident Risks: An Assessment for Five U.S. Nuclear Power Plants,'' (NUREG–1150), issued in 1990. Advanced reactor designs currently under review are expected to result in even lower risk and improved safety compared to existing plants. Hence, the substantial base of knowledge regarding power reactor siting, design, construction and operation reflects that the primary factors that determine public health and safety are the reactor design, construction and operation.

Siting factors and criteria, however, are important in assuring that radiological doses from normal operation and postulated accidents will be acceptably low, that natural phenomena and potential man-made hazards will be appropriately accounted for in the design of the plant, that site characteristics are such that adequate security measures to protect the plant can be developed, and that physical characteristics unique to the proposed site that could pose a significant impediment to the development of emergency plans are identified. The Commission has also had a long standing policy of siting reactors away from densely populated centers, and is continuing this policy in this rule.

The Commission is incorporating basic reactor site criteria in this rule to accomplish the above purposes. The Commission is retaining source term and dose calculations to verify the adequacy of a site for a specific plant, but source term and dose calculations are relocated to Part 50, since experience has shown that these calculations have tended to influence plant design aspects such as containment leak rate or filter performance rather than siting. No specific source term is referenced in Part 50. Rather, the source term is required to be one that is ''* * * assumed to result in substantial meltdown of the core with subsequent release into the containment of appreciable quantities of fission products.'' Hence, this guidance can be utilized with the source term currently used for light-water reactors, or used in conjunction with revised accident source terms.

The relocation of source term and dose calculations to Part 50 represent a partial decoupling of siting from accident source term and dose calculations. The siting criteria are envisioned to be utilized together with standardized plant designs whose features will be certified in a separate design certification rulemaking procedure. Each of the standardized designs will specify an atmospheric dilution factor that would be required to be met, in order to meet the dose criteria at the exclusion area boundary. For a given standardized design, a site having relatively poor dispersion characteristics would require a larger exclusion area distance than one having good dispersion characteristics. Additional design features would be discouraged in a standardized design to compensate for otherwise poor site conditions.

Although individual plant tradeoffs will be discouraged for a given standardized design, a different standardized design could require a different atmospheric dilution factor. For custom plants that do not involve a standardized design, the source term and dose criteria will continue to provide assurance that the site is acceptable for the proposed design.

Rationale for Individual Criteria

(A) *Exclusion Area.* An exclusion area surrounding the immediate vicinity of the plant has been a requirement for siting power reactors from the very beginning. This area provides a high degree of protection to the public from a variety of potential plant accidents and also affords protection to the plant from potential man-related hazards. The Commission considers an exclusion area to be an essential feature of a reactor site and is retaining this requirement, in Part 50, to verify that an applicant's proposed exclusion area distance is adequate to assure that the radiological dose to an individual will be acceptably low in the event of a postulated accident. However, as noted above, if source term and dose calculations are used in conjunction with standardized designs, unlimited plant tradeoffs to compensate for poor site conditions will not be permitted. For plants that do not involve standardized designs, the source term and dose calculations will provide assurance that the site is acceptable for the proposed design.

The present regulation requires that the exclusion area be of such size that an individual located at any point on its boundary for two hours immediately following onset of the postulated fission product release would not receive a total radiation dose in excess of 25 rem to the whole body or 300 rem to the thyroid gland. A footnote in the present regulation notes that a whole body dose of 25 rem has been stated to correspond numerically to the once in a lifetime accidental or emergency dose to radiation workers which could be disregarded in the determination of their radiation exposure status (NBS Handbook 69 dated June 5, 1959). However, the same footnote also clearly states that the Commission's use of this value does not imply that it considers it to be an acceptable limit for an emergency dose to the public under accident conditions, but only that it represents a reference value to be used for evaluating plant features and site characteristics intended to mitigate the radiological consequences of accidents in order to provide assurance of low risk to the public under postulated accidents. The Commission, based upon extensive experience in applying this criterion, and in recognition of the conservatism of the assumptions in its application (a large fission product release within containment associated with major core damage, maximum allowable containment leak rate, a postulated single failure of any of the fission product cleanup systems, such as the containment sprays, adverse site

meteorological dispersion characteristics, an individual presumed to be located at the boundary of the exclusion area at the centerline of the plume for two hours without protective actions), believes that this criterion has clearly resulted in an adequate level of protection. As an illustration of the conservatism of this assessment, the maximum whole body dose received by an actual individual during the Three Mile Island accident in March 1979, which involved major core damage, was estimated to be about 0.1 rem.

The proposed rule considered two changes in this area.

First, the Commission proposed that the use of different doses for the whole body and thyroid gland be replaced by a single value of 25 rem, total effective dose equivalent (TEDE).

The proposed use of the total effective dose equivalent, or TEDE, was noted as being consistent with Part 20 of the Commission's regulations and was also based upon two considerations. First, since it utilizes a risk consistent methodology to assess the radiological impact of all relevant nuclides upon all body organs, use of TEDE promotes a uniformity and consistency in assessing radiation risk that may not exist with the separate whole body and thyroid organ dose values in the present regulation. Second, use of TEDE lends itself readily to the application of updated accident source terms, which can vary not only with plant design, but in which additional nuclides, besides the noble gases and iodine are predicted to be released into containment.

The Commission considered the current dose criteria of 25 rem whole body and 300 rem thyroid with the intent of selecting a TEDE numerical value equivalent to the risk implied by the current dose criteria. The Commission proposed to use the risk of latent cancer fatality as the appropriate risk measure since quantitative health objectives (QHOs) for it have been established in the Commission's Safety Goal policy. Although the supplementary information in the proposed rule noted that the current dose criteria are equivalent in risk to 27 rem TEDE, the Commission proposed to use 25 rem TEDE as the dose criterion for plant evaluation purposes, since this value is essentially the same level of risk as the current criteria.

However, the Commission specifically requested comments on whether the current dose criteria should be modified to utilize the total effective dose equivalent or TEDE concept, whether a TEDE value of 25 rem (consistent with latent cancer fatality), or 34 rem (consistent with latent cancer incidence), or some other value should be used, and whether the dose criterion should also include a ''capping'' limitation, that is, an additional requirement that the dose to any individual organ not be in excess of some fraction of the total.

Based on the comments received, there was a general consensus that the use of the TEDE concept was appropriate, and a nearly unanimous opinion that no organ ''capping'' dose was required, since the TEDE concept provided the appropriate risk weighting for all body organs.

With regard to the value to be used as the dose criterion, a number of comments were received that the proposed value of 25 rem TEDE represented a more restrictive criterion than the current values of 25 rem whole body and 300 rem to the thyroid gland. These commenters noted that the use of organ weighting factors of 1 for the whole body and 0.03 for the thyroid as given in 10 CFR Part 20, would yield a value of 34 rem TEDE for whole body and thyroid doses of 25 and 300 rem, respectively. This is because the organ weighting factors in 10 CFR Part 20 include other effects (e.g., genetic) in addition to latent cancer fatality.

After careful consideration, the Commission has decided to adopt a value of 25 rem TEDE as the dose acceptance criterion for the final rule. The bases for this decision follows. First, the Commission has generally based its regulations on the risk of latent cancer fatality. Although a numerical calculation would lead to a value of 27 rem TEDE, as noted in the discussion that accompanied the proposed rule, the Commission concludes that a value of 25 rem is sufficiently close, and that the use of 27 rather than 25 implies an unwarranted numerical precision. In addition, in terms of occupational dose, Part 20 also permits a once-in-a-lifetime planned special dose of 25 rem TEDE. In addition, EPA guidance sets a limit of 25 rem TEDE for workers performing emergency service such as lifesaving or protection of large populations. While the Commission does not, as noted above, regard this dose value as one that is acceptable for members of the public under accident conditions, it provides a useful perspective with regard to doses that ought not to be exceeded, even for radiation workers under emergency conditions.

The argument that a criterion of 25 rem TEDE in conjunction with the organ weighting factors of 10 CFR Part 20 for its calculation represents a tightening of the dose criterion, while true in theory, is not true in practice. A review of the dose analyses for operating plants has shown that the thyroid dose limit of 300 rem has been the limiting dose criterion in licensing reviews, and that all operating plants would be able to meet a dose criterion of 25 rem TEDE. Hence, the Commission concludes that, in practice, use of the organ weighting factors of Part 20 together with a dose criterion of 25 rem TEDE, represents a relaxation rather than a tightening of the dose criterion. In adopting this value, the Commission also rejects the view, advanced by some, that the dose calculation is merely a ''reference'' value that bears no relation to what might be experienced by an actual person in an accident. Although the Commission considers it highly unlikely that an actual person would receive such a dose, because of the conservative and stylized assumptions employed in its calculation, it is conceivable.

The second change proposed in this area was in regard to the time period that a hypothetical individual is assumed to be at the exclusion area boundary. While the duration of the time period remains at a value of two hours, the proposed rule stated that this time period not be fixed in regard to the appearance of fission products within containment, but that various two-hour periods be examined with the objective that the dose to an individual not be in excess of 25 rem TEDE for any two-hour period after the appearance of fission products within containment. The Commission proposed this change to reflect improved understanding of fission product release into the containment under severe accident conditions. For an assumed instantaneous release of fission products, as contemplated by the present rule, the two hour period that commences with the onset of the fission product release clearly results in the highest dose to an individual offsite. Improved understanding of severe accidents shows that fission product releases to the containment do not occur instantaneously, and that the bulk of the releases may not take place for about an hour or more. Hence, the two-hour period commencing with the onset of fission product release may not represent the highest dose that an individual could be exposed to over any two-hour period. As a result, the Commission proposed that various two-hour periods be examined to assure that the dose to a hypothetical individual at the exclusion area boundary would not be in excess of 25 rem TEDE over any two-hour period after the onset of fission product release.

A number of comments received in regard to this proposed criterion stated that so-called ''sliding'' two-hour

window for dose evaluation at the exclusion area boundary was confusing, illogical, and inappropriate. Several commenters felt it was difficult to ascertain which two hour period represented the maximum. Others expressed the view that the significance of such a calculation was not clearly stated nor understood. For example, one comment expressed the view that a dose evaluated for a ''sliding'' two-hour period was logically inconsistent since it implied either that an individual was not at the exclusion area boundary prior to the accident, and approached close to the plant after initiation of the accident, contrary to what might be expected, or that the individual was, in fact, located at the exclusion area boundary all along, in which case the dose contribution received prior to the ''maximum'' two-hour value was being ignored.

Although the Commission recognizes that evaluation of the dose to a hypothetical individual over any two-hour period may not be entirely consistent with the actions of an actual individual in an accident, the intent is to assure that the short-term dose to an individual will not be in excess of the acceptable value, even where there is some variability in the time that an individual might be located at the exclusion area boundary. In addition, the dose calculation should not be taken too literally with regard to the actions of a real individual, but rather is intended primarily as a means to evaluate the effectiveness of the plant design and site characteristics in mitigating postulated accidents.

For these reasons, the Commission is retaining the requirement, in the final rule, that the dose to an individual located at the nearest exclusion area boundary over any two-hour period after the appearance of fission products in containment, should not be in excess of 25 rem total effective dose equivalent (TEDE).

(B) *Site Dispersion Factors.* Site dispersion factors have been utilized to provide an assessment of dose to an individual as a result of a postulated accident. Since the Commission is requiring that a verification be made that the exclusion area distance is adequate to assure that the guideline dose to a hypothetical individual will not be exceeded under postulated accident conditions, as well as to assure that radiological limits are met under normal operating conditions, the Commission is requiring that the atmospheric dispersion characteristics of the site be evaluated, and that site dispersion factors based upon this evaluation be determined and used in assessing radiological consequences of normal operations as well as accidents.

(C) *Low Population Zone.* The present regulation requires that a low population zone (LPZ) be defined immediately beyond the exclusion area. Residents are permitted in this area, but the number and density must be such that there is a reasonable probability that appropriate protective measures could be taken in their behalf in the event of a serious accident. In addition, the nearest densely populated center containing more than about 25,000 residents must be located no closer than one and one-third times the outer boundary of the LPZ. Finally, the dose to a hypothetical individual located at the outer boundary of the LPZ over the entire course of the accident must not be in excess of the dose values given in the regulation.

While the Commission considers that the siting functions intended for the LPZ, namely, a low density of residents and the feasibility of taking protective actions, have been accomplished by other regulations or can be accomplished by other guidance, the Commission continues to believe that a requirement that limits the radiological consequences over the course of the accident provides a useful evaluation of the plant's long-term capability to mitigate postulated accidents. For this reason, the Commission is retaining the requirement that the dose consequences be evaluated at the outer boundary of the LPZ over the course of the postulated accident and that these not be in excess of 25 rem TEDE.

(D) *Physical Characteristics of the Site.* It has been required that physical characteristics of the site, such as the geology, seismology, hydrology, meteorology characteristics be considered in the design and construction of any plant proposed to be located there. The final rule requires that these characteristics be evaluated and that site parameters, such as design basis flood conditions or tornado wind loadings be established for use in evaluating any plant to be located on that site in order to ensure that the occurrence of such physical phenomena would pose no undue hazard.

(E) *Nearby Transportation Routes, Industrial and Military Facilities.* As for natural phenomena, it has been a long-standing NRC staff practice to review man-related activities in the site vicinity to provide assurance that potential hazards associated with such facilities or transportation routes will pose no undue risk to any plant proposed to be located at the site. The final rule codifies this practice.

(F) *Adequacy of Security Plans.* The rule requires that the characteristics of the site be such that adequate security plans and measures for the plant could be developed. The Commission envisions that this will entail a small secure area considerably smaller than that envisioned for the exclusion area.

(G) *Emergency Planning.* The proposed rule stated that the site characteristics should be such that adequate plans to carry out protective measures for members of the public in the event of emergency could be developed. To avoid any misinterpretation that the Commission is adopting emergency planning standards that implicitly overrule or may be in conflict with previous Commission decisions (e.g., CLI–90–02), the language in the final rule has been modified to be consistent with that of section 52.17 of the Commission's regulations regarding early site permits.

The Commission's decision in Seabrook on emergency planning, made in connection with an operating license review for a site previously approved, is being extended in considering site suitability for future reactor sites. The Commission, in its Seabrook decision, CLI–90–02, reiterated its earlier determination in the Shoreham decision, CLI–86–13, that the adequacy of an emergency plan is to be determined by the sixteen planning standards of 10 CFR 50.47(b), and that these standards do not require that an adequate plan achieve a preset minimum radiation dose saving or a minimum evacuation time for the plume exposure pathway emergency planning zone in the event of a serious accident. Rather, the Commission noted that emergency planning is required as a matter of prudence and for defense-in-depth, and that the adequacy of an emergency plan was to be judged on the basis of its meeting the 16 planning standards given in 10 CFR 50.47(b). Hence, the characteristics of the site, which determine the evacuation time for the plume exposure pathway emergency planning zone, have not entered into the determination of the adequacy of an emergency plan. Emergency plans developed according to the above planning standards will result in reasonable assurance that adequate protective measures can be taken in the event of emergency.

It is sufficient that an applicant identify any physical site characteristics that could represent a significant impediment to the development of emergency plans, primarily to assure that ''A range of protective actions have been developed for the plume exposure pathway emergency planning zone for

emergency workers and the public'', as stated in the planning standards.

Accordingly, appropriate sections of the rule (e.g., § 100.21(g)) have been modified to state that ''physical characteristics unique to the proposed site that could pose a significant impediment to the development of emergency plans must be identified.'' Except for the deletion of the phrase ''such as egress limitations from the area surrounding the site'', this language is identical to that in § 52.17(b)(1). This phrase is being deleted from § 100.21(g) (but § 52.17(b)(1) remains unchanged), to eliminate any confusion that might arise regarding its scope.

(H) *Siting Away From Densely Populated Centers.* Population density considerations beyond the exclusion area have been required since issuance of Part 100 in 1962. The current rule requires a ''low population zone'' (LPZ) beyond the immediate exclusion area. The LPZ boundary must be of such a size that an individual located at its outer boundary must not receive a dose in excess of the values given in Part 100 over the course of the accident. While numerical values of population or population density are not specified for this region, the regulation also requires that the nearest boundary of a densely populated center of about 25,000 or more persons be located no closer than one and one-third times the LPZ outer boundary. Part 100 has no population criteria other than the size of the LPZ and the proximity of the nearest population center, but notes that ''where very large cities are involved, a greater distance may be necessary.''

Whereas the exclusion area size is based upon limitation of individual risk, population density requirements serve to set societal risk limitations and reflect consideration of accidents beyond the design basis, or severe accidents. Such accidents were clearly a consideration in the original issuance of Part 100, since the Statement of Considerations (27 FR 3509; April 12, 1962) noted that:

> Further, since accidents of greater potential hazard than those commonly postulated as representing an upper limit are conceivable, although highly improbable, it was considered desirable to provide for protection against excessive exposure doses to people in large centers, where effective protective measures might not be feasible * * * Hence, the population center distance was added as a site requirement.

Limitation of population density beyond the exclusion area has the following benefits:

(a) It facilitates emergency preparedness and planning; and

(b) It reduces potential doses to large numbers of people and reduces property damage in the event of severe accidents.

Although the Commission's Safety Goal policy provides guidance on individual risk limitations, in the form of the Quantitative Health Objectives (QHO), it provides no guidance with regard to societal risk limitations and therefore cannot be used to ascertain whether a particular population density would meet the Safety Goal.

However, results of severe accident risk studies, particularly those obtained from NUREG–1150, can provide useful insights for considering potential criteria for population density. Severe accidents having the highest consequences are those where core-melt together with early bypass of or containment failure occurs. Such an event would likely lead to a ''large release'' (without defining this precisely). Based upon NUREG–1150, the probability of a core-melt accident together with early containment failure or bypass for some current generation LWRs is estimated to be between 10^{-5} and 10^{-6} per reactor year. For future plants, this value is expected to be less than 10^{-6} per reactor year.

If a reactor was located nearer to a large city than current NRC practice permitted, the likelihood of exposing a large number of people to significant releases of radioactive material would be about the same as the probability of a core-melt and early containment failure, that is, less than 10^{-6} per reactor year for future reactor designs. It is worth noting that events having the very low likelihood of about 10^{-6} per reactor year or lower have been regarded in past licensing actions to be ''incredible'', and as such, have not been required to be incorporated into the design basis of the plant. Hence, based solely upon accident likelihood, it might be argued that siting a reactor nearer to a large city than current NRC practice would pose no undue risk.

If, however, a reactor were sited away from large cities, the likelihood of the city being affected would be reduced because of two factors. First, the likelihood that radioactive material would actually be carried towards the city is reduced because it is likely that the wind will blow in a direction away from the city. Second, the radiological dose consequences would also be reduced with distance because the radioactive material becomes increasingly diluted by the atmosphere and the inventory becomes depleted due to the natural processes of fallout and rainout before reaching the city. Analyses indicate that if a reactor were located at distances ranging from 10 to about 20 miles away from a city, depending upon its size, the likelihood of exposure of large numbers of people within the city would be reduced by factors of ten to one hundred or more compared with locating a reactor very close to a city.

In summary, next-generation reactors are expected to have risk characteristics sufficiently low that the safety of the public is reasonably assured by the reactor and plant design and operation itself, resulting in a very low likelihood of occurrence of a severe accident. Such a plant can satisfy the QHOs of the Safety Goal with a very small exclusion area distance (as low as 0.1 miles). The consequences of design basis accidents, analyzed using revised source terms and with a realistic evaluation of engineered safety features, are likely to be found acceptable at distances of 0.25 miles or less. With regard to population density beyond the exclusion area, siting a reactor closer to a densely populated city than is current NRC practice would pose a very low risk to the populace.

Nevertheless, the Commission concludes that defense-in-depth considerations and the additional enhancement in safety to be gained by siting reactors away from densely populated centers should be maintained.

The Commission is incorporating a two-tier approach with regard to population density and reactor sites. The rule requires that reactor sites be located away from very densely populated centers, and that areas of low population density are, generally, preferred. The Commission believes that a site not falling within these two categories, although not preferred, can be found acceptable under certain conditions.

The Commission is not establishing specific numerical criteria for evaluation of population density in siting future reactor facilities because the acceptability of a specific site from the standpoint of population density must be considered in the overall context of safety and environmental considerations. The Commission's intent is to assure that a site that has significant safety, environmental or economic advantages is not rejected solely because it has a higher population density than other available sites. Population density is but one factor that must be balanced against the other advantages and disadvantages of a particular site in determining the site's acceptability. Thus, it must be recognized that sites with higher population density, so long as they are located away from very densely populated centers, can be approved by

the Commission if they present advantages in terms of other considerations applicable to the evaluation of proposed sites.

Petition Filed By Free Environment, Inc. et al.

On April 28, 1977, Free Environment, Inc. et al., filed a petition for rulemaking (PRM–50–20) requesting, among other things, that ''the central Iowa nuclear project and other reactors be sited at least 40 miles from major population centers.'' The petitioner also stated that ''locating reactors in sparsely-populated areas * * * has been endorsed in non-binding NRC guidelines for reactor siting.'' The petitioner did not specify what constituted a major population center. The only NRC guidelines concerning population density in regard to reactor siting are in Regulatory Guide 4.7, issued in 1974, and revised in 1975, prior to the date of the petition. This guide states population density values of 500 persons per square mile out to a distance of 30 miles from the reactor, not 40 miles.

Regulatory Guide 4.7 does provide effective separation from population centers of various sizes. Under this guide, a population center of about 25,000 or more residents should be no closer than 4 miles (6.4 km) from a reactor because a density of 500 persons per square mile within this distance would yield a total population of about 25,000 persons. Similarly, a city of 100,000 or more residents should be no closer than about 10 miles (16 km); a city of 500,000 or more persons should be no closer than about 20 miles (32 km), and a city of 1,000,000 or more persons should be no closer than about 30 miles (50 km) from the reactor.

The Commission has examined these guidelines with regard to the Safety Goal. The Safety Goal quantitative health objective in regard to latent cancer fatality states that, within a distance of ten miles (16 km) from the reactor, the risk to the population of latent cancer fatality from nuclear power plant operation, including accidents, should not exceed one-tenth of one percent of the likelihood of latent cancer fatalities from all other causes. In addition to the risks of latent cancer fatalities, the Commission has also investigated the likelihood and extent of land contamination arising from the release of long-lived radioactive species, such as cesium-137, in the event of a severe reactor accident.

The results of these analyses indicate that the latent cancer fatality quantitative health objective noted is met for current plant designs. From analysis done in support of this proposed change in regulation, the likelihood of permanent relocation of people located more than about 20 miles (32 km) from the reactor as a result of land contamination from a severe accident is very low. A revision of Regulatory Guide 4.7 which incorporated this finding that population density guidance beyond 20 miles was not needed in the evaluation of potential reactor sites was issued for comment at the time of the proposed rule. No comments were received on this aspect of the guide.

Therefore, the Commission concludes that the NRC staff guidance in Regulatory Guide 4.7 provide a means of locating reactors away from population centers, including ''major'' population centers, depending upon their size, that would limit societal consequences significantly, in the event of a severe accident. The Commission finds that granting of the petitioner's request to specify population criteria out to 40 miles would not substantially reduce the risks to the public. As noted, the Commission also believes that a higher population density site could be found to be acceptable, compared to a lower population density site, provided there were safety, environmental, or economic advantages to the higher population site. Granting of the petitioner's request would neglect this possibility and would make population density the sole criterion of site acceptability. For these reasons, the Commission has decided not to adopt the proposal by Free Environment, Incorporated.

The Commission also notes that future population growth around a nuclear power plant site, as in other areas of the region, is expected but cannot be predicted with great accuracy, particularly in the long-term. Population growth in the site vicinity will be periodically factored into the emergency plan for the site, but since higher population density sites are not unacceptable, per se, the Commission does not intend to consider license conditions or restrictions upon an operating reactor solely upon the basis that the population density around it may reach or exceed levels that were not expected at the time of site approval. Finally, the Commission wishes to emphasize that population considerations as well as other siting requirements apply only for the initial siting for new plants and will not be used in evaluating applications for the renewal of existing nuclear power plant licenses.

Change to 10 CFR Part 50

The change to 10 CFR Part 50 relocates from 10 CFR Part 100 the dose requirements for each applicant at specified distances. Because these requirements affect reactor design rather than siting, they are more appropriately located in 10 CFR Part 50.

These requirements apply to future applicants for a construction permit, design certification, or an operating license. The Commission will consider after further experience in the review of certified designs whether more specific requirements need to be developed regarding revised accident source terms and severe accident insights.

B. Seismic and Earthquake Engineering Criteria

The following major changes to Appendix A, ''Seismic and Geologic Siting Criteria for Nuclear Power Plants,'' to 10 CFR Part 100, are associated with the seismic and earthquake engineering criteria rulemaking. These changes reflect new information and research results, and incorporate the intentions of this regulatory action as defined in Section III of this rule. Much of the following discussion remains unchanged from that issued for public comment (59 FR 52255) because there were no comments which necessitated a major change to the regulations and supporting documentation.

1. Separate Siting From Design

Criteria not associated with site suitability or establishment of the Safe Shutdown Earthquake Ground Motion (SSE) have been placed into 10 CFR Part 50. This action is consistent with the location of other design requirements in 10 CFR Part 50. Because the revised criteria presented in the regulation will not be applied to existing plants, the licensing basis for existing nuclear power plants must remain part of the regulations. The criteria on seismic and geologic siting would be designated as a new § 100.23 to Subpart B in 10 CFR Part 100. Criteria on earthquake engineering would be designated as a new Appendix S, ''Earthquake Engineering Criteria for Nuclear Power Plants,'' to 10 CFR Part 50.

2. Remove Detailed Guidance From the Regulation

Appendix A to 10 CFR Part 100 contains both requirements and guidance on how to satisfy the requirements. For example, Section IV, ''Required Investigations,'' of Appendix A, states that investigations are required for vibratory ground motion, surface faulting, and seismically induced floods and water waves. Appendix A then provides detailed guidance on what constitutes an acceptable investigation.

A similar situation exists in Section V, ''Seismic and Geologic Design Bases,'' of Appendix A.

Geoscience assessments require considerable latitude in judgment. This latitude in judgment is needed because of limitations in data and the state-of-the-art of geologic and seismic analyses and because of the rapid evolution taking place in the geosciences in terms of accumulating knowledge and in modifying concepts. This need appears to have been recognized when the existing regulation was developed. The existing regulation states that it is based on limited geophysical and geological information and will be revised as necessary when more complete information becomes available.

However, having geoscience assessments detailed and cast in a regulation has created difficulty for applicants and the staff in terms of inhibiting the use of needed latitude in judgment. Also, it has inhibited flexibility in applying basic principles to new situations and the use of evolving methods of analyses (for instance, probabilistic) in the licensing process.

The final regulation is streamlined, becoming a new section in Subpart B to 10 CFR Part 100 rather than a new appendix to Part 100. Also, the level of detail presented in the final regulation is reduced considerably. Thus, the final regulation contains: (a) required definitions, (b) a requirement to determine the geological, seismological, and engineering characteristics of the proposed site, and (c) requirements to determine the Safe Shutdown Earthquake Ground Motion (SSE), to determine the potential for surface deformation, and to determine the design bases for seismically induced floods and water waves. The guidance documents describe how to carry out these required determinations. The key elements of the approach to determine the SSE are presented in the following section. The elements are the guidance that is described in Regulatory Guide 1.165, ''Identification and Characterization of Seismic Sources and Determination of Safe Shutdown Earthquake Ground Motions.''

3. Uncertainties and Probabilistic Methods

The existing approach for determining a Safe Shutdown Earthquake Ground Motion (SSE) for a nuclear reactor site, embodied in Appendix A to 10 CFR Part 100, relies on a ''deterministic'' approach. Using this deterministic approach, an applicant develops a single set of earthquake sources, develops for each source a postulated earthquake to be used as the source of ground motion that can affect the site, locates the postulated earthquake according to prescribed rules, and then calculates ground motions at the site.

Although this approach has worked reasonably well for the past two decades, in the sense that SSEs for plants sited with this approach are judged to be suitably conservative, the approach has not explicitly recognized uncertainties in geosciences parameters. Because of uncertainties about earthquake phenomena (especially in the eastern United States), there have often been differences of opinion and differing interpretations among experts as to the largest earthquakes to be considered and ground-motion models to be used, thus often making the licensing process relatively unstable.

Over the past decade, analysis methods for incorporating these different interpretations have been developed and used. These ''probabilistic'' methods have been designed to allow explicit incorporation of different models for zonation, earthquake size, ground motion, and other parameters. The advantage of using these probabilistic methods is their ability not only to incorporate different models and different data sets, but also to weight them using judgments as to the validity of the different models and data sets, and thereby providing an explicit expression for the uncertainty in the ground motion estimates and a means of assessing sensitivity to various input parameters. Another advantage of the probabilistic method is the target exceedance probability is set by examining the design bases of more recently licensed nuclear power plants.

The final regulation explicitly recognizes that there are inherent uncertainties in establishing the seismic and geologic design parameters and allows for the option of using a probabilistic seismic hazard methodology capable of propagating uncertainties as a means to address these uncertainties. The rule further recognizes that the nature of uncertainty and the appropriate approach to account for it depend greatly on the tectonic regime and parameters, such as, the knowledge of seismic sources, the existence of historical and recorded data, and the understanding of tectonics. Therefore, methods other than the probabilistic methods, such as sensitivity analyses, may be adequate for some sites to account for uncertainties.

Methods acceptable to the NRC staff for implementing the regulation are described in Regulatory Guide 1.165, ''Identification and Characterization of Seismic Sources and Determination of Safe Shutdown Earthquake Ground Motion.'' The key elements of this approach are:

—Conduct site-specific and regional geoscience investigations,
—Target exceedance probability is set by examining the design bases of more recently licensed nuclear power plants,
—Conduct probabilistic seismic hazard analysis and determine ground motion level corresponding to the target exceedance probability
—Determine if information from the regional and site geoscience investigations change probabilistic results,
—Determine site-specific spectral shape and scale this shape to the ground motion level determined above,
—NRC staff review using all available data including insights and information from previous licensing experience, and
—Update the data base and reassess probabilistic methods at least every ten years.

Thus, the approach requires thorough regional and site-specific geoscience investigations. Results of the regional and site-specific investigations must be considered in applications of the probabilistic method. The current probabilistic methods, the NRC sponsored study conducted by Lawrence Livermore National Laboratory (LLNL) or the Electric Power Research Institute (EPRI) seismic hazard study, are regional studies without detailed information on any specific location. The regional and site-specific investigations provide detailed information to update the database of the hazard methodology as necessary.

It is also necessary to incorporate local site geological factors such as structural geology, stratigraphy, and topography and to account for site-specific geotechnical properties in establishing the design basis ground motion. In order to incorporate local site factors and advances in ground motion attenuation models, ground motion characteristics are determined using the procedures outlined in Standard Review Plan Section 2.5.2, ''Vibratory Ground Motion,'' Revision 3.

The NRC staff's review approach to evaluate ground motion estimates is described in SRP Section 2.5.2, Revision 3. This review takes into account the information base developed in licensing more than 100 plants. Although the basic premise in establishing the target exceedance probability is that the current design levels are adequate, a staff review further assures that there is

consistency with previous licensing decisions and that the scientific bases for decisions are clearly understood. This review approach will also assess the fairly complex regional probabilistic modeling, which incorporates multiple hypotheses and a multitude of parameters. Furthermore, the NRC staff's Safety Evaluation Report should provide a clear basis for the staff's decisions and facilitate communication with nonexperts.

4. Safe Shutdown Earthquake

The existing regulation (10 CFR Part 100, Appendix A, Section V(a)(1)(iv)) states ''The maximum vibratory accelerations of the Safe Shutdown Earthquake at each of the various foundation locations of the nuclear power plant structures at a given site shall be determined * * *'' The location of the seismic input motion control point as stated in the existing regulation has led to confrontations with many applicants that believe this stipulation is inconsistent with good engineering fundamentals.

The final regulation moves the location of the seismic input motion control point from the foundation-level to the free-field at the free ground surface. The 1975 version of the Standard Review Plan placed the control motion in the free-field. The final regulation is also consistent with the resolution of Unresolved Safety Issue (USI) A–40, ''Seismic Design Criteria'' (August 1989), that resulted in the revision of Standard Review Plan Sections 2.5.2, 3.7.1, 3.7.2, and 3.7.3. The final regulation also requires that the horizontal component of the Safe Shutdown Earthquake Ground Motion in the free-field at the foundation level of the structures must be an appropriate response spectrum considering the site geotechnical properties, with a peak ground acceleration of at least 0.1g.

5. Value of the Operating Basis Earthquake Ground Motion (OBE) and Required OBE Analyses

The existing regulation (10 CFR Part 100, Appendix A, Section V(a)(2)) states that the maximum vibratory ground motion of the OBE is at least one half the maximum vibratory ground motion of the Safe Shutdown Earthquake ground motion. Also, the existing regulation (10 CFR Part 100, Appendix A, Section VI(a)(2)) states that the engineering method used to insure that structures, systems, and components are capable of withstanding the effects of the OBE shall involve the use of either a suitable dynamic analysis or a suitable qualification test. In some cases, for instance piping, these multi-facets of the OBE in the existing regulation made it possible for the OBE to have more design significance than the SSE. A decoupling of the OBE and SSE has been suggested in several documents. For instance, the NRC staff, SECY–79–300, suggested that a compromise is required between design for a broad spectrum of unlikely events and optimum design for normal operation. Design for a single limiting event (the SSE) and inspection and evaluation for earthquakes in excess of some specified limit (the OBE), when and if they occur, may be the most sound regulatory approach. NUREG–1061, ''Report of the U.S. Nuclear Regulatory Commission Piping Review Committee,'' Vol.5, April 1985, (Table 10.1) ranked a decoupling of the OBE and SSE as third out of six high priority changes. In SECY–90–016, ''Evolutionary Light Water Reactor (LWR) Certification Issues and Their Relationship to Current Regulatory Requirements,'' the NRC staff states that it agrees that the OBE should not control the design of safety systems. Furthermore, the final safety evaluation reports related to the certification of the System 80+ and the Advanced Boiling Water Reactor design (NUREG–1462 and NUREG–1503, respectively) have already adopted the single earthquake design philosophy.

Activities equivalent to OBE–SSE decoupling are also being done in foreign countries. For instance, in Germany their new design standard requires only one design basis earthquake (equivalent to the SSE). They require an inspection-level earthquake (for shutdown) of 0.4 SSE. This level was set so that the vibratory ground motion should not induce stresses exceeding the allowable stress limits originally required for the OBE design.

The final regulation allows the value of the OBE to be set at (i) one-third or less of the SSE, where OBE requirements are satisfied without an explicit response or design analyses being performed, or (ii) a value greater than one-third of the SSE, where analysis and design are required. There are two issues the applicant should consider in selecting the value of the OBE: first, plant shutdown is required if vibratory ground motion exceeding that of the OBE occurs (discussed below in Item 6, Required Plant Shutdown), and second, the amount of analyses associated with the OBE. An applicant may determine that at one-third of the SSE level, the probability of exceeding the OBE vibratory ground motion is too high, and the cost associated with plant shutdown for inspections and testing of equipment and structures prior to restarting the plant is unacceptable. Therefore, the applicant may voluntarily select an OBE value at some higher fraction of the SSE to avoid plant shutdowns. However, if an applicant selects an OBE value at a fraction of the SSE higher than one-third, a suitable analysis shall be performed to demonstrate that the requirements associated with the OBE are satisfied. The design shall take into account soil-structure interaction effects and the expected duration of the vibratory ground motion. The requirement associated with the OBE is that all structures, systems, and components of the nuclear power plant necessary for continued operation without undue risk to the health and safety of the public shall remain functional and within applicable stress, strain and deformation limits when subjected to the effects of the OBE in combination with normal operating loads.

As stated, it is determined that if an OBE of one-third or less of the SSE is used, the requirements of the OBE can be satisfied without the applicant performing any explicit response analyses. In this case, the OBE serves the function of an inspection and shutdown earthquake. Some minimal design checks and the applicability of this position to seismic base isolation of buildings are discussed below. There is high confidence that, at this ground-motion level with other postulated concurrent loads, most critical structures, systems, and components will not exceed currently used design limits. This is ensured, in part, because PRA insights will be used to support a margins-type assessment of seismic events. A PRA-based seismic margins analysis will consider sequence-level High Confidence, Low Probability of Failures (HCLPFs) and fragilities for all sequences leading to core damage or containment failures up to approximately one and two-thirds the ground motion acceleration of the design basis SSE (Reference: Item II.N, Site-Specific Probabilistic Risk Assessment and Analysis of External Events, memorandum from Samuel J. Chilk to James M. Taylor, Subject: SECY–93–087—Policy, Technical, and Licensing Issues Pertaining to Evolutionary and Advance Light-Water Reactor (ALWR) Designs, dated July 21, 1993).

There are situations associated with current analyses where only the OBE is associated with the design requirements, for example, the ultimate heat sink (see Regulatory Guide 1.27, ''Ultimate Heat Sink for Nuclear Power Plants''). In these situations, a value expressed as a fraction of the SSE

response would be used in the analyses. Section VII of this final rule identifies existing guides that would be revised technically to maintain the existing design philosophy.

In SECY–93–087, ''Policy, Technical, and Licensing Issues Pertaining to Evolutionary and Advance Light-Water Reactor (ALWR) Designs,'' the NRC staff requested Commission approval on 42 technical and policy issues pertaining to either evolutionary LWRs, passive LWRs, or both. The issue pertaining to the elimination of the OBE is designated I.M. The NRC staff identified actions necessary for the design of structures, systems, and components when the OBE design requirement is eliminated. The NRC staff clarified that guidelines should be maintained to ensure the functionality of components, equipment, and their supports. In addition, the NRC staff clarified how certain design requirements are to be considered for buildings and structures that are currently designed for the OBE, but not the SSE. Also, the NRC staff has evaluated the effect on safety of eliminating the OBE from the design load combinations for selected structures, systems, and components and has developed proposed criteria for an analysis using only the SSE. Commission approval is documented in the Chilk to Taylor memorandum dated July 21, 1993, cited above.

More than one earthquake response analysis for a seismic base isolated nuclear power plant design may be necessary to ensure adequate performance at all earthquake levels. Decisions pertaining to the response analyses associated with base isolated facilities will be handled on a case by case basis.

6. Required Plant Shutdown

The current regulation (Section V(a)(2)) states that if vibratory ground motion exceeding that of the OBE occurs, shutdown of the nuclear power plant will be required. The supplementary information to the final regulation (published November 13, 1973; 38 FR 31279, Item 6e) includes the following statement: ''A footnote has been added to § 50.36(c)(2) of 10 CFR Part 50 to assure that each power plant is aware of the limiting condition of operation which is imposed under Section V(2) of Appendix A to 10 CFR Part 100. This limitation requires that if vibratory ground motion exceeding that of the OBE occurs, shutdown of the nuclear power plant will be required. Prior to resuming operations, the licensee will be required to demonstrate to the Commission that no functional damage has occurred to those features necessary for continued operation without undue risk to the health and safety of the public.'' At that time, it was the intention of the Commission to treat the OBE as a limiting condition of operation. From the statement in the Supplementary Information, the Commission directed applicants to specifically review 10 CFR Part 100 to be aware of this intention in complying with the requirements of 10 CFR 50.36. Thus, the requirement to shut down if an OBE occurs was expected to be implemented by being included among the technical specifications submitted by applicants after the adoption of Appendix A. In fact, applicants did not include OBE shutdown requirements in their technical specifications.

The final regulation treats plant shutdown associated with vibratory ground motion exceeding the OBE or significant plant damage as a condition in every operating license. A new § 50.54(ff) is added to the regulations to require a process leading to plant shutdown for licensees of nuclear power plants that comply with the earthquake engineering criteria in Paragraph IV(a)(3) of Appendix S, ''Earthquake Engineering Criteria for Nuclear Power Plants,'' to 10 CFR Part 50. Immediate shutdown could be required until it is determined that structures, systems, and components needed for safe shutdown are still functional.

Regulatory Guide 1.166, ''Pre-Earthquake Planning and Immediate Nuclear Power Plant Operator Post-Earthquake Actions,'' provides guidance acceptable to the NRC staff for determining whether or not vibratory ground motion exceeding the OBE ground motion or significant plant damage had occurred and the timing of nuclear power plant shutdown. The guidance is based on criteria developed by the Electric Power Research Institute (EPRI). The decision to shut down the plant should be made by the licensee within eight hours after the earthquake. The data from the seismic instrumentation, coupled with information obtained from a plant walk down, are used to make the determination of when the plant should be shut down, if it has not already been shut down by operational perturbations resulting from the seismic event. The guidance in Regulatory Guide 1.166 is based on two assumptions, first, that the nuclear power plant has operable seismic instrumentation, including the equipment and software required to process the data within four hours after an earthquake, and second, that the operator walk down inspections can be performed in approximately four to eight hours depending on the number of personnel conducting the inspection. The regulation also includes a provision that requires the licensee to consult with the Commission and to propose a plan for the timely, safe shutdown of the nuclear power plant if systems, structures, or components necessary for a safe shutdown or to maintain a safe shutdown are not available.

Regulatory Guide 1.167, ''Restart of a Nuclear Power Plant Shut Down by a Seismic Event,'' provides guidelines that are acceptable to the NRC staff for performing inspections and tests of nuclear power plant equipment and structures prior to plant restart. This guidance is also based on EPRI reports. Prior to resuming operations, the licensee must demonstrate to the Commission that no functional damage has occurred to those features necessary for continued operation without undue risk to the health and safety of the public. The results of post-shutdown inspections, operability checks, and surveillance tests must be documented in written reports and submitted to the Director, Office of Nuclear Reactor Regulation. The licensee shall not resume operation until authorized to do so by the Director, Office of Nuclear Reactor Regulation.

7. Clarify Interpretations

Section 100.23 resolves questions of interpretation. As an example, definitions and required investigations stated in the final regulation do not contain the phrases in Appendix A to Part 100 that were more applicable to only the western part of the United States.

The institutional definition for ''safety-related structures, systems, and components'' is drawn from Appendix A to Part 100 under III(c) and VI(a). With the relocation of the earthquake engineering criteria to Appendix S to Part 50 and the relocation and modification to dose guidelines in § 50.34(a)(1), the definition of safety-related structures, systems, and components is included in Part 50 definitions with references to both the Part 100 and Part 50 dose guidelines.

VI. Related Regulatory Guides and Standard Review Plan Sections

The NRC is developing the following regulatory guides and standard review plan sections to provide prospective licensees with the necessary guidance for implementing the final regulation. The notice of availability for these materials will be published in a later issue of the Federal Register.

1. Regulatory Guide 1.165, ''Identification and Characterization of Seismic Sources and Determination of

Shutdown Earthquake Ground Motions.'' The guide provides general guidance and recommendations, describes acceptable procedures and provides a list of references that present acceptable methodologies to identify and characterize capable tectonic sources and seismogenic sources. Section V.B.3 of this rule describes the key elements.

2. Regulatory Guide 1.12, Revision 2, ''Nuclear Power Plant Instrumentation for Earthquakes.'' The guide describes seismic instrumentation type and location, operability, characteristics, installation, actuation, and maintenance that are acceptable to the NRC staff.

3. Regulatory Guide 1.166, ''Pre-Earthquake Planning and Immediate Nuclear Power Plant Operator Post-Earthquake Actions.'' The guide provides guidelines that are acceptable to the NRC staff for a timely evaluation of the recorded seismic instrumentation data and to determine whether or not plant shutdown is required.

4. Regulatory Guide 1.167, ''Restart of a Nuclear Power Plant Shut Down by a Seismic Event.'' The guide provides guidelines that are acceptable to the NRC staff for performing inspections and tests of nuclear power plant equipment and structures prior to restart of a plant that has been shut down because of a seismic event.

5. Standard Review Plan Section 2.5.1, Revision 3, ''Basic Geologic and Seismic Information.'' This SRP Section describes procedures to assess the adequacy of the geologic and seismic information cited in support of the applicant's conclusions concerning the suitability of the plant site.

6. Standard Review Plan Section 2.5.2, Revision 3 ''Vibratory Ground Motion.'' This SRP Section describes procedures to assess the ground motion potential of seismic sources at the site and to assess the adequacy of the SSE.

7. Standard Review Plan Section 2.5.3, Revision 3, ''Surface Faulting.'' This SRP Section describes procedures to assess the adequacy of the applicant's submittal related to the existence of a potential for surface faulting affecting the site.

8. Regulatory Guide 4.7, Revision 2, ''General Site Suitability Criteria for Nuclear Power Plants.'' This guide discusses the major site characteristics related to public health and safety and environmental issues that the NRC staff considers in determining the suitability of sites.

VII. Future Regulatory Action

Several existing regulatory guides will be revised to incorporate editorial changes or maintain the existing design or analysis philosophy. These guides will be issued as final guides without public comment subsequent to the publication of the final regulations.

The following regulatory guides will be revised to incorporate editorial changes, for example to reference new sections to Part 100 or Appendix S to Part 50. No technical changes will be made in these regulatory guides.

1. 1.57, ''Design Limits and Loading Combinations for Metal Primary Reactor Containment System Components.''
2. 1.59, ''Design Basis Floods for Nuclear Power Plants.''
3. 1.60, ''Design Response Spectra for Seismic Design of Nuclear Power Plants.''
4. 1.83, ''Inservice Inspection of Pressurized Water Reactor Steam Generator Tubes.''
5. 1.92, ''Combining Modal Responses and Spatial Components in Seismic Response Analysis.''
6. 1.102, ''Flood Protection for Nuclear Power Plants.''
7. 1.121, ''Bases for Plugging Degraded PWR Steam Generator Tubes.''
8. 1.122, ''Development of Floor Design Response Spectra for Seismic Design of Floor-Supported Equipment or Components.''

The following regulatory guides will be revised to update the design or analysis philosophy, for example, to change OBE to a fraction of the SSE:

1. 1.3, ''Assumptions Used for Evaluating the Potential Radiological Consequences of a Loss of Coolant Accident for Boiling Water Reactors.''
2. 1.4, ''Assumptions Used for Evaluating the Potential Radiological Consequences of a Loss of Coolant Accident for Pressurized Water Reactors.''
3. 1.27, ''Ultimate Heat Sink for Nuclear Power Plants.''
4. 1.100, ''Seismic Qualification of Electric and Mechanical Equipment for Nuclear Power Plants.''
5. 1.124, ''Service Limits and Loading Combinations for Class 1 Linear-Type Component Supports.''
6. 1.130, ''Service Limits and Loading Combinations for Class 1 Plate-and-Shell-Type Component Supports.''
7. 1.132, ''Site Investigations for Foundations of Nuclear Power Plants.''
8. 1.138, ''Laboratory Investigations of Soils for Engineering Analysis and Design of Nuclear Power Plants.''
9. 1.142, ''Safety-Related Concrete Structures for Nuclear Power Plants (Other than Reactor Vessels and Containments).''
10. 1.143, ''Design Guidance for Radioactive Waste Management Systems, Structures, and Components Installed in Light-Water-Cooled Nuclear Power Plants.''

Minor and conforming changes to other Regulatory Guides and standard review plan sections as a result of changes in the nonseismic criteria are also planned. If substantive changes are made during the revisions, the applicable guides will be issued for public comment as draft guides.

VIII. Referenced Documents

An interested person may examine or obtain copies of the documents referenced in this rule as set out below.

Copies of NUREG–0625, NUREG–1061, NUREG–1150, NUREG–1451, NUREG–1462, NUREG–1503, and NUREG/CR–2239 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop SSOP, Washington, DC 20402–9328. Copies also are available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy also is available for inspection and copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Copies of issued regulatory guides may be purchased from the Government Printing Office (GPO) at the current GPO price. Information on current GPO prices may be obtained by contacting the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20402–9328. Issued guides also may be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5826 Port Royal Road, Springfield, VA 22161.

SECY 79–300, SECY 90–016, SECY 93–087, and WASH–1400 are available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

IX. Summary of Comments on the Proposed Regulations

A. Reactor Siting Criteria (Nonseismic)

Eight organizations or individuals commented on the nonseismic aspects of the second proposed revision. The first proposed revision issued for comment in October 20, 1992, (57 FR 47802) elicited strong comments in regard to proposed numerical values of population density and a minimum distance to the exclusion area boundary (EAB) in the rule. The second proposed revision (October 17, 1994; 59 FR 52255) would delete these from the rule by providing guidance on population density in a Regulatory Guide and determining the distance to the EAB and LPZ by use of source term and dose

calculations. The rule would contain basic site criteria, without any numerical values.

Several commentors representing the nuclear industry and international nuclear organizations stated that the second proposed revision was a significant improvement over the first proposed revision, while the only public interest group commented that the NRC had retreated from decoupling siting and design in response to the comments of foreign entities.

Most comments on the second proposed revision centered on the use of total effective dose equivalent (TEDE), the proposed single numerical dose acceptance criterion of 25 rem TEDE, the evaluation of the maximum dose in any two-hour period, and the question of whether an organ capping dose should be adopted.

Virtually all commenters supported the concept of TEDE and its use. However, there were differing views on the proposed numerical dose of 25 rem and the proposed use of the maximum two-hour period to evaluate the dose. Virtually all industry commenters felt that the proposed numerical value of 25 rem TEDE was too low and that it represented a ''ratchet'' since the use of the current dose criteria plus organ weighting factors would suggest a value of 34 rem TEDE. In addition, all industry commenters believed the ''sliding'' two-hour window for dose evaluation to be confusing, illogical and inappropriate. They favored a rule that was based upon a two hour period after the onset of fission product release, similar in concept to the existing rule. All industry commenters opposed the use of an organ capping dose. The only public interest group that commented did not object to the use of TEDE, favored the proposed dose value of 25 rem, and supported an organ capping dose.

B. Seismic and Earthquake Engineering Criteria

Seven letters were received addressing either the regulations or both the regulations and the draft guidance documents identified in Section VI (except DG–4003). An additional five letters were received addressing only the guidance documents, for a total of twelve comment letters. A document, ''Resolution of Public Comments on the Proposed Seismic and Earthquake Engineering Criteria for Nuclear Power Plants,'' is available explaining the NRC's disposition of the comments received on the regulations. A copy of this document has been placed in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies are available from Dr. Andrew J. Murphy, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6010. A second document, ''Resolution of Public Comments on Draft Regulatory Guides and Standard Review Plan Sections Pertaining to the Proposed Seismic and Earthquake Engineering Criteria for Nuclear Power Plants,'' will explain the NRC's disposition of the comments received on the guidance documents. The Federal Register notice announcing the avaliability of the guidance documents will also discuss how to obtain copies of the comment resolution document.

A summary of the major comments on the proposed regulations follows:

Section III, Genesis (Application)

Comment: The Department of Energy (Office of Civilian Radioactive Waste Management), requests an explicit statement on whether or not § 100.23 applies to the Mined Geologic Disposal System (MGDS) and a Monitored Retrievable Storage (MRS) facility. The NRC has noted in NUREG–1451, ''Staff Technical Position on Investigations to Identify Fault Displacement Hazards and Seismic Hazards at a Geologic Respository,'' that Appendix A to 10 CFR Part 100 does not apply to a geologic repository. NUREG–1451 also notes that the contemplated revisions to Part 100 would also not be applicable to a geologic repository. Section 72.102(b) requires that, for an MRS located west of the Rocky Mountain front or in areas of known potential seismic activity in the east, the seismicity be evaluated by the techniques of Appendix A to 10 CFR Part 100.

Response: Although Appendix A to 10 CFR Part 100 is titled ''Seismic and Geologic Siting Criteria for Nuclear Power Plants,'' it is also referenced in two other parts of the regulation. They are (1) Part 40, ''Domestic Licensing of Source Material,'' Appendix A, ''Criteria Relating to the Operation of Uranium Mills and the Disposition of Tailings or Waste Produced by the Extraction or Concentration of Source Material from Ores Processed Primarily for Their Source Material Content,'' Section I, Criterion 4(e), and (2) Part 72, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste,'' Paragraphs (a)(2), (b) and (f)(1) of § 72.102.

The referenced applicability of § 100.23 to other than power reactors, if considered appropriate by the NRC, would be a separate rulemaking. That rulemaking would clearly state the applicability of § 100.23 to an MRS or other facility. In addition, NUREG–1451 will remain the NRC staff technical position on seismic siting issues pertaining to an MGDS until it is superseded through a rulemaking, revision of NUREG–1451, or other appropriate mechanism.

Section V(B)(5), ''Value of the Operating Basis Earthquake Ground Motion (OBE) and Required OBE Analysis.''

Comment: One commenter, ABB Combustion Engineering Nuclear Systems, specifically stated that they agree with the NRC's proposal to not require explicit design analysis of the OBE if its peak acceleration is less than one-third of the Safe Shutdown Earthquake Ground Motion (SSE). The only negative comments, from G.C. Slagis Associates, stated that the proposed rule in the area of required OBE analysis is not sound, not technically justified, and not appropriate for the design of pressure-retaining components. The following are specific comments (limited to the design of pressure-retaining components to the ASME Boiler and Pressure Vessel Section III rules) that pertain to the supplemental information to the proposed regulations, item V(B)(5), ''Value of the Operating Basis Earthquake Ground Motion (OBE) and Required OBE Analysis.''

(1) *Comment:* Disagrees with the statement in SECY–79–300 that design for a single limiting event and inspection and evaluation for earthquakes in excess of some specified limit may be the most sound regulatory approach. It is not feasible to inspect for cyclic damage to all the pressure-retaining components. Visually inspecting for permanent deformation, or leakage, or failed component supports is certainly not adequate to determine cyclic damage.

Response: The NRC agrees. Postearthquake inspection and evaluation guidance is described in Regulatory Guide 1.167 (Draft was DG–1035), ''Restart of a Nuclear Power Plant Shut Down by an Seismic Event.'' The guidance is not limited to visual inspections; it includes inspections, tests, and analyses including fatigue analysis.

(2) *Comment:* Disagrees with the NRC statement in SECY–090–016 that the OBE should not control design. There is a problem with the present requirements. Requiring design for five OBE events at one-half SSE is unrealistic for most (all?) sites and requires an excessive and unnecessary number of seismic supports. The solution is to properly define the OBE

magnitude and the number of events expected during the life of the plant and to require design for that loading. OBE may or may not control the design. But you cannot assume, before you have the seismicity defined and before you have a component design, that OBE will not govern the design.

Response: The NRC has concluded that design requirements based on an estimated OBE magnitude at the plant site and the number of events expected during the plant life will lead to low design values that will not control the design, thus resulting in unnecessary analyses.

(3) *Comment:* It is not technically justified to assume that Section III components will remain within applicable stress limits (Level B limits) at one-third the SSE. The Section III acceptance criteria for Level D (for an SSE) is completely different than that for Level B (for an OBE). The Level D criteria is based on surviving the extremely-low probability SSE load. Gross structural deformations are possible, and it is expected that the component will have to be replaced. Cyclic effects are not considered. The cyclic effects of the repeated earthquakes have to be considered in the design of the component to ensure pressure boundary integrity throughout the life of the component, especially if the SSE can occur after the lower level earthquakes.

Response: In SECY–93–087, Issue I.M, ''Elimination of Operating-Basis Earthquake,'' the NRC recognizes that a designer of piping systems considers the effects of primary and secondary stresses and evaluates fatigue caused by repeated cycles of loading. Primary stresses are induced by the inertial effects of vibratory motion. The relative motion of anchor points induces secondary stresses. The repeating seismic stress cycles induce cyclic effects (fatigue). However, after reviewing these aspects, the NRC concludes that, for primary stresses, if the OBE is established at one-third the SSE, the SSE load combinations control the piping design when the earthquake contribution dominates the load combination. Therefore, the NRC concludes that eliminating the OBE piping stress load combination for primary stresses in piping systems will not significantly reduce existing safety margins.

Eliminating the OBE will, however, directly affect the current methods used to evaluate the adequacy of cyclic and secondary stress effects in the piping design. Eliminating the OBE from the load combination could cause uncertainty in evaluating the cyclic (fatigue) effects of earthquake-induced motions in piping systems and the relative motion effects of piping anchored to equipment and structures at various elevations because both of these effects are currently evaluated only for OBE loadings. Accordingly, to account for earthquake cycles in the fatigue analysis of piping systems, the staff proposes to develop guidelines for selecting a number of SSE cycles at a fraction of the peak amplitude of the SSE. These guidelines will provide a level of fatigue design for the piping equivalent to that currently provided in Standard Review Plan Section 3.9.2.

Positions pertaining to the elimination of the OBE were proposed in SECY–93–087. Commission approval is documented in a memorandum from Samuel J. Chilk to James M. Taylor, Subject: SECY–93–087—Policy, Technical and Licensing Issues Pertaining to Evolutionary and Advanced Light-Water Reactor (ALWR) Designs, dated July 21, 1993.

(4) *Comment:* There is one major flaw in the ''SSE only'' design approach. The equipment designed for SSE is limited to the equipment necessary to assure the integrity of the reactor coolant pressure boundary, to shutdown the reactor, and to prevent or mitigate accident consequences. The equipment designed for SSE is only part of the equipment ''necessary for continued operation without undue risk to the health and safety of the public.'' Hence, by this rule, it is possible that some equipment necessary for continued operation will not be designed for SSE or OBE effects.

Response: The NRC does not agree that the design approach is flawed. It is not possible that some equipment necessary for continued *safe* operation will not be designed for SSE or OBE effects. General Design Criterion 2, ''Design Bases for Protection Against Natural Phenomena,'' of Appendix A, ''General Design Criteria for Nuclear Power Plants,'' to 10 CFR Part 50 requires that nuclear power plant structures, systems, and components important to safety be designed to withstand the effects of earthquakes without loss of capability to perform their safety functions. The criteria in Appendix S to 10 CFR Part 50 implement General Design Criterion 2 insofar as it requires structures, systems, and components important to safety to withstand the effects of earthquakes. Regulatory Guide 1.29, ''Seismic Design Classification,'' describes a method acceptable to the NRC for identifying and classifying those features of light-water-cooled nuclear power plants that should be designed to withstand the effects of the SSE. Currently, components which are designed for OBE only include components such as waste holdup tanks. As noted in Section VII, Future Regulatory Actions, regulatory guides related to these components will be revised to provide alternative design requirements.

10 CFR 100.23

The Nuclear Energy Institute (NEI) congratulated the NRC staff for carefully considering and responding to the voluminous and complex comments that were provided on the earlier proposed rulemaking package (October 20, 1992; 57 FR 47802) and considered that the seismic portion of the proposed rulemaking package is nearing maturity and with the inclusion of industry's comments (which were principally on the guidance documents), has the potential to satisfy the objectives of predictable licensing and stable regulations.

Both NEI and Westinghouse Electric Corporation support the regulation format, that is, prescriptive guidance is located in regulatory guides or standard review plan sections and not the regulation.

NEI and Westinghouse Electric Corporation support the removal of the requirement from the first proposed rulemaking (57 FR 47802) that both deterministic and probabilistic evaluations must be conducted to determine site suitability and seismic design requirements for the site. [Note: the commenters do not agree with the NRC staff's deterministic check of the seismic sources and parameters used in the LLNL and EPRI probabilistic seismic hazard analyses (Regulatory Guide 1.165, draft was DG–1032). Also, they do not support the NRC staff's deterministic check of the applicants submittal (SRP Section 2.5.2). These items are addressed in the document pertaining to comment resolution of the draft regulatory guides and standard review plan sections.]

Comment: NEI, Westinghouse Electric Corporation, and Yankee Atomic Electric Corporation recommend that the regulation should state that for existing sites east of the Rocky Mountain Front (east of approximately 105° west longitude), a 0.3g standardized design level is acceptable at these sites given confirmatory foundations evaluations [Regulatory Guide 1.132, but not the geologic, geophysical, seismological investigations in Regulatory Guide 1.165].

Response: The NRC has determined that the use of a spectral shape anchored to 0.3g peak ground acceleration as a standardized design level would be

appropriate for existing central and eastern U.S. sites based on the current state of knowledge. However, as new information becomes available it may not be appropriate for future licensing decisions. Pertinent information such as that described in Regulatory Guide 1.165 (Draft was DG–1032) is needed to make that assessment. Therefore, it is not appropriate to codify the request.

Comment: NEI recommended a rewording of Paragraph (a), Applicability. Although unlikely, an applicant for an operating license already holding a construction permit may elect to apply the amended methodology and criteria in Subpart B to Part 100.

Response: The NRC will address this request on a case-by-case basis rather than through a generic change to the regulations. This situation pertains to a limited number of facilities in various stages of construction. Some of the issues that must be addressed by the applicant and NRC during the operating license review include differences between the design bases derived from the current and amended regulations (Appendix A to Part 100 and § 100.23, respectively), and earthquake engineering criteria such as, OBE design requirements and OBE shutdown requirements.

Appendix S to 10 CFR Part 50

Support for the NRC position pertaining to the elimination of the Operating Basis Earthquake Ground Motion (OBE) response analyses has been documented in various NRC publications such as SECY–79–300, SECY–90–016, SECY–93–087, and NUREG–1061. The final safety evaluation reports related to the certification of the System 80+ and the Advanced Boiling Water Reactor design (NUREG–1462 and NUREG–1503, respectively) have already adopted the single earthquake design philosophy. In addition, similar activities are being done in foreign countries, for instance, Germany. (Additional discussion is provided in Section V(B)(5) of this rule).

Comment: The American Society of Civil Engineers (ASCE) recommended that the seismic design and engineering criteria of ASCE Standard 4, ''Seismic Analysis of Safety-Related Nuclear Structures and Commentary on Standard for Seismic Analysis of Safety-Related Nuclear Structures,'' be incorporated by reference into Appendix S to 10 CFR Part 50.

Response: The Commission has determined that new regulations will be more streamlined and contain only basic requirements with guidance being provided in regulatory guides and, to some extent, in standard review plan sections. Both the NRC and industry have experienced difficulties in applying prescriptive regulations such as Appendix A to 10 CFR Part 100 because they inhibit the use of needed latitude in judgment. Therefore, it is common NRC practice not to reference publications such as ASCE Standard 4 (an analysis, not design standard) in its regulations. Rather, publications such as ASCE Standard 4 are cited in regulatory guides and standard review plan sections. ASCE Standard 4 is cited in the 1989 revision of Standard Review Plan Sections 3.7.1, 3.7.2, and 3.7.3.

Comment: The Department of Energy stated that the required consideration of aftershocks in Paragraph IV(B), Surface Deformation, is confusing and recommended that it be deleted.

Response: The NRC agrees. The reference to aftershocks in Paragraph IV(b) has been deleted. Paragraphs VI(a), Safe Shutdown Earthquake, and VI(B)(3) of Appendix A to Part 100 contain the phrase ''including aftershocks.'' The ''including aftershocks'' phrase was removed from the Safe Shutdown Earthquake Ground Motion requirements in the proposed regulation. The recommended change will make Paragraphs IV(a)(1), ''Safe Shutdown Earthquake Ground Motion,'' and IV(b), ''Surface Deformation, of Appendix S to 10 CFR Part 50 consistent.

X. Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996 the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

XI. Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this regulation is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required.

The revisions associated with the reactor siting criteria in 10 CFR Part 100 and the relocation of the plant design requirements from 10 CFR Part 100 to 10 CFR Part 50 have been evaluated against the current requirements. The Commission has concluded that relocating the requirement for a dose calculation to Part 50 and adding more specific site criteria to Part 100 does not decrease the protection of public health and safety over the current regulations. The amendments do not affect nonradiological plant effluents and have no other environmental impact.

The addition of § 100.23 to 10 CFR Part 100, and the addition of Appendix S to 10 CFR Part 50, will not change the radiological environmental impact offsite. Onsite occupational radiation exposure associated with inspection and maintenance will not change. These activities are principally associated with baseline inspections of structures, equipment, and piping, and with maintenance of seismic instrumentation. Baseline inspections are needed to differentiate between pre-existing conditions at the nuclear power plant and earthquake related damage. The structures, equipment and piping selected for these inspections are those routinely examined by plant operators during normal plant walkdowns and inspections. Routine maintenance of seismic instrumentation ensures its operability during earthquakes. The location of the seismic instrumentation is similar to that in the existing nuclear power plants. The amendments do not affect nonradiological plant effluents and have no other environmental impact.

The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available from Dr. Andrew J. Murphy, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6010.

XII. Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget, approval numbers 3150–0011 and 3150–0093.

The public reporting burden for this collection of information is estimated to average 800,000 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments on any aspect of this collection of information, including

suggestions for reducing the burden, to the Information and Records Management Branch (T–6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail to BJS1@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0011 and 3150–0093), Office of Management and Budget, Washington, DC 20503.

Public Protection Notification

The NRC 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.

XIII. Regulatory Analysis

The Commission has prepared a regulatory analysis on this regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. Interested persons may examine a copy of the regulatory analysis at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis are available from Dr. Andrew J. Murphy, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6010.

XIV. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this regulation does not have a significant economic impact on a substantial number of small entities. This regulation affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the size standards established by the NRC (April 11, 1995; 60 FR 18344).

XV. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this regulation, and, therefore, a backfit analysis is not required for this regulation because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 50.109(a)(1). The regulation would apply only to applicants for future nuclear power plant construction permits, preliminary design approval, final design approval, manufacturing licenses, early site reviews, operating licenses, and combined operating licenses.

List of Subjects

10 CFR Part 21

Nuclear power plants and reactors, Penalties, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 52

Administrative practice and procedure, Antitrust, Backfitting, Combined license, Early site permit, Emergency planning, Fees, Inspection, Limited work authorization, Nuclear power plants and reactors, Probabilistic risk assessment, Prototype, Reactor siting criteria, Redress of site, Reporting and recordkeeping requirements, Standard design, Standard design certification.

10 CFR Part 54

Administrative practice and procedure, Age-related degradation, Backfitting, Classified information, Criminal penalties, Environmental, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 100

Nuclear power plants and reactors, Reactor siting criteria.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 21, 50, 52, 54, and 100:

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

1. The authority citation for Part 21 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 234, 83 Stat. 444, as amended, sec. 1701, 106 Stat. 2951, 2953 (42 U.S.C. 2201, 2282, 2297f); secs. 201, as amended, 206, 88 Stat. 1242, as amended, 1246 (42 U.S.C. 5841, 5846).

Section 21.2 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

2. In § 21.3, the definition for *Basic component* (1)(i)(C) is revised to read as follows:

§ 21.3 Definitions.

* * * * *

Basic component. (1)(i) * * *

(C) The capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to those referred to in § 50.34(a)(1) or § 100.11 of this chapter, as applicable.

* * * * *

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

3. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246, (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 955 as amended (42 U.S.C. 2131, 2235), sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd) and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91 and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

4. Section 50.2 is amended by adding in alphabetical order the definitions for *Committed dose equivalent, Committed effective dose equivalent, Deep-dose equivalent, Exclusion area, Low population zone, Safety-related structures, systems, and components* and *Total effective dose equivalent,* and revising the definition for *Basic component* (1)(iii) to read as follows:

§ 50.2 Definitions.

* * * * *

Basic component * * *

(1) * * *

(iii) The capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to those referred to in § 50.34(a)(1) or § 100.11 of this chapter, as applicable.

* * * * *

Committed dose equivalent means the dose equivalent to organs or tissues of

reference that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

Committed effective dose equivalent is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to these organs or tissues.

* * * * *

Deep-dose equivalent, which applies to external whole-body exposure, is the dose equivalent at a tissue depth of 1 cm (1000mg/cm^2).

* * * * *

Exclusion area means that area surrounding the reactor, in which the reactor licensee has the authority to determine all activities including exclusion or removal of personnel and property from the area. This area may be traversed by a highway, railroad, or waterway, provided these are not so close to the facility as to interfere with normal operations of the facility and provided appropriate and effective arrangements are made to control traffic on the highway, railroad, or waterway, in case of emergency, to protect the public health and safety. Residence within the exclusion area shall normally be prohibited. In any event, residents shall be subject to ready removal in case of necessity. Activities unrelated to operation of the reactor may be permitted in an exclusion area under appropriate limitations, provided that no significant hazards to the public health and safety will result.

* * * * *

Low population zone means the area immediately surrounding the exclusion area which contains residents, the total number and density of which are such that there is a reasonable probability that appropriate protective measures could be taken in their behalf in the event of a serious accident. These guides do not specify a permissible population density or total population within this zone because the situation may vary from case to case. Whether a specific number of people can, for example, be evacuated from a specific area, or instructed to take shelter, on a timely basis will depend on many factors such as location, number and size of highways, scope and extent of advance planning, and actual distribution of residents within the area.

* * * * *

Safety-related structures, systems, and components means those structures, systems, and components that are relied on to remain functional during and following design basis (postulated) events to assure:

(1) The integrity of the reactor coolant pressure boundary;

(2) The capability to shut down the reactor and maintain it in a safe shutdown condition; and

(3) The capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to the applicable guideline exposures set forth in § 50.34(a)(1) or § 100.11 of this chapter, as applicable.

* * * * *

Total effective dose equivalent (TEDE) means the sum of the deep-dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

* * * * *

5. In § 50.8, paragraph (b) is revised to read as follows:

§ 50.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 50.30, 50.33, 50.33a, 50.34, 50.34a, 50.35, 50.36, 50.36a, 50.36b, 50.44, 50.46, 50.47, 50.48, 50.49, 50.54, 50.55, 50.55a, 50.59, 50.60, 50.61, 50.62, 50.63, 50.64, 50.65, 50.66, 50.71, 50.72, 50.74, 50.75, 50.80, 50.82, 50.90, 50.91, 50.120, and Appendices A, B, E, G, H, I, J, K, M, N, O, Q, R, and S to this part.

* * * * *

6. In § 50.34, footnotes 6, 7, and 8 are redesignated as footnotes 8, 9 and 10 and paragraph (a)(1) is revised and paragraphs (a)(12), (b)(10), and (b)(11) are added to read as follows:

§ 50.34 Contents of applications; technical information.

(a) * * *

(1) Stationary power reactor applicants for a construction permit pursuant to this part, or a design certification or combined license pursuant to part 52 of this chapter who apply on or after January 10, 1997, shall comply with paragraph (a)(1)(ii) of this section. All other applicants for a construction permit pursuant to this part or a design certification or combined license pursuant to part 52 of this chapter, shall comply with paragraph (a)(1)(i) of this section.

(i) A description and safety assessment of the site on which the facility is to be located, with appropriate attention to features affecting facility design. Special attention should be directed to the site evaluation factors identified in part 100 of this chapter. The assessment must contain an analysis and evaluation of the major structures, systems and components of the facility which bear significantly on the acceptability of the site under the site evaluation factors identified in part 100 of this chapter, assuming that the facility will be operated at the ultimate power level which is contemplated by the applicant. With respect to operation at the projected initial power level, the applicant is required to submit information prescribed in paragraphs (a)(2) through (a)(8) of this section, as well as the information required by this paragraph, in support of the application for a construction permit, or a design approval.

(ii) A description and safety assessment of the site and a safety assessment of the facility. It is expected that reactors will reflect through their design, construction and operation an extremely low probability for accidents that could result in the release of significant quantities of radioactive fission products. The following power reactor design characteristics and proposed operation will be taken into consideration by the Commission:

(A) Intended use of the reactor including the proposed maximum power level and the nature and inventory of contained radioactive materials;

(B) The extent to which generally accepted engineering standards are applied to the design of the reactor;

(C) The extent to which the reactor incorporates unique, unusual or enhanced safety features having a significant bearing on the probability or consequences of accidental release of radioactive materials;

(D) The safety features that are to be engineered into the facility and those barriers that must be breached as a result of an accident before a release of radioactive material to the environment can occur. Special attention must be directed to plant design features intended to mitigate the radiological consequences of accidents. In performing this assessment, an applicant shall assume a fission product release[6] from the core into the containment assuming that the facility is operated at the ultimate power level contemplated. The applicant shall perform an evaluation and analysis of the postulated fission product release, using the expected demonstrable containment leak rate and any fission

[6] The fission product release assumed for this evaluation should be based upon a major accident, hypothesized for purposes of site analysis or postulated from considerations of possible accidental events. Such accidents have generally been assumed to result in substantial meltdown of the core with subsequent release into the containment of appreciable quantities of fission products.

product cleanup systems intended to mitigate the consequences of the accidents, together with applicable site characteristics, including site meteorology, to evaluate the offsite radiological consequences. Site characteristics must comply with part 100 of this chapter. The evaluation must determine that:

(*1*) An individual located at any point on the boundary of the exclusion area for any 2 hour period following the onset of the postulated fission product release, would not receive a radiation dose in excess of 25 rem [7] total effective dose equivalent (TEDE).

(*2*) An individual located at any point on the outer boundary of the low population zone, who is exposed to the radioactive cloud resulting from the postulated fission product release (during the entire period of its passage) would not receive a radiation dose in excess of 25 rem total effective dose equivalent (TEDE);

(E) With respect to operation at the projected initial power level, the applicant is required to submit information prescribed in paragraphs (a)(2) through (a)(8) of this section, as well as the information required by this paragraph (a)(1)(i), in support of the application for a construction permit, or a design approval.

* * * * *

(12) On or after January 10, 1997, stationary power reactor applicants who apply for a construction permit pursuant to this part, or a design certification or combined license pursuant to part 52 of this chapter, as partial conformance to General Design Criterion 2 of Appendix A to this part, shall comply with the earthquake engineering criteria in Appendix S to this part.

(b) * * *

(10) On or after January 10, 1997, stationary power reactor applicants who apply for an operating license pursuant to this part, or a design certification or combined license pursuant to part 52 of this chapter, as partial conformance to General Design Criterion 2 of Appendix A to this part, shall comply with the earthquake engineering criteria of Appendix S to this part. However, for those operating license applicants and holders whose construction permit was issued prior to January 10, 1997, the earthquake engineering criteria in Section VI of Appendix A to part 100 of this chapter continues to apply.

(11) On or after January 10, 1997, stationary power reactor applicants who apply for an operating license pursuant to this part, or a combined license pursuant to part 52 of this chapter, shall provide a description and safety assessment of the site and of the facility as in § 50.34(a)(1)(ii) of this part. However, for either an operating license applicant or holder whose construction permit was issued prior to January 10, 1997, the reactor site criteria in part 100 of this chapter and the seismic and geologic siting criteria in Appendix A to part 100 of this chapter continues to apply.

* * * * *

7. In § 50.49, paragraph (b)(1) is revised to read as follows:

§ 50.49 Environmental qualification of electric equipment important to safety for nuclear power plants.

* * * * *

(b) * * *

(1) Safety-related electric equipment.[3]

(i) This equipment is that relied upon to remain functional during and following design basis events to ensure—

(A) The integrity of the reactor coolant pressure boundary;

(B) The capability to shut down the reactor and maintain it in a safe shutdown condition; and

(C) The capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposures comparable to the guidelines in § 50.34(a)(1) or § 100.11 of this chapter, as applicable.

(ii) Design basis events are defined as conditions of normal operation, including anticipated operational occurrences, design basis accidents, external events, and natural phenomena for which the plant must be designed to ensure functions (b)(1)(i) (A) through (C) of this section.

* * * * *

8. In § 50.54, paragraph (ff) is added to read as follows:

§ 50.54 Conditions of licenses.

* * * * *

(ff) For licensees of nuclear power plants that have implemented the earthquake engineering criteria in Appendix S to this part, plant shutdown is required as provided in Paragraph IV(a)(3) of Appendix S to this part. Prior to resuming operations, the licensee shall demonstrate to the Commission that no functional damage has occurred to those features necessary for continued operation without undue risk to the health and safety of the public and the licensing basis is maintained.

9. In § 50.65, paragraph (b)(1) is revised to read as follows:

§ 50.65 Requirements for monitoring the effectiveness of maintenance at nuclear power plants

* * * * *

(b) * * *

(1) Safety related structures, systems, or components that are relied upon to remain functional during and following design basis events to ensure the integrity of the reactor coolant pressure boundary, the capability to shut down the reactor and maintain it in a safe shutdown condition, and the capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposure comparable to the guidelines in § 50.34(a)(1) or § 100.11 of this chapter, as applicable.

* * * * *

10. Appendix S to Part 50 is added to read as follows:

Appendix S to Part 50—Earthquake Engineering Criteria for Nuclear Power Plants

General Information

This appendix applies to applicants for a design certification or combined license pursuant to part 52 of this chapter or a construction permit or operating license pursuant to part 50 of this chapter on or after January 10, 1997. However, for either an operating license applicant or holder whose construction permit was issued prior to January 10, 1997, the earthquake engineering criteria in Section VI of Appendix A to 10 CFR part 100 continues to apply.

I. Introduction

(a) Each applicant for a construction permit, operating license, design certification, or combined license is required by § 50.34 (a)(12), (b)(10), and General Design Criterion 2 of Appendix A to this part to design nuclear power plant structures, systems, and components important to safety to withstand the effects of natural phenomena, such as earthquakes, without loss of capability to perform their safety functions. Also, as specified in § 50.54(ff), nuclear power plants that have implemented the earthquake engineering criteria described herein must shut down if the criteria in Paragraph IV(a)(3) of this appendix are exceeded.

[7] A whole body dose of 25 rem has been stated to correspond numerically to the once in a lifetime accidental or emergency dose for radiation workers which, according to NCRP recommendations at the time could be disregarded in the determination of their radiation exposure status (see NBS Handbook 69 dated June 5, 1959). However, its use is not intended to imply that this number constitutes an acceptable limit for an emergency dose to the public under accident conditions. Rather, this dose value has been set forth in this section as a reference value, which can be used in the evaluation of plant design features with respect to postulated reactor accidents, in order to assure that such designs provide assurance of low risk of public exposure to radiation, in the event of such accidents.

[3] Safety-related electric equipment is referred to as ''Class 1E'' equipment in IEEE 323–1974. Copies of this standard may be obtained from the Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, NY 10017.

(b) These criteria implement General Design Criterion 2 insofar as it requires structures, systems, and components important to safety to withstand the effects of earthquakes.

II. Scope

The evaluations described in this appendix are within the scope of investigations permitted by § 50.10(c)(1).

III. Definitions

As used in these criteria:

Combined license means a combined construction permit and operating license with conditions for a nuclear power facility issued pursuant to Subpart C of Part 52 of this chapter.

Design Certification means a Commission approval, issued pursuant to Subpart B of Part 52 of this chapter, of a standard design for a nuclear power facility. A design so approved may be referred to as a ''certified standard design.''

The *Operating Basis Earthquake Ground Motion (OBE)* is the vibratory ground motion for which those features of the nuclear power plant necessary for continued operation without undue risk to the health and safety of the public will remain functional. The Operating Basis Earthquake Ground Motion is only associated with plant shutdown and inspection unless specifically selected by the applicant as a design input.

A *response spectrum* is a plot of the maximum responses (acceleration, velocity, or displacement) of idealized single-degree-of-freedom oscillators as a function of the natural frequencies of the oscillators for a given damping value. The response spectrum is calculated for a specified vibratory motion input at the oscillators' supports.

The *Safe Shutdown Earthquake Ground Motion* (SSE) is the vibratory ground motion for which certain structures, systems, and components must be designed to remain functional.

The *structures, systems, and components required to withstand the effects of the Safe Shutdown Earthquake Ground Motion or surface deformation* are those necessary to assure:

(1) The integrity of the reactor coolant pressure boundary;

(2) The capability to shut down the reactor and maintain it in a safe shutdown condition; or

(3) The capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposures comparable to the guideline exposures of § 50.34(a)(1).

Surface deformation is distortion of geologic strata at or near the ground surface by the processes of folding or faulting as a result of various earth forces. Tectonic surface deformation is associated with earthquake processes.

IV. Application To Engineering Design

The following are pursuant to the seismic and geologic design basis requirements of § 100.23 of this chapter:

(a) Vibratory Ground Motion.

(1) Safe Shutdown Earthquake Ground Motion.

(i) The Safe Shutdown Earthquake Ground Motion must be characterized by free-field ground motion response spectra at the free ground surface. In view of the limited data available on vibratory ground motions of strong earthquakes, it usually will be appropriate that the design response spectra be smoothed spectra. The horizontal component of the Safe Shutdown Earthquake Ground Motion in the free-field at the foundation level of the structures must be an appropriate response spectrum with a peak ground acceleration of at least 0.1g.

(ii) The nuclear power plant must be designed so that, if the Safe Shutdown Earthquake Ground Motion occurs, certain structures, systems, and components will remain functional and within applicable stress, strain, and deformation limits. In addition to seismic loads, applicable concurrent normal operating, functional, and accident-induced loads must be taken into account in the design of these safety-related structures, systems, and components. The design of the nuclear power plant must also take into account the possible effects of the Safe Shutdown Earthquake Ground Motion on the facility foundations by ground disruption, such as fissuring, lateral spreads, differential settlement, liquefaction, and landsliding, as required in § 100.23 of this chapter.

(iii) The required safety functions of structures, systems, and components must be assured during and after the vibratory ground motion associated with the Safe Shutdown Earthquake Ground Motion through design, testing, or qualification methods.

(iv) The evaluation must take into account soil-structure interaction effects and the expected duration of vibratory motion. It is permissible to design for strain limits in excess of yield strain in some of these safety-related structures, systems, and components during the Safe Shutdown Earthquake Ground Motion and under the postulated concurrent loads, provided the necessary safety functions are maintained.

(2) Operating Basis Earthquake Ground Motion.

(i) The Operating Basis Earthquake Ground Motion must be characterized by response spectra. The value of the Operating Basis Earthquake Ground Motion must be set to one of the following choices:

(A) One-third or less of the Safe Shutdown Earthquake Ground Motion design response spectra. The requirements associated with this Operating Basis Earthquake Ground Motion in Paragraph (a)(2)(i)(B)(*I*) can be satisfied without the applicant performing explicit response or design analyses, or

(B) A value greater than one-third of the Safe Shutdown Earthquake Ground Motion design response spectra. Analysis and design must be performed to demonstrate that the requirements associated with this Operating Basis Earthquake Ground Motion in Paragraph (a)(2)(i)(B)(*I*) are satisfied. The design must take into account soil-structure interaction effects and the duration of vibratory ground motion.

(*I*) When subjected to the effects of the Operating Basis Earthquake Ground Motion in combination with normal operating loads, all structures, systems, and components of the nuclear power plant necessary for continued operation without undue risk to the health and safety of the public must remain functional and within applicable stress, strain, and deformation limits.

(3) Required Plant Shutdown. If vibratory ground motion exceeding that of the Operating Basis Earthquake Ground Motion or if significant plant damage occurs, the licensee must shut down the nuclear power plant. If systems, structures, or components necessary for the safe shutdown of the nuclear power plant are not available after the occurrence of the Operating Basis Earthquake Ground Motion, the licensee must consult with the Commission and must propose a plan for the timely, safe shutdown of the nuclear power plant. Prior to resuming operations, the licensee must demonstrate to the Commission that no functional damage has occurred to those features necessary for continued operation without undue risk to the health and safety of the public and the licensing basis is maintained.

(4) Required Seismic Instrumentation. Suitable instrumentation must be provided so that the seismic response of nuclear power plant features important to safety can be evaluated promptly after an earthquake.

(b) Surface Deformation. The potential for surface deformation must be taken into account in the design of the nuclear power plant by providing reasonable assurance that in the event of deformation, certain structures, systems, and components will remain functional. In addition to surface deformation induced loads, the design of safety features must take into account seismic loads and applicable concurrent functional and accident-induced loads. The design provisions for surface deformation must be based on its postulated occurrence in any direction and azimuth and under any part of the nuclear power plant, unless evidence indicates this assumption is not appropriate, and must take into account the estimated rate at which the surface deformation may occur.

(c) Seismically Induced Floods and Water Waves and Other Design Conditions. Seismically induced floods and water waves from either locally or distantly generated seismic activity and other design conditions determined pursuant to § 100.23 of this chapter must be taken into account in the design of the nuclear power plant so as to prevent undue risk to the health and safety of the public.

Part 52—Early Site Permits; Standard Design Certifications; and Combined Licenses for Nuclear Power Plants

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

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846).

12. In § 52.17, the introductory text of paragraph (a)(1) and paragraph (a)(1)(vi) are revised to read as follows:

§ 52.17 Contents of applications.

(a)(1) The application must contain the information required by § 50.33 (a) through (d), the information required by § 50.34 (a)(12) and (b)(10), and to the extent approval of emergency plans is sought under paragraph (b)(2)(ii) of this section, the information required by § 50.33 (g) and (j), and § 50.34 (b)(6)(v) of this chapter. The application must also contain a description and safety assessment of the site on which the facility is to be located. The assessment must contain an analysis and evaluation of the major structures, systems, and components of the facility that bear significantly on the acceptability of the site under the radiological consequence evaluation factors identified in § 50.34(a)(1) of this chapter. Site characteristics must comply with part 100 of this chapter. In addition, the application should describe the following:

* * * * *

(vi) The seismic, meteorological, hydrologic, and geologic characteristics of the proposed site;

* * * * *

PART 54—REQUIREMENTS FOR RENEWAL OF OPERATING LICENSES FOR NUCLEAR POWER PLANTS

13. The authority citation for Part 54 continues to read as follows:

Authority: Secs. 102, 103, 104, 161, 181, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, as amended (42 U.S.C. 5841, 5842).

14. In § 54.4, paragraph (a)(1)(iii) is revised to read as follows:

§ 54.4 Scope.

(a) * * *

(1) * * *

(iii) The capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposure comparable to the guidelines in § 50.34(a)(1) or § 100.11 of this chapter, as applicable.

* * * * *

PART 100—REACTOR SITE CRITERIA

15. The authority citation for Part 100 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 68 Stat. 936, 937, 948, 953, as amended (42 U.S.C. 2133, 2134, 2201, 2232); sec. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

16. The table of contents for Part 100 is revised to read as follows:

PART 100—REACTOR SITE CRITERIA

Sec.
100.1 Purpose.
100.2 Scope.
100.3 Definitions.
100.4 Communications.
100.8 Information collection requirements: OMB approval.

Subpart A—Evaluation Factors for Stationary Power Reactor Site Applications Before January 10, 1997 and for Testing Reactors

100.10 Factors to be considered when evaluating sites.
100.11 Determination of exclusion area, low population zone, and population center distance.

Subpart B—Evaluation Factors for Stationary Power Reactor Site Applications on or After January 10, 1997

100.20 Factors to be considered when evaluating sites.
100.21 Non-seismic site criteria.
100.23 Geologic and seismic siting criteria.

Appendix A to Part 100—Seismic and Geologic Siting Criteria for Nuclear Power Plants

17. Section 100.1 is revised to read as follows:

§ 100.1 Purpose.

(a) The purpose of this part is to establish approval requirements for proposed sites for stationary power and testing reactors subject to part 50 or part 52 of this chapter.

(b) There exists a substantial base of knowledge regarding power reactor siting, design, construction and operation. This base reflects that the primary factors that determine public health and safety are the reactor design, construction and operation.

(c) Siting factors and criteria are important in assuring that radiological doses from normal operation and postulated accidents will be acceptably low, that natural phenomena and potential man-made hazards will be appropriately accounted for in the design of the plant, that site characteristics are such that adequate security measures to protect the plant can be developed, and that physical characteristics unique to the proposed site that could pose a significant impediment to the development of emergency plans are identified.

(d) This approach incorporates the appropriate standards and criteria for approval of stationary power and testing reactor sites. The Commission intends to carry out a traditional defense-in-depth approach with regard to reactor siting to ensure public safety. Siting away from densely populated centers has been and will continue to be an important factor in evaluating applications for site approval.

18. Section 100.2 is revised to read as follows:

§ 100.2 Scope.

The siting requirements contained in this part apply to applications for site approval for the purpose of constructing and operating stationary power and testing reactors pursuant to the provisions of part 50 or part 52 of this chapter.

19. Section 100.3 is revised to read as follows:

§ 100.3 Definitions.

As used in this part:

Combined license means a combined construction permit and operating license with conditions for a nuclear power facility issued pursuant to subpart C of part 52 of this chapter.

Early Site Permit means a Commission approval, issued pursuant to subpart A of part 52 of this chapter, for a site or sites for one or more nuclear power facilities.

Exclusion area means that area surrounding the reactor, in which the reactor licensee has the authority to determine all activities including exclusion or removal of personnel and property from the area. This area may be traversed by a highway, railroad, or waterway, provided these are not so close to the facility as to interfere with normal operations of the facility and provided appropriate and effective arrangements are made to control traffic on the highway, railroad, or waterway, in case of emergency, to protect the public health and safety. Residence within the exclusion area shall normally be prohibited. In any event, residents shall be subject to ready removal in case of necessity. Activities unrelated to operation of the reactor may be permitted in an exclusion area under appropriate limitations, provided that no significant hazards to the public health and safety will result.

Low population zone means the area immediately surrounding the exclusion area which contains residents, the total number and density of which are such that there is a reasonable probability that appropriate protective measures could be taken in their behalf in the event of a serious accident. These guides do not specify a permissible population density or total population within this zone because the situation may vary from case to case. Whether a specific number of people can, for example, be evacuated from a specific area, or instructed to take shelter, on a timely basis will depend on many factors such as location, number and size of highways, scope and extent of

advance planning, and actual distribution of residents within the area.

Population center distance means the distance from the reactor to the nearest boundary of a densely populated center containing more than about 25,000 residents.

Power reactor means a nuclear reactor of a type described in § 50.21(b) or § 50.22 of this chapter designed to produce electrical or heat energy.

Response spectrum is a plot of the maximum responses (acceleration, velocity, or displacement) of idealized single-degree-of-freedom oscillators as a function of the natural frequencies of the oscillators for a given damping value. The response spectrum is calculated for a specified vibratory motion input at the oscillators' supports.

Safe Shutdown Earthquake Ground Motion is the vibratory ground motion for which certain structures, systems, and components must be designed pursuant to appendix S to part 50 of this chapter to remain functional.

Surface deformation is distortion of geologic strata at or near the ground surface by the processes of folding or faulting as a result of various earth forces. Tectonic surface deformation is associated with earthquake processes.

Testing reactor means a *testing facility* as defined in § 50.2 of this chapter.

20. Section 100.4 is added to read as follows:

§ 100.4 Communications.

Except where otherwise specified in this part, all correspondence, reports, applications, and other written communications submitted pursuant to this part 100 should be addressed to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555–0001, and copies sent to the appropriate Regional Office and Resident Inspector. Communications and reports may be delivered in person at the Commission's offices at 2120 L Street, NW., Washington, DC, or at 11555 Rockville Pike, Rockville, Maryland.

21. Section 100.8 is revised to read as follows:

§ 100.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). OMB has approved the information collection requirements contained in this part under control number 3150–0093.

(b) The approved information collection requirements contained in this part appear in § 100.23 and appendix A to this part.

22. The undesignated centerheading preceding § 100.10 is removed, §§ 100.10 and 100.11 are designated as subpart A, and the subpart A heading is added to read as follows:

Subpart A—Evaluation Factors for Stationary Power Reactor Site Applications Before January 10, 1997 and for Testing Reactors

23. Subpart B consisting of §§ 100.20, 100.21 and 100.23 is added to part 100 to read as follows:

Subpart B—Evaluation Factors for Stationary Power Reactor Site Applications on or After January 10, 1997

§ 100.20 Factors to be considered when evaluating sites.

The Commission will take the following factors into consideration in determining the acceptability of a site for a stationary power reactor:

(a) Population density and use characteristics of the site environs, including the exclusion area, the population distribution, and site-related characteristics must be evaluated to determine whether individual as well as societal risk of potential plant accidents is low, and that physical characteristics unique to the proposed site that could pose a significant impediment to the development of emergency plans are identified.

(b) The nature and proximity of man-related hazards (e.g., airports, dams, transportation routes, military and chemical facilities) must be evaluated to establish site parameters for use in determining whether a plant design can accommodate commonly occurring hazards, and whether the risk of other hazards is very low.

(c) Physical characteristics of the site, including seismology, meteorology, geology, and hydrology.

(1) Section 100.23, ''Geologic and seismic siting factors,'' describes the criteria and nature of investigations required to obtain the geologic and seismic data necessary to determine the suitability of the proposed site and the plant design bases.

(2) Meteorological characteristics of the site that are necessary for safety analysis or that may have an impact upon plant design (such as maximum probable wind speed and precipitation) must be identified and characterized.

(3) Factors important to hydrological radionuclide transport (such as soil, sediment, and rock characteristics, adsorption and retention coefficients, ground water velocity, and distances to the nearest surface body of water) must be obtained from on-site measurements. The maximum probable flood along with the potential for seismically induced floods discussed in § 100.23 (d)(3) must be estimated using historical data.

§ 100.21 Non-seismic siting criteria.

Applications for site approval for commercial power reactors shall demonstrate that the proposed site meets the following criteria:

(a) Every site must have an exclusion area and a low population zone, as defined in § 100.3;

(b) The population center distance, as defined in § 100.3, must be at least one and one-third times the distance from the reactor to the outer boundary of the low population zone. In applying this guide, the boundary of the population center shall be determined upon consideration of population distribution. Political boundaries are not controlling in the application of this guide;

(c) Site atmospheric dispersion characteristics must be evaluated and dispersion parameters established such that:

(1) Radiological effluent release limits associated with normal operation from the type of facility proposed to be located at the site can be met for any individual located offsite; and

(2) Radiological dose consequences of postulated accidents shall meet the criteria set forth in § 50.34(a)(1) of this chapter for the type of facility proposed to be located at the site;

(d) The physical characteristics of the site, including meteorology, geology, seismology, and hydrology must be evaluated and site parameters established such that potential threats from such physical characteristics will pose no undue risk to the type of facility proposed to be located at the site;

(e) Potential hazards associated with nearby transportation routes, industrial and military facilities must be evaluated and site parameters established such that potential hazards from such routes and facilities will pose no undue risk to the type of facility proposed to be located at the site;

(f) Site characteristics must be such that adequate security plans and measures can be developed;

(g) Physical characteristics unique to the proposed site that could pose a significant impediment to the development of emergency plans must be identified;

(h) Reactor sites should be located away from very densely populated

centers. Areas of low population density are, generally, preferred. However, in determining the acceptability of a particular site located away from a very densely populated center but not in an area of low density, consideration will be given to safety, environmental, economic, or other factors, which may result in the site being found acceptable[3].

§ 100.23 Geologic and seismic siting criteria.

This section sets forth the principal geologic and seismic considerations that guide the Commission in its evaluation of the suitability of a proposed site and adequacy of the design bases established in consideration of the geologic and seismic characteristics of the proposed site, such that, there is a reasonable assurance that a nuclear power plant can be constructed and operated at the proposed site without undue risk to the health and safety of the public. Applications to engineering design are contained in appendix S to part 50 of this chapter.

(a) *Applicability.* The requirements in paragraphs (c) and (d) of this section apply to applicants for an early site permit or combined license pursuant to Part 52 of this chapter, or a construction permit or operating license for a nuclear power plant pursuant to Part 50 of this chapter on or after January 10, 1997. However, for either an operating license applicant or holder whose construction permit was issued prior to January 10, 1997, the seismic and geologic siting criteria in Appendix A to Part 100 of this chapter continues to apply.

(b) *Commencement of construction.* The investigations required in paragraph (c) of this section are within the scope of investigations permitted by § 50.10(c)(1) of this chapter.

(c) *Geological, seismological, and engineering characteristics.* The geological, seismological, and engineering characteristics of a site and its environs must be investigated in sufficient scope and detail to permit an adequate evaluation of the proposed site, to provide sufficient information to support evaluations performed to arrive at estimates of the Safe Shutdown Earthquake Ground Motion, and to permit adequate engineering solutions to actual or potential geologic and seismic effects at the proposed site. The size of the region to be investigated and the type of data pertinent to the investigations must be determined based on the nature of the region surrounding the proposed site. Data on the vibratory ground motion, tectonic surface deformation, nontectonic deformation, earthquake recurrence rates, fault geometry and slip rates, site foundation material, and seismically induced floods and water waves must be obtained by reviewing pertinent literature and carrying out field investigations. However, each applicant shall investigate all geologic and seismic factors (for example, volcanic activity) that may affect the design and operation of the proposed nuclear power plant irrespective of whether such factors are explicitly included in this section.

(d) *Geologic and seismic siting factors.* The geologic and seismic siting factors considered for design must include a determination of the Safe Shutdown Earthquake Ground Motion for the site, the potential for surface tectonic and nontectonic deformations, the design bases for seismically induced floods and water waves, and other design conditions as stated in paragraph (d)(4) of this section.

(1) Determination of the Safe Shutdown Earthquake Ground Motion. The Safe Shutdown Earthquake Ground Motion for the site is characterized by both horizontal and vertical free-field ground motion response spectra at the free ground surface. The Safe Shutdown Earthquake Ground Motion for the site is determined considering the results of the investigations required by paragraph

(c) of this section. Uncertainties are inherent in such estimates. These uncertainties must be addressed through an appropriate analysis, such as a probabilistic seismic hazard analysis or suitable sensitivity analyses. Paragraph IV(a)(1) of appendix S to part 50 of this chapter defines the minimum Safe Shutdown Earthquake Ground Motion for design.

(2) Determination of the potential for surface tectonic and nontectonic deformations. Sufficient geological, seismological, and geophysical data must be provided to clearly establish whether there is a potential for surface deformation.

(3) Determination of design bases for seismically induced floods and water waves. The size of seismically induced floods and water waves that could affect a site from either locally or distantly generated seismic activity must be determined.

(4) Determination of siting factors for other design conditions. Siting factors for other design conditions that must be evaluated include soil and rock stability, liquefaction potential, natural and artificial slope stability, cooling water supply, and remote safety-related structure siting. Each applicant shall evaluate all siting factors and potential causes of failure, such as, the physical properties of the materials underlying the site, ground disruption, and the effects of vibratory ground motion that may affect the design and operation of the proposed nuclear power plant.

Dated at Rockville, Maryland, this 2nd day of December, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–31075 Filed 12–10–96; 8:45 am]

BILLING CODE 7590–01–P

[3] Examples of these factors include, but are not limited to, such factors as the higher population density site having superior seismic characteristics, better access to skilled labor for construction, better rail and highway access, shorter transmission line requirements, or less environmental impact on undeveloped areas, wetlands or endangered species, etc. Some of these factors are included in, or impact, the other criteria included in this section.

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 506, 561, 563, 563d, 574

[No. 96–118]

Technical Amendments

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is amending its regulations to incorporate a number of technical and conforming amendments. The amendments include a correction to the paragraph designations used in the transactions with affiliates regulation, removal or correction of erroneous cross-references, and an amendment to specify where securities filings are to be made.

EFFECTIVE DATE: December 11, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Gottlieb, Senior Paralegal, (202) 906–7135, or Deborah Dakin, Assistant Chief Counsel, (202) 906–6445, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington DC 20552.

SUPPLEMENTARY INFORMATION: OTS is today adopting several technical amendments to its regulations to correct cross-references and codification errors, and to add a reference to OTS's Securities Filing Desk to its securities regulations.

Transactions With Affiliates

Current § 563.41(e)(2), as originally adopted in July, 1991,[1] specifies that prior notification of transactions with

[1] 56 FR 34013 (July 25, 1991).

any affiliate or subsidiary must be provided to OTS if the transaction involves (1) a de novo savings association that began operating or an association or holding company thereof that has been the subject of an application or notice under part 574 that was approved during the preceding two years; *and* (2) a savings association that has a 4 or 5 MACRO (now CAMEL) rating, that is not meeting all of its current capital requirements, that has entered into a consent to merge, a supervisory agreement or cease and desist order during the preceding two year period, or is subject to a formal enforcement proceeding, or that is otherwise the subject of supervisory concern or requires extraordinary supervision and OTS provides written notice of the basis for the concern to the institution.

The intent of the regulation was that OTS could require prior notice in either of the above circumstances. The amendment being made today clarifies that both criteria need not be met. Accordingly, the ''and'' that separates the two clauses is being changed to an ''or.''

Several other clarifying amendments are also being made to § 563.41(e), including redesignation of the final paragraph in § 563.41(e)(2) as § 563.41(e)(3). It currently is included as paragraph (iii), following paragraphs (i) and (ii) outlined above. Paragraph (iii) specifies the steps to be taken following issuance of the written notice under paragraphs (i) and (ii), and should not be part of the same paragraph sequence.

Corrections to Cross-References and Amendment to Securities Filing Regulation

Section 563d.1, regarding the requirements of the Securities Exchange Act of 1934, is being amended to specify that securities filings are to be made with the Securities Filing Desk of the Business Transaction Division (BTD). The current regulation refers only to BTD. While the Securities Filings Desk is now housed within the Dissemination Branch of the Records Management and Information Policy Division, filings should be addressed to ''Securities Filing Desk, Business Transactions Division.''

Sections 563.7 and 574.6(c)(5) relating to fixed-term certificate accounts and acquisition of control are being revised to correct erroneous cross-references. Section 561.13, which deals with classifying consumer credit as a loss, is being amended by removing an outdated cross-reference.

Display Table for Information Collection Requirements

The table setting forth OMB control numbers assigned to collections of information under the Paperwork Reduction Act contained in OTS regulations [2] has been updated to reflect any additional collections approved during 1996, as well as any changes to existing collections. It is being reprinted in its entirety for ease of reader reference.

Administrative Procedure Act; Riegle Community Development and Regulatory Improvement Act of 1994

The OTS has found good cause to dispense with both prior notice and comment on this final rule and a 30-day delay of its effective date mandated by the Administrative Procedure Act.[3] OTS believes that it is contrary to public interest to delay the effective date of the rule, as it corrects a number of errors that have caused confusion. Because the amendments in the rule are not substantive, they will not detrimentally affect savings associations by becoming effective immediately.

In addition, this document is exempt from the requirement found in section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 [4] that regulations must not take effect before the first day of the quarter following publication, as it imposes no new requirements.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act,[5] it is certified that this technical corrections regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

OTS has determined that this rule is not a ''significant regulatory action'' for purposes of Executive Order 12866.

Unfunded Mandates Reform Act of 1995

OTS has determined that the requirements of this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Reform Act of 1995.

[2] 12 CFR 506.1(b).

[3] 5 U.S.C. 553.

[4] Pub. L. 103–325, 12 U.S.C. 4802.

[5] Pub. L. 96–354, 5 U.S.C. 601.

List of Subjects

12 CFR Part 506

Reporting and recordkeeping requirements.

12 CFR Part 561

Savings associations.

12 CFR Part 563

Accounting, Advertising, Crime, Currency, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

12 CFR Part 563d

Authority delegations (Government agencies), Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 574

Administrative practice and procedure, Holding companies, Reporting and recordkeeping requirements, Savings associations, Securities.

Accordingly, the Office of Thrift Supervision hereby amends title 12, chapter V of the Code of Federal Regulations as set forth below.

PART 506—INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT

1. The authority citation for part 506 continues to read as follows:

Authority: 44 U.S.C. 3501 et seq.

2. Section 506.1 is amended by revising paragraph (b) to read as follows:

* * * * *

(b) *Display.*

12 CFR part or section where identified and described	Current OMB control No.
502.3	1550–0053
Part 510	1550–0081
516.1(c)	1550–0056
Part 528	1550–0021
543.2	1550–0005
543.9	1550–0007
544.2	1550–0017
544.5	1550–0018
544.8	1550–0011
545.74	1550–0013
545.92	1550–0006
545.95	1550–0006
545.96(c)	1550–0011
546.2	1550–0016
546.4	1550–0066
552.1	1550–0019
552.2–1	1550–0005
552.2–6	1550–0007
552.4	1550–0017
552.5	1550–0018
552.6	1550–0025
552.7	1550–0025
552.11	1550–0011
559.12	1550–0013

12 CFR part or section where identified and described	Current OMB control No.
552.13	1550–0016, 1550–0025
559.3	1550–0077
559.11	1550–0067
559.12	1550–0013
559.13	1550–0065
560.93(f)	1550–0078
560.100	1550–0078
560.101	1550–0078
560.170	1550–0078
560.170(c)	1550–0083
560.172	1550–0078
560.210	1550–0078
562.1	1550–0011
562.1(b)	1550–0078
562.4	1550–0011
563.1	1550–0027
563.1(b)	1550–0011
563.22	1550–0016
563.41(e)	1550–0078
563.42(e)	1550–0078
563.43(f) through (h)	1550–0075
563.43(i)(3)	1550–0075
563.47(e)	1550–0011
563.74	1550–0050
563.76(c)	1550–0011
563.80	1550–0061
563.81	1550–0030
563.131	1550–0028
563.134	1550–0059
563.173(e)	1550–0011
563.174(e)	1550–0011
563.174(f)	1550–0011
563.175(e)	1550–0011
563.175(f)	1550–0011
563.177	1550–0041
563.180	1550–0084
563.180(d)	1550–0003
563.180(e)	1550–0079
563.181	1550–0032
563.183	1550–0032
Part 563b	1550–0014
563b.4	1550–0032
563b.20 through 563b.32	1550–0074
Part 563d	1550–0019
Part 563e	1550–0012
Part 563f	1550–0051
Part 563g	1550–0035
Part 564	1550–0078
566.4	1550–0011
Part 568	1550–0062
571.6	1550–0005
574.3(b)	1550–0032
574.4	1550–0032
574.5	1550–0032
574.6	1550–0015
Part 575	1550–0071
584.1(f)	1550–0011
584.2–1	1550–0063
584.2–2	1550–0063
584.9	1550–0063
590.4(h)	1550–0078

PART 561—DEFINITIONS

3. The authority citation for part 561 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

§ 561.13 [Amended]

4. Section 561.13 is amended by removing footnote 1 to the tables.

PART 563—OPERATIONS

5. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1828, 3806.

§ 563.7 [Amended]

6. Section 563.7 is amended in paragraphs (a) and (d)(2) by removing the phrases ''paragraph (e)'' and ''paragraph (e)(1)'', respectively, and by adding in lieu thereof the phrases ''paragraph (d)'' and ''paragraph (d)(1)'', respectively.

§ 563.41 [Amended]

7. Section 563.41 is amended by removing the word ''and'' at the end of paragraph (e)(2)(i), and by adding in lieu thereof the word ''or''; by removing the word ''current'' in paragraph (e)(2)(ii)(B); by redesignating paragraph (e)(2)(iii) as paragraph (e)(3); and by removing, in newly designated paragraph (e)(3), the phrase ''paragraph (e)(2)(ii)'', and by adding in lieu thereof the phrase ''paragraph (e)(2)''.

PART 563d—SECURITIES OF SAVINGS ASSOCIATIONS

8. The authority citation for part 563d continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464; 15 U.S.C. 78c(b), 78*l*, 78m, 78w, 78d–1.

§ 563d.1 [Amended]

9. Section 563d.1 is amended in the fourth sentence by adding the phrase ''Securities Filing Desk,'' after the phrase ''Business Transactions Division,''.

PART 574—ACQUISITION OF CONTROL OF SAVINGS ASSOCIATIONS

10. The authority citation for part 574 continues to read as follows:

Authority: 12 U.S.C. 1467a, 1817, 1831i.

§ 574.6 [Amended]

11. Section 574.6(c)(5) is amended by removing the phrase ''paragraph (c)(5)'', and by adding in lieu thereof the phrase ''paragraph (c)''.

Dated: November 18, 1996.

By the Office of Thrift Supervision.

Nicolas P. Retsinas,

Director.

[FR Doc. 96–31315 Filed 12–10–96; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 124–96]

Exemption of System of Records Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice, Federal Bureau of Investigation, is exempting the National DNA Index System (NDIS) from 5 U.S.C. 552a(c) (3) and (4); (d) (e) (1), and (2), and (3); (e)(4) (G) and (H); (e) (5) and (8); and (g). The purposes of the exemption are to maintain the confidentiality and security of information compiled for purposes of criminal investigation, or of reports compiled at any stage of the criminal law enforcement process. Therefore, to the extent that these records may be subject to the Privacy Act, they are subject to exemption under subsection (j)(2) and are available under the Privacy Act.

EFFECTIVE DATE: December 11, 1996.

FOR FURTHER INFORMATION CONTACT: Patricia E. Neely, program Analyst (202–616–0178).

SUPPLEMENTARY INFORMATION: On July 18, 1996 (61 FR 37426), a proposed rule was published in the Federal Register with an invitation to comment. No comments were received.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby stated that the order will not have ''a significant economic impact on a substantial number of small entities.''

List of Subjects in Part 16: Administrative Practices and Procedure, Courts, Freedom of Information Act, Government in the Sunshine Act, and the Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, 28 CFR part 16 is amended as set forth below.

Dated: November 22, 1996.

Stephen R. Colgate,

Assistant Attorney General for Administration.

1. The authority for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553, 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; and 31 U.S.C. 3717, 9701.

2. 28 CFR 16.96 is amended by removing the heading ''National Crime Information Center (NCIC) (Justice/FBI–

001)'' and the undesignated paragraph which follows paragraph (k)(4); and by adding paragraphs (n) and (o) as set forth below.

§ 16.96 Exemptions of Federal Bureau of Investigation Systems—Limited Access, as indicated.

* * * * *

(n) The following system of records is exempt from 5 U.S.C. 552a (c) (3) and (4); (d); (e) (1), (2), and 3; (e)(4) (G) and (H); (e) (5) and (8); and (g):

(1) National DNA Index System (NDIS) (JUSTICE/FBI–017).

(o) These exemptions apply only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because making available the accounting of disclosures of records to the subject of the record would prematurely place the subject on notice of the investigative interest of law enforcement agencies, provide the subject with significant information concerning the nature of the investigation, or permit the subject to take measures to impede the investigation (e.g., destroy or alter evidence, intimidate potential witnesses, or flee the area to avoid investigation and prosecution), and result in a serious impediment to law enforcement.

(2)(i) From subsections (c)(4), (d), (e)(4) (G) and (H), and (g) because these provisions concern an individual's access to records which concern him/her and access to records in this system would compromise ongoing investigations. Such access is directed at allowing the subject of the record to correct inaccuracies in it. The vast majority of records in this system are from the DNA records of local and State NDIS agencies which would be inappropriate and not feasible for the FBI to undertake to correct. Nevertheless, an alternate method to access and/or amend records in this system is available to an individual who is the subject of a record pursuant to procedures and requirements specified in the Notice of Systems of Records compiled by the National Archives and Records Administration and published in the Federal Register under the designation: National DNA Index System (NDIS) (JUSTICE/FBI–017)

(ii) In addition, from paragraph (d)(2) of this section, because to require the FBI to amend information thought to be incorrect, irrelevant, or untimely, because of the nature of the information collected and the essential length of time it is maintained, would create an impossible administrative and investigative burden by forcing the agency to continuously retrograde investigations attempting to resolve questions of accuracy, etc.

(iii) In addition, from subsection (g) to the extent that the system is exempt from the access and amendment provisions of subsection (d).

(3) From subsection (e)(1) because:

(i) Information in this system is primarily from State and local records and it is for the official use of agencies outside the Federal Government.

(ii) It is not possible in all instances to determine the relevancy or necessity of specific information in the early stages of the criminal investigative process.

(iii) Relevance and necessity are questions of judgment and timing; what appears relevant and necessary when collected ultimately may be deemed unnecessary, and vice versa. It is only after the information is assessed that its relevancy in a specific investigative activity can be established.

(iv) Although the investigative process could leave in doubt the relevancy and necessity of evidence which had been properly obtained, the same information could be relevant to another investigation or investigative activity under the jurisdiction of the FBI or another law enforcement agency.

(4) From subsections (e)(2) and (3) because it is not feasible to comply with these provisions given the nature of this system. Most of the records in this system are necessarily furnished by State and local criminal justice agencies and not by individuals due to the very nature of the records and the system.

(5) From subsection (e)(5) because the vast majority of these records come from State and local criminal justice agencies and because it is administratively impossible for them and the FBI to insure that the records comply with this provision. Submitting agencies are urged and make every effort to insure records are accurate and complete; however, since it is not possible to predict when information in the indexes of the system (whether submitted by State and local criminal justice agencies or generated by the FBI) will be matched with other information, it is not possible to determine when most of them are relevant or timely.

(6) From subsection (e)(8) because the FBI has no logical manner to determine whenever process has been made public and compliance with this provision would provide an impediment to law enforcement by interfering with ongoing investigations.

[FR Doc. 96–31469 Filed 12–10–96; 8:45 am]

BILLING CODE 4410–02–M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 101 and 102

Procedures and Rules Governing Summary Judgment Motions and Advisory Opinions

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: The National Labor Relations Board (NLRB) issues a final rule implementing the proposal set forth in its July 5, 1996 Notice of Proposed Rulemaking (NPR) to eliminate provisions in its current rules permitting parties to pending state proceedings to petition for an advisory opinion on whether the Board would assert jurisdiction under its commerce standards. The final rule does not implement the other proposal set forth in the Board's NPR which would have also eliminated provisions in the current rules requiring issuance of a notice to show cause before the Board grants a motion for summary judgment. The Board has decided to withdraw that proposal for further study in light of the comments and other actions recently taken by the Board to streamline the summary judgment process.

EFFECTIVE DATE: January 10, 1997.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW., Room 11600, Washington, DC 20570. Telephone: (202) 273–1940.

SUPPLEMENTARY INFORMATION: As part of the Agency's ongoing efforts to streamline its operations, on July 5, 1996, the Board issued a Notice of Proposed Rulemaking (NPR) proposing certain changes to its rules and statements of procedure regarding motions for summary judgment and petitions for advisory opinions (61 FR 35172). Specifically, the Board proposed: (1) To eliminate provisions in the current rules and statements of procedure permitting parties to pending state proceedings to petition the Board for an advisory opinion on whether the Board would assert jurisdiction under its commerce standards; and (2) to also eliminate provisions in the current rules requiring the Board to issue a notice to show cause before granting a motion for summary judgment.

Four comments were received in response to the NPR, three from practitioners (Robert J. Janowitz, Kansas City, Missouri; Ira Drogin, New York, New York; and Rayford T. Blankenship, Greenwood, Indiana) and one from a

labor organization (AFL-CIO).[1] Each of these comments are addressed below.

I. Eliminating Party Petitions for Advisory Opinions

Only two of the four comments addressed this proposal. Attorney Robert Janowitz stated that he opposed the proposal on the grounds that the proposal would deny parties an avenue of access to the Board; the current procedure does not substantially burden the Board since only 10–15 petitions for advisory opinion are filed by parties each year; and eliminating the procedure will increase the risk that state agencies will improperly assert jurisdiction, which will require the Board to engage in lengthy, expensive and time-consuming litigation under *NLRB* v. *Nash-Finch Co.,* 404 U.S. 138 (1971), to enjoin the state agency's improper actions.

Attorney Ira Drogin also opposed the proposal. He stated that most of the 10–15 petitions each year appear to be filed by parties before the New York State Employment Relations Board (NYSERB); the NYSERB is understaffed and moves extremely slowly; the current procedure permitting parties to seek an advisory opinion from the Board works well and is expeditious; and this procedure cannot be costly to the Board given the low number of petitions that are filed.

Although we have carefully considered the foregoing comments, we have decided to implement this proposal as set forth in the NPR. As indicated in the NPR, there is no statutory requirement that the Board entertain party petitions for advisory opinions, and the procedure is not widely utilized. Indeed, as indicated in the comments submitted by attorney Drogin, virtually all of the 10–15 petitions received each year are filed by parties to proceedings before the NYSERB.[2] Further, such petitions typically raise issues which have been repeatedly addressed in numerous other published advisory opinions and decisions issued by the Board. Indeed, almost two-thirds of the 22 advisory opinions issued over the last two years addressed essentially the same issue: the Board's jurisdictional standard for building management companies.[3] In short, under the current procedure, the Board has been unnecessarily forced to issue repeated advisory opinions on the same jurisdictional issue with respect to parties before the same state board. In our view, this is clearly not an efficient use of the Board's limited resources.[4]

Further, as indicated in the NPR, there are several other, often more expeditious, avenues for obtaining a jurisdictional determination or opinion. As noted in the NPR, § 101.41 of the Board's Statements of Procedure provides that persons may seek informal opinions on jurisdictional issues from the Regional Offices. And the Regional Office will also make a jurisdictional determination early in its investigation of any representation petition or unfair labor practice charges filed with that office. See NLRB Casehandling Manual, Sec. 11706.

Moreover, as indicated in the NPR, the instant changes do not affect the provisions of current §§ 102.98(b) and 102.99(b) of the Board's rules and § 101.39 of the Board's statements of procedure which permit the state or territorial agency or court itself to file a petition for an advisory opinion on whether the Board would decline to assert jurisdiction based either on its commerce standards or because the employer is not within the jurisdiction of the Act. The provisions permitting such petitions are retained, with minor modification to § 101.39 of the Board's statements of procedure to conform it with Board decisions indicating that the Board will not issue an opinion unless the relevant facts are undisputed or the state agency or court has already made the relevant factual findings. See Correctional Medical Systems, 299 NLRB 654 (1990); University of Vermont, 297 NLRB 291 (1989); and St. Paul Ramsey Medical Center, 291 NLRB 755 (1988). See also Brooklyn Bureau of Community Service, 320 NLRB No. 157 (April 15, 1996).

Given the foregoing alternative procedures, we do not believe, as suggested by attorney Janowitz, that eliminating party petitions for advisory opinion will substantially increase the risk that state agencies will improperly assert jurisdiction. We believe it reasonable to presume that state agencies will act properly, and the alternative procedures outlined above will ensure that they have access to sufficient information to do so in those circumstances where there is a genuine and substantial question as to which agency has jurisdiction and past published Board opinions or decisions do not provide a definitive answer.

II. Eliminating Notice-to-Show-Cause Requirement in Summary Judgment Cases

Three of the four comments addressed this proposal. Attorney Janowitz stated that he had no objection to the proposal, but argued that the rule should make clear that the General Counsel is *required* to postpone the hearing at the time he files a motion for summary judgment with the Board. Management representative Rayford Blankenship, on the other hand, opposed the proposal, stating that he believed elimination of the notice- to-show-cause procedure would ''add [] to the propensity of the NLRB to further abuse respondent[s] by arbitrary and capricious actions.''

Finally, the AFL–CIO also opposed the proposal, but on the opposite ground, i.e. on the ground that the proposed change would greatly increase the burden on parties opposing respondent summary judgment motions. The AFL–CIO argued that under the proposed change the General Counsel and charging party will be forced to file a comprehensive response to such motions in their initial oppositions and will not have the opportunity provided under the current rule to file a further opposition brief in the event the Board decides the motion warrants full consideration and issues a notice to show cause. The AFL–CIO argued that this will give respondents a significant incentive to file summary judgment motions for discovery purposes, which will inevitably result in a sharp rise in the number of respondent motions, thereby increasing the workload not only of the General Counsel, who will be forced to file comprehensive responses to every motion, but also of the Board, which will have to decide the motions. Finally, the AFL–CIO argued that the proposal will also burden the Regions and administrative law judges with the responsibility of postponing the hearing, one of the traditional functions of the notice to show cause.

Having carefully considered the foregoing comments, we have decided not to implement this proposal at this time. We do not necessarily agree with either management representative Blankenship or the AFL–CIO that the proposal would unfairly prejudice either respondents or the General Counsel. However, we are concerned about the AFL–CIO's additional assertions that the proposal would result in more motions for summary

[1] The AFL–CIO's comments were submitted by its General Counsel, Jonathan P. Hiatt.

[2] Ten of the 12 advisory opinions issued by the Board in fiscal year 1995, and all of the 10 opinions issued in fiscal year 1996, involved parties before the NYSERB.

[3] See, e.g., *209 Hull Realty Corp.,* 322 NLRB No. 43 (Sept. 30, 1996); *MCS Equities, Inc.,* 321 NLRB No. 78 (June 20, 1996); *Center County Corp.,* 320 NLRB No. 114 (March 20, 1996); *Phipps Houses Services, Inc., et al.,* 320 NLRB No. 74 (Feb. 28, 1996); and *Valentine Properties et al.,* 319 NLRB N. 5 (Sept. 19, 1995).

[4] Given that only two comments were filed opposing the Board's proposal to eliminate such petitions, it would not appear that the majority of practitioners and the public disagree with this view.

judgment being filed by respondents, thereby placing greater burdens on both the Board and the General Counsel, and that the proposal would also place greater burdens on the Regions and Judges Division with respect to postponement of the hearing. As indicated above and in the NPR, the purpose of the proposal was to expedite the summary judgment process and reduce the administrative burden on the Board and its staff which is responsible for preparing and issuing such notices. If the AFL–CIO's predictions are correct, however, and we cannot say that they are unfounded, the proposal would actually increase the burdens not only on the Board, but also on the Regions and the Judges Division.

Given the Agency's reduced budget and staffing, we believe it would therefore be prudent for the Board to study further the issue before implementing the proposed change. It may be that there are other alternatives available to the Board which could significantly reduce the current burdens associated with issuing such notices. One such alternative, simplifying or streamlining the notice itself by reducing its length and eliminating unnecessary text, has recently been implemented based on the recommendation of Agency staff. Other alternatives will continue to be studied as part of the Agency's ongoing streamlining efforts.

As indicated in the NPR, although the Agency decided to give notice of proposed rulemaking with respect to the proposed rule changes, the changes involve rules of agency organization, procedure or practice and thus no notice of proposed rulemaking was required under section 553 of the Administrative Procedure Act (5 U.S.C. 553). Accordingly, the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*), does not apply to these rule changes.

List of Subjects in 29 CFR Parts 101 and 102

Administrative practice and procedure, Labor management relations.

For the reasons set forth above, 29 CFR parts 101 and 102 are amended as follows:

PART 101—STATEMENTS OF PROCEDURE

1. The authority citation for 29 CFR part 101 continues to read as follows:

Authority: Sec. 6 of the National Labor Relations Act, as amended (29 U.S.C. 151, 156), and sec. 522(a) of the Administrative Procedure Act (5 U.S.C. 552(a)). Section 101.14 also issued under sec. 2112(a)(1) of Pub. L. 100–236, 28 U.S.C. 2112(a)(1).

2. Section 101.39 is revised to read as follows:

§ 101.39 Initiation of advisory opinion case.

The question of whether the Board will assert jurisdiction over a labor dispute which is the subject of a proceeding in an agency or court of a State or territory is initiated by the filing of a petition with the Board. This petition may be filed only if:

(1) a proceeding is currently pending before such agency or court;

(2) the petitioner is the agency or court itself; and

(3) the relevant facts are undisputed or the agency or court has already made the relevant factual findings.

(b) The petition must be in writing and signed. It is filed with the Executive Secretary of the Board in Washington, DC. No particular form is required, but the petition must be properly captioned and must contain the allegations required by section 102.99 of the Board's Rules and Regulations. None of the information sought may relate to the merits of the dispute. The petition may be withdrawn at any time before the Board issues its advisory opinion determining whether it would or would not assert jurisdiction on the basis of the facts before it.

PART 102—RULES AND REGULATIONS

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under Section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)), and section 552a (j) and (k) of the Privacy Act (5 U.S.C. 552a (j) and (k). Sections 102.143 through 102.155 also issued under Section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

§ 102.98 [Amended]

2. Section 102.98, paragraph (a) and the paragraph designation (b) are removed.

§ 102.99 [Amended]

3. In § 102.99, paragraph (a) is removed and paragraphs (b) and (c) are redesignated paragraphs (a) and (b) respectively.

Dated: Washington, DC, December 6, 1996.

By direction of the Board.

John J. Toner,

Executive Secretary.

[FR Doc. 96–31457 Filed 12–10–96; 8:45 am]

BILLING CODE 7545–01–P

29 CFR Part 102

Privacy Act of 1974; Implementation

AGENCY: National Labor Relations Board.

ACTION: Final rule exempting system of records from certain provisions of the Privacy Act.

SUMMARY: The National Labor Relations Board [''NLRB''] issues a final rule exempting a new system of records entitled ''NLRB–20, Agency Disciplinary Case Files (Nonemployees)'' from certain provisions of the Privacy Act of 1974, 5 U.S.C. 552a.

EFFECTIVE DATE: January 10, 1997.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW., Room 11600, Washington, DC 20570. Phone: (202) 273–1940.

SUPPLEMENTARY INFORMATION: On October 26, 1993, the Board published in the Federal Register a notice of the establishment of a new system of records pursuant to the Privacy Act of 1974, entitled ''NLRB–20, Agency Disciplinary Case Files'' (58 FR 57633). The same day, the Board also published in the Federal Register a proposed rule exempting the new system of records from certain provisions of the Privacy Act (58 FR 57572). Both notices provided for a public comment period.

Thereafter, on March 28, 1996, the Board issued a notice amending the system name to read ''NLRB–20, Agency Disciplniary Case Files (Nonemployees),'' and amending four of the routine uses specified in the original notice (61 FR 13884). In the absence of any comments, the amendments to the system of records became final 30 days thereafter.

No comments were filed regarding the proposed rule exempting the system of records from certain provisions of the Privacy Act. Accordingly, the Board has decided to implement the proposed rule as a final rule.

These rules relate to individuals rather than small business entities, are concerned with the Agency's management of its Privacy Act system of records, and will not have any economic impact. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, the NLRB certifies that these rules will not have a significant economic impact on a substantial number of small business entities. The NLRB further finds that the rule does not qualify as a ''major rule'' under Executive Order No. 12291 since it will not have an annual effect on the economy of $100 million or more. Finally, the rule is not subject

to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, as it does not contain any information-collection requirements within the meaning of that Act.

List of Subjects in 29 CFR Part 102

Privacy, Reporting and recordkeeping requirements.

For the reasons stated above, 29 CFR part 102 is amended as follows:

PART 102—[AMENDED]

Subpart K—Records and Information

1. The authority citation for part 102 continues to read as follows:

Authority: Sec. 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117 also issued under section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)), and section 552a (j) and (k) of the Privacy Act (5 U.S.C. 552a (j) and (k)). Sections 102.143 through 102.155 also issued under sec. 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Section 102.117 is amended by adding paragraphs (p) and (q) as follows:

§ 102.117 [Amended]

* * * * *

(p) Pursuant to 5 U.S.C. 552a(k)(2), the system of records maintained by the NLRB containing Agency Disciplinary Case Files (Nonemployees) shall be exempted from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) insofar as the system contains investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2).

(q) The Privacy Act exemption set forth in paragraph (p) of this section is claimed on the ground that the requirements of subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the Privacy Act, if applied to Agency Disciplinary Case Files, would seriously impair the ability of the NLRB to conduct investigations of alleged or suspected violations of the NLRB's misconduct rules, as set forth in paragraphs (o) (1), (3), (4), (7), (8), and (11) of this section.

Dated, Washington, DC, December 5, 1996.

By direction of the Board.

John J. Toner,

Executive Secretary.

[FR Doc. 96–31458 Filed 12–10 –96; 8:45 am]

BILLING CODE 7545–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[FRL–5663–5]

National Toxics Rule: Remand of Water Quality Criteria for Dioxin and Pentachlorophenol to EPA for Response to Comments

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of availability of US EPA response to comments.

SUMMARY: In this document, the U.S. Environmental Protection Agency (''EPA'') is publishing a document entitled ''Response to Comments from American Forest and Paper Association (''AFPA'') on Two of the Exposure Assumptions Used by EPA in Developing the Human Health Water Quality Criteria for Dioxin and Pentachlorophenol''. AFPA challenged EPA's promulgation of human health water quality criteria for dioxin and pentachlorophenol. The District Court remanded these criteria to EPA for an adequate response to AFPA's comments regarding two exposure assumptions used by EPA in developing those criteria: an assumption that daily water consumption is 2 liters, and an assumption that all consumed fish are contaminated at criteria levels. EPA has prepared a response in accordance with the court's order, and is publishing that response in this document.

FOR FURTHER INFORMATION CONTACT: Denis R. Borum, Office of Science and Technology, Office of Water (4304), USEPA, 401 M Street, SW., Washington, D.C. 20460, (202) 260–8996.

SUPPLEMENTARY INFORMATION: In November 1991, EPA proposed chemical-specific, numeric criteria for priority toxic pollutants, including dioxin and pentachlorophenol, necessary to bring all States into compliance with the requirements of section 303(c)(2)(B) of the Clean Water Act. (The ''National Toxics Rule'' or ''NTR'', 56 FR 58420; codified at 40 CFR 131.36.) AFPA commented on a number of aspects of the proposal, including the exposure assumptions used in EPA's water quality criteria methodology. The NTR was promulgated in December 1992 (57 FR 60848; codified at 40 CFR 131.36). AFPA challenged the rule as arbitrary and capricious in violation of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* (Civil Action No. 93–CV–0694 (RMU), DCDC.) On September 4, 1996, the court issued an order remanding the human health criteria for dioxin and pentachlorophenol to EPA for ''an adequate response to AFPA's comments'' regarding two of the exposure assumptions used by EPA in developing the criteria. These assumptions are that daily water consumption is 2 liters, and that all consumed fish are contaminated at the criteria levels.

The court directed EPA to respond to AFPA's comments on these two issues by December 13, 1996, or the human health criteria for dioxin and pentachlorophenol will be vacated automatically. This notice publishes EPA's response to AFPA's comments. Under the order, AFPA has 60 days from the publication of EPA's response to re-open the litigation; upon expiration of the 60 days, the action will stand dismissed with prejudice.

In accordance with section 553 of the Administrative Procedure Act, EPA has determined that there is good cause not to solicit public comment on this notice. In this notice, the Agency is simply responding to comments on the proposed NTR and such responses are not subject to further public comment. Moreover, the public has had ample opportunity to comment on the exposure assumptions addressed in this notice since the assumptions have been reflected in a number of Agency regulatory actions. For these reasons, EPA finds further public comment to be unnecessary.

Dated: December 5, 1996.

Robert Perciasepe,

Assistant Administrator for Water.

Response to Comments From the American Forest and Paper Association on Two Exposure Assumptions Used by EPA To Develop Human Health Water Quality Criteria for Dioxin and Pentachlorophenol

Background

The purpose of the Clean Water Act (''CWA'') is to protect the nations waters, on which public health and the environment depend. Toward this end, the CWA requires those discharging into surface waters of the United States to have permits that limit the amount of pollutants discharged. To set such limits, ''criteria'' are established for each pollutant at a level necessary to preserve or achieve the uses designated for particular waterbodies by the States. In other words, for waterbodies designated as drinking water supplies, the criteria should assure that people can safely drink the water. Where waterbodies are to be used for fishing, swimming or recreation, the criteria should assure that people can safely eat fish that are taken from those waters, and safely use

the waters for other designated purposes. These criteria, intended to protect public health, are referred to as ''human health criteria''.

Human health criteria are derived to establish quantitative estimates of chemicals which, if not exceeded, will protect the general population from adverse health impacts from exposure to contaminated surface water. There are two routes of human exposure: water consumption and fish consumption. In order to develop the criteria, EPA needed to determine appropriate exposure assumptions for these pathways. In 1980, EPA announced its methodology for establishing human health criteria. 45 FR 79318 (Nov. 28, 1980). To predict the effects of low doses of the pollutant on a hypothetical person over a 70-year lifetime, EPA assumed the exposed individual is a male who weighs 70-kilograms and who on a daily basis consumes an average of 6.5 grams of fish and shellfish and 2 liters of water. *Id*, at 79323–24. EPA also assumed for purposes of the methodology that the consumed water and fish are contaminated at the criteria levels. *Id.*, at 79323.

Issue 1: EPA's Estimate of Water Intake as 2 Liters per Day

As noted above, in order to derive human health criteria, EPA needed to make assumptions concerning daily exposure to pollutants in surface water from two primary routes: water consumption and fish consumption. EPA has assumed an average daily water consumption of 2 liters. The Agency recognizes that a number of other drinking water consumption rates have been suggested. Having reviewed those studies, EPA's policy judgment continues to be that an assumed daily consumption of 2 liters is reasonable to provide the margin of safety needed to protect most people and thereby meet the objectives of the CWA. EPA is not required, by the CWA or regulation, to base its assumed water consumption on ''average ingestion'' in statistical terms. Rather, as EPA explained in the proposed NTR, the assumed water consumption rate is based on an ''approximate'' national average. (56 FR 58436), *i.e.*, the approximate national average may be a starting point not an end point. Also, both the Agency and the National Academy of Sciences (''NAS'') have indicated that policy reasons are appropriate considerations in adopting ''average'' drinking water consumption rates. Since 1980, EPA has on several occasions reviewed and publicly addressed the rationale for its water consumption value, but to the extent that questions remain as to the basis for the assumption, EPA here further explains that rationale.

The Agency's 1980 methodology for deriving human health criteria assumed a water consumption of 2 liters per day. EPA cited a study done by the NAS in support of this assumption. The NAS study was undertaken to meet the needs expressed in the 1974 Safe Drinking Water Act (''SDWA''). Under the SDWA, EPA was required to establish federal standards for protection from harmful contaminants in the drinking water supplies of the nation. Congress directed EPA to arrange with the NAS to study the adverse effects on health attributable to contaminants in drinking water. In 1977, NAS produced a multi-volume study entitled *Drinking Water and Health*, National Academy of Sciences, Washington, D.C. 1977. In this study, NAS considered 2 liters to be the average amount of water consumed per day. While noting that the average per capita water consumption of the U.S. population, as calculated from a survey of nine different literature sources, was 1.63 liters per day, NAS adopted 2 liters per day as representing the ''intake of the majority of water consumers''. *Id.* at 11. EPA adopted 2 liters per day as the drinking water exposure for its human health criteria methodology, understanding that it included a margin of safety that would ensure that most of the population would be protected.

In its comments on the proposed NTR, AFPA argued that the assumed 2 liters per day water consumption rate was overly conservative:

> In a paper recently accepted for publication in *Risk Analysis* (Exhibit 9) * * * (the) analysis demonstrated that the 50th percentile intake of ''tap water'' * * * was slightly less than one liter per day. * * * ChemRisk recently analyzed similar water consumption data and came up with a similar figure for ''tap water'' consumption—1.2 liters per day. (Exhibit 2) Since an individual exposed to contaminated surface water would at most only be exposed to that contamination in the ''tap water'' he consumes, and not in the moisture content inherent in foods that he purchases. * * * the two liter per day assumption EPA has used overstates by a factor of 2 the potentially contaminated water that an average individual might consume. AFPA Comments on Proposed Rule, Dec. 19, 1991, pp. 59–60.

The ChemRisk analysis states that EPA's 2.0 liters per day value is based on the daily ration of water required by US Army field personnel; ChemRisk questions whether this value is appropriate for a general population with access to other beverages and that does not engage in as much physical exertion and is not as exposed to the outdoors. ChemRisk reviewed several studies that show the average adult consumption rate for liquids ranges from 0.4 to 2.2 L/day. Based on a study showing that approximately 60% of the total dietary fluid intake is water, ChemRisk concludes that if a total fluid consumption rate of 2 liters per day is reasonable, then 60% of that consumption rate or 1.2 liters per day is water. (pp. 5–1 to 5–2)

EPA is familiar with the studies, including those cited by AFPA, that estimate average consumption of water to be less than 2 liters per day. Indeed, in 1990, EPA conducted its own analysis of data that suggested that the average water consumption rate across the U.S. adult population is 1.4 liters per day. ''Exposure Factors Handbook'', EPA 600/8–89/043, at 2–6 (AR VA–103). However, while noting that the scientific literature suggests a daily rate of 1.4 liters, EPA made clear that ''[p]olicy or precedent reasons may support the continued use of the 2.0 L/day [figure] as the average adult drinking water consumption rate.'' This analysis further indicates that consumption of 2 liters per day covers about 90 percent of the population; the remaining 10 percent of the population consumes more than a daily average of 2 liters. In this analysis, 2 liters per day is characterized as a reasonable worst-case water consumption rate for adults. Since EPA's purpose in selecting 2 liters as an average daily water consumption rate was to provide a margin of safety sufficient to protect most people—to the extent that 2 liters per day is protective of approximately 90 percent of the population—using 2 liters per day as the assumed water consumption rate for the NTR is consistent with EPA's approach in setting human health criteria.

In a 1992 SDWA rulemaking that established health-based contaminant levels for numerous pollutants in drinking water (57 FR 31,776), the issue of water consumption estimates was re-examined yet again. In the SDWA rulemaking, the Chemical Manufacturers Association (''CMA'') submitted comments (which mirror those submitted by AFPA in the contemporaneous NTR rulemaking) objecting to EPA's use of 2 liters per day to set drinking water standards. CMA recommended instead the 1.4 liters per day estimate in EPA's Exposure Factors Handbook. In response to CMA's comments, EPA acknowledged that the 1.4 liters per day estimate is ''an overall average of a number of studies'' but rejected using that value since some of the studies did not necessarily consider indirect water consumption (such as use in cooking) and therefore may not account for all exposures related to the

occurrence of contaminants in drinking water. EPA reiterated that the 2 liters per day assumption was a more appropriate value ''in order to be conservative and allow for an adequate margin of safety.'' *Id.* at 31787. EPA further noted that the Exposure Factors Handbook considered 2 liters per day a reasonable worst case estimate.

The Agency's rationale and conclusion in the drinking water regulation is equally applicable to the NTR. Therefore, EPA included the Federal Register notice (*Id.* 31787–31788) containing EPA's response to CMA's comments on the 2 liters per day figure in the record for the NTR rulemaking. In the NTR, an assumption of water consumption of 2 liters per day provides a sufficient margin of safety to ensure that most people can safely drink from waterbodies designated as drinking water sources.

In sum, AFPA disagrees with EPA's choice of methodology and desired level of health protection in deriving an estimate of assumed water consumption. EPA is not required under the CWA to base its water consumption estimate on ''average ingestion'' in statistical terms. In order to meet the objectives of the CWA, EPA believes that its assumed water consumption must include a margin of safety so that the general population is protected. The NAS adopted a water consumption figure of 2 liters per day in its study of drinking water and public health as representing the consumption of the majority of water consumers. EPA has reviewed the subsequent studies of water consumption, but continues to believe that 2 liters per day is appropriate for ensuring protection of public health under the CWA.

Issue 2. EPA's Assumption That All of the Fish Consumed Is Contaminated at the Criteria Level

In developing a methodology for deriving human health criteria, EPA made assumptions about exposure to contamination from eating fish taken from surface waters. The purpose of the assumptions was to ensure that if the criteria were met in a waterbody designated for fishing, most people could safely eat fish from that waterbody. In addition to the assumption in the methodology that the hypothetical man has an average daily consumption of 6.5 grams of fish, EPA assumes that all of that fish is taken from water with pollutants present at the criteria level.

It is EPA's view that to ensure that people can safely eat fish from waters designated for fishing, it is necessary to assume that all of the consumed fish is taken from waterbodies at the criteria level. EPA recognizes that there are differences in fishing patterns and the degree to which fish bioaccumulate contaminants from the water. However, it is EPA's judgment that this assumption regarding fish contamination is necessary to derive criteria that are sufficiently protective to meet the objectives of the CWA.

AFPA commented that this assumption overstates the actual expected exposure to a contaminant:

> Another source of overestimation of exposure comes from the implicit assumption that each portion of freshwater fish consumed by an individual will have the maximum concentration of the subject contaminant * * * This assumption is obviously an overstatement, since not all fish (presumably very few of them, in fact) will have been exposed to ambient water which is just barely achieving the water quality standard. Likewise, if the water quality standards are being met, it would only be on rare occasions that the water consumed will have a concentration as high as the water quality standard allows. By definition, if the water quality standard is implemented, ambient concentrations of the pollutant will normally be less. In addition, depending on the dilution calculations (if any) used in implementing the water quality standard, there may be little or no portion of the stream where the concentration of the pollutant is ever as high as the water quality standard allows (due to dilution and the use of low stream flows * * * EPA has very recently made this point forcefully in briefs and argument in the Eastern District of Virginia in *NRDC, et al.* v. *U.S. EPA*, No. 3:91CV0058. [cite omitted]. EPA has noted that FDA's analysis of risk from eating dioxin-contaminated fish in the Great Lakes assumed that * * * 90 percent of the fish an individual consumed would show no measurable contamination or would be taken from uncontaminated areas. (cite omitted). AFPA Comments on Proposed National Toxics Rule, December 19, 1991, pp. 60–61.

Two exhibits to AFPA's comments were prepared for the National Council of the Paper Industry for Air and Stream Improvement. Exhibit 2 discusses studies of fish consumption of anglers in New York and Maine, and Exhibit 4 addresses exposure to dioxin from the consumption of fish caught in fresh waters impacted by certain pulp mills. Both reports conclude that it is unlikely that all of the fish consumed by sport anglers come from only one waterbody or from impacted waters. The dioxin report notes, however, that no data are available on the number of waterbodies fished by members of the general population or sport fishermen over a course of time.

In its methodology, EPA assumes that all fish consumed by the hypothetical exposed individual are contaminated at the maximum concentration level that is ''safe'' (*i.e.*, the criteria level). This is the same assumption that EPA makes as to water consumption, and the Agency's rationale supporting that assumption is equally applicable to fish consumption.

AFPA offers examples of situations which, it contends, make it unlikely that individuals will be exposed at the criteria level. EPA is aware that levels of actual exposure to contamination from consuming fish will vary depending on a number of factors. Daily fish consumption may be both greater than and less than 6.5 grams. As EPA noted in the proposed NTR, the exposure assumptions are based on approximate national averages, but ''considerably understate the exposure that would occur for certain segments of the population that have high fish consumption or depend on fish consumption for subsistence.'' *Id.* at 58,436.

AFPA's exhibits note that sport fishing patterns may differ among communities. Fishermen with access to a number of different waterbodies may very well fish in several places and the levels of contamination may differ among those waterbodies. Further, different species of fish bioaccumulate pollutants at different rates. There are many circumstances that may be relevant to fish consumption in different communities and the level of contamination of those fish. However, whether people fish from a number of locations, or whether some waterbodies are not as contaminated as others does not demonstrate that EPA's assumption is invalid. EPA must develop national criteria (that States may modify) that must be protective of the general population. Neither AFPA nor other commenters provided EPA with evidence sufficient to allow the Agency to use a less conservative assumption.

It continues to be EPA's view that in order to develop criteria that are sufficiently protective, it is necessary to assume that all consumed fish are taken from waters at the criteria level. By deriving criteria based on that assumption, EPA is better able to ensure that people can safely eat fish from waters designated for fishing.

The local circumstances that AFPA reports are best addressed by the States which have chief responsibility for implementing the CWA. States can modify or adapt EPA's recommended human health criteria to reflect just such local environmental conditions, and EPA encourages them to do so. (See 57 FR 60888, Dec. 22, l992).

[FR Doc. 96–31429 Filed 12–10–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 300

[FRL–5660–4]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Omega Hills North Landfill, Germantown, Wisconsin from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Omega Hills North Landfill , Germantown, Wisconsin from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of Wisconsin have determined that all appropriate Fund-financed responses under CERCLA have been implemented and that no further cleanup by responsible parties is appropriate. Moreover, EPA and the State of Wisconsin have determined that remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: December 11, 1996.

ADDRESSES: The comprehensive information on the site is available at the local information repository located at: Wisconsin Department of Natural Resources, 101 S. Webster, Madison, WI 53707. Requests for comprehensive copies of documents should be directed formally to the Regional Docket Office. Address for the Regional Docket Office is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

FOR FURTHER INFORMATION CONTACT: Gladys Beard, Associate Remedial Project Manager, Office of Superfund, U.S. EPA—Region V, 77 West Jackson Blvd., Chicago, IL 60604, (312) 886–7253.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL list: The Omega Hills North Landfill, Germantown, Wisconsin.

A Notice of Intent to Delete for this site was published at 61 FR 32765, June 25, 1996. The closing date for comments on the Notice of Intent to Delete was July 25, 1996. EPA received no comments and therefore has not prepared a Responsiveness Summary.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund-) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL in the unlikely event that conditions at the site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous Waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: November 21, 1996.

Valdas V. Adamkus,

Regional Administrator, U.S. EPA, Region 5.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the Omega Hills North Landfill site, Germantown, Wisconsin.

[FR Doc. 96–31272 Filed 12–10–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 712 and 716

[OPPTS–82049A; FRL–5577–6]

Preliminary Assessment Information and Health and Safety Data Reporting; Stay of a Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; stay.

SUMMARY: EPA is staying certain provisions of a final rule which was published in the Federal Register of October 29, 1996, which added chemical substances to two model information gathering rules: the Toxic Substances Control Act (TSCA) Section 8(a) Preliminary Assessment Information Rule (PAIR) and the TSCA Section 8(d) Health and Safety Data Reporting Rule.The TSCA Interagency Testing Committee (ITC) has requested that EPA stay certain provisions in the October 29, 1996, final rule for nonylphenol ethoxylates in order to avoid ambiguities in TSCA section 8(a) and 8(d) reporting resulting from the use of alternate CAS numbers cited in the ITC's 38th report.

EFFECTIVE DATE: This rule is effective December 11, 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: Eighteen nonylphenol ethoxylates were recommended in the ITC's 38th Report (61 FR 39832, July 30, 1996) (FRL–5379–2). Alternate CAS registry numbers were listed for some of these nonylphenol ethoxylates. The use of alternate CAS numbers produced some ambiguities in the TSCA section 8(a) and 8(d) rules that were promulgated for the nonylphenol ethoxylates (61 FR 55872, October 29, 1996) (FRL–5397–9). The ITC re-examined these alternate CAS registry numbers and determined that 5 were not associated with any of the listed nonylphenol ethoxylates chemical names. The ITC revised the list of nonylphenol ethoxylates by providing 9th Collective Index names for all CAS-numbered nonylphenol ethoxylates, including the 5 not previously associated with a unique name. This process eliminated the need for alternate CAS registry numbers.

The ITC's 39th Report was delivered to the EPA Administrator on November 27, 1996. In its report, the ITC provided more accurate information regarding the specific CAS-numbered nonylphenol ethoxylates for which there are U.S. government data needs, and requested that EPA stay the provisions for nonylphenol ethoxylates in the Agency's October 29, 1996, final rule for these chemicals (61 FR 55872). To eliminate all ambiguities in TSCA section 8(a) and 8(d) reporting resulting from the ITC's use of alternate CAS numbers for nonylphenol ethoxylates in its 38th report, EPA is issuing this stay. In the near future, EPA will publish the

39th ITC Report in the Federal Register and amend the TSCA section 8(a) and 8(d) reporting rules for the nonylphenol ethoxylates in order to eliminate any ambiguities in those rules.

List of Subjects in 40 CFR Parts 712 and 716

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

Dated: December 5, 1996.

Charles M. Auer,

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).

§ 712.30 [Amended]

b. In § 712.30, the table in paragraph (e) is amended by staying the entire category ''Nonylphenol ethoxylates.''

PART 716—[AMENDED]

2. In part 716:

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

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

§ 716.120 [Amended]

b. In § 716.120, the table in paragraph (d) is amended by staying the entire category ''Nonylphenol ethoxylates.''

[FR Doc. 96–31432 Filed 12–10–96; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–14; Notice 106]

RIN 2127–AG14

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Final rule, correcting amendment.

SUMMARY: On November 27, 1996, NHTSA published a final rule requiring vehicles with air bags to have new warning labels. Two labels include language that children are safest in the back seat. Automobile manufacturers have asked whether this language is appropriate in vehicles which do not have a back seat. This notice corrects the language of the final rule to allow manufacturers of vehicles with no back seat to omit these sentences. This notice also corrects a typographic error in a December 4, 1996 correcting amendment which changed the dates in the regulatory text from 1997 to 1996.

DATES: *Effective Date:* The amendments made in this rule are effective December 27, 1996.

Petition Dates: Any petitions for reconsideration must be received by NHTSA no later than January 27, 1997.

ADDRESSES: Any petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mary Versailles, Office of Safety Performance Standards, NPS–31, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590; telephone (202) 366–2057; facsimile (202) 366–4329; electronic mail ''mversailles@nhtsa.dot.gov''.

SUPPLEMENTARY INFORMATION: On November 27, 1996, NHTSA published a final rule amending 49 CFR 571.208 to require vehicles with air bags to have new warning labels. One of these labels, a sun visor label, includes the statement ''The back seat is the safest place for children.'' Another label, a temporary label on the dash, includes the statement ''The back seat is the safest place for children 12 and under.'' The regulatory language of the final rule does not allow manufacturers of vehicles with no back seat to omit these statements. This notice adds language allowing manufacturers of vehicles with no back seat to omit these statements.

On December 4, 1996, NHTSA published a correcting amendment to the November 27 final rule. The regulatory language in that rule inadvertently changed dates from 1997 to 1996. This notice also corrects that error.

NHTSA finds for good cause that this final rule can be made effective in less than 30 days. This rule makes minor corrections to the regulatory language of the November 27, 1996, final rule. This notice should therefore be effective on the same date as the earlier rule.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures: NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This document is part of an action that was determined to be ''significant'' under the Department of Transportation's regulatory policies and procedures. However, this notice does not impose any new requirements on manufacturers. It simply corrects a typographic error and allows some manufacturers the option of omitting two statements from warning labels.

Regulatory Flexibility Act: NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. Further, this final rule will not alter the economic impacts of the November 1996 final rule. As explained above, this rule will not have an economic impact on any manufacturers.

Paperwork Reduction Act: In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), there are no requirements for information collection associated with this final rule.

National Environmental Policy Act: NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

Executive Order 12612 (Federalism): NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform: This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require

submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.208 is amended by revising the introductory text of S4.5.1(b)(2), S4.5.1(c)(2) and S4.5.1(e) and by adding new S4.5.1(b)(2)(v) and S4.5.1(e)(iii) to read as follows: 571.208 Standard No. 208, Occupant Crash Protection.

* * * * *

S4.5.1 Labeling and owner's manual information.

* * * * *

(b) *Sun visor warning label.*

* * * * *

(2) *Vehicles manufactured on or after February 25, 1997.* Each vehicle shall have a label permanently affixed to either side of the sun visor, at the manufacturer's option, at each front outboard seating position that is equipped with an inflatable restraint. The label shall conform in content to the label shown in either Figure 6a or 6b of this standard, as appropriate, and shall comply with the requirements of S4.5.1(b)(2)(i) through S4.5.1(b)(2)(v).

* * * * *

(v) If the vehicle does not have a back seat, the label shown in Figure 6a or 6b may be modified by omitting the statement: ''The BACK SEAT is the SAFEST place for children.''

* * * * *

(c) *Air bag alert label.*

* * * * *

(2) *Vehicles manufactured on or after February 25, 1997.* If the label required by S4.5.1(b)(2) is not visible when the sun visor is in the stowed position, an air bag alert label shall be permanently affixed to that visor so that the label is visible when the visor is in that position. The label shall conform in content to the sun visor label shown in figure 6c of this standard, and shall comply with the requirements of S4.5.1(c)(2)(i) through S4.5.1(c)(2)(iii).

* * * * *

(e) *Label on the dash.* Each vehicle manufactured on or after February 25, 1997 that is equipped with an inflatable restraint for the passenger position shall have a label attached to a location on the dashboard or the steering wheel hub that is clearly visible from all front seating positions. The label need not be permanently affixed to the vehicle. This label shall conform in content to the label shown in Figure 7 of this standard, and shall comply with the requirements of S4.5.1(e)(2)(i) through S4.5.1(e)(2)(iii).

* * * * *

(iii) If the vehicle does not have a back seat, the label shown in Figure 7 may be modified by omitting the statement: ''The back seat is the safest place for children 12 and under.''

* * * * *

Issued on: December 5, 1996.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–31413 Filed 12–10–96; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 61, No. 239
Wednesday, December 11, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 334

RIN 3206 AG61

Intergovernmental Personnel Act Mobility Program

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing to issue regulations governing mobility assignments between Federal agencies and non-Federal entities. Since 1979, when the original regulations were issued, the program has evolved to a point where some of these regulations have become too cumbersome. The revised regulations will allow the program to operate more efficiently.

DATES: Comments must be submitted on or before January 10, 1997.

ADDRESSES: All comments concerning these proposed changes to the regulations should be addressed to Tony Ryan, Director, IPA Mobility Program, U.S. Office of Personnel Management, Room 7457, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Tony Ryan, 202–606–1181.

SUPPLEMENTARY INFORMATION: In October of 1995, OPM initiated a general review of the Intergovernmental Personnel Act Mobility Program. The program was part of the Intergovernmental Personnel Act (IPA) of 1970. The review team met with IPA coordinators from eleven agencies, in addition to contacting State governments, universities, and nonprofit organizations which use the IPA Mobility Program. A summary of the changes follows:

In section 334.102, the definition of ''other organization'' was expanded to include Federally funded research and development centers, which formerly had to apply for certification to participate in the IPA Mobility Program. The National Defense Authorization Act for FY 1995 (Pub. L. 103–337) included an amendment to the IPA which gives these centers automatic eligibility. Section 334.103 was changed to require the nonprofit status of ''Other Organizations'' to be determined by agencies, not OPM. OPM will provide criteria to determine nonprofit status. Section 334.104 places a lifetime limit of 6 years for Federal employees on IPA assignments and for individuals from non-Federal organizations who receive IPA assignments. This section also requires that when an assignment is over, the employee must return to his or her home organization for the same duration as the assignment. Section 334.105 says that if an employee fails to return to Federal service for the equivalent period of the assignment, then he or she is responsible for the costs of the assignment except for salary. Section 334.106 requires that agencies execute a written agreement for each assignment and keep a copy of the agreement available for review. However, OPM will no longer require that a copy of the agreement be sent to them. To monitor mobility program activity, OPM will request agencies to submit an annual report, a requirement which was dropped a few years back.

These revised regulations are a result of the feedback the review team received from the various shareholders. While decentralizing responsibility for the program, these new rules will empower agencies and allow them to operate the program in a more efficient manner. OPM will still exercise its statutory authority to issue regulations, but the day-to-day management of the program will rest with agencies.

List of Subjects in 5 CFR Part 334

Colleges and universities, Government employees, Indians, Intergovernmental relations.

Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM proposes to amend part 334 of title 5, Code of Federal Regulations:

PART 334—TEMPORARY ASSIGNMENT OF EMPLOYEES BETWEEN FEDERAL AGENCIES AND STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS, INSTITUTIONS OF HIGHER EDUCATION, AND OTHER ELIGIBLE ORGANIZATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 5 U.S.C. 3376; E.O. 11589, 3 CFR 557 (1971–1975).

2. Section 334.102, the definition of *other organization* is revised to read as follows:

§ 334.102 Definitions.

* * * * *

Other organization means a national, regional, Statewide, area wide, or metropolitan organization representing member State or local governments; an association of State or local public officials; a nonprofit organization which has as one of its principal functions the offering of professional advisory, research, educational, or development services, or related services to governments or universities concerned with public management; or a federally funded research and development center; and

* * * * *

3. Section 334.103 is revised to read as follows:

§ 334.103 Approval of instrumentalities or authorities of State and local governments and ''other organizations''.

(a) Organizations interested in participating in the mobility program as an instrumentality or authority of a State or local government or as an ''other organization'' as set out in this part must have their nonprofit status approved for participation by the Federal agency with which they are entering into an assignment.

(b) Written requests for approval as a nonprofit should include a copy of the organization's:

(1) Articles of incorporation;

(2) Bylaws;

(3) Internal Revenue Service nonprofit statement; and

(4) Any other information which indicates that the organization has as a principal function the offering of professional advisory, research, educational, or development services, or related services to governments or universities concerned with public management.

(c) Federally Funded Research and Development Centers which appear on the Master Government List maintained by the National Science Foundation are eligible to enter into mobility agreements. An organization denied approval by an agency of its nonprofit status may request reconsideration by the Office of Personnel Management.

4. Section 334.104 is revised to read as follows:

§ 334.104 Length of assignment.

(a) An assignment may be made for up to 2 years and may be extended by the head of a Federal agency for up to 2 more years, given the concurrence of the other parties to the agreement.

(b) A Federal agency may not send or receive on assignment an employee who has served on mobility assignments for more than a total of 6 years during his or her career. The Office of Personnel Management may waive this provision upon the written request of the agency head.

(c) At the completion of an assignment, an employee must take a break equal in length to the time spent on that assignment before participating again in the mobility program.

5. Section 334.105 is revised to read as follows:

§ 334.105 Obligated service requirement.

(a) A Federal employee assigned under this subchapter must agree as a condition of accepting an assignment to serve with the Federal Government upon completion of the assignment for a period equal to the length of the assignment.

(b) If the employee fails to carry out this agreement, he or she must reimburse the Federal agency of its share of the costs of the assignment (exclusive of salary). The head of the Federal agency may waive this reimbursement for good and sufficient reason.

6. Section 334.106 is revised to read as follows:

§ 334.106 Requirement for written agreement.

(a) Before an assignment is made the Federal agency and the State, local, or Indian tribal government, institution of higher education, or other eligible organization and the assigned employee shall enter into a written agreement which records the obligations and responsibilities of the parties as specified in 5 U.S. Code 3373–3375.

(b) Agencies must maintain a copy of each assignment agreement form as well as any modification to the agreement.

[FR Doc. 96–31394 Filed 12–10–96; 8:45 am]

BILLING CODE 6325–01–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Draft Policy Statement on the Restructuring and Economic Deregulation of the Electric Utility Industry

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of public comment period.

SUMMARY: On September 23, 1996 (61 FR 49711), the NRC published for public comment a draft policy statement regarding its expectations for, and intended approach to, its power reactor licensees as the electric utility industry moves from an environment of rate regulation toward greater competition. The comment period for this draft policy statement was originally scheduled to expire on December 9, 1996. In a letter dated November 6, 1996, the Nuclear Information and Resource Service requested that the NRC extend the comment period to allow sufficient time for the industry to air concerns and develop comments. In response to this request and NRC concerns that the public have ample opportunity to address the issues raised in the draft policy statement, the NRC has decided to extend the comment period 60 days.

DATES: The comment period has been extended and now expires on February 9, 1997. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSEES: Submit written comments to Secretary, U.S. Nuclear Regulatory Commission, Attention: Docketing and Service Branch, Washington, DC 20555. Written comments may also be delivered to 11555 Rockville Pike, Rockville, Maryland, from 7:30 AM to 4:15 PM, Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street N.W. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Wood (301) 415–1255.

Dated at Rockville, Maryland, this 6th day of December, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–31481 Filed 12–10–96; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR–96–8]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received February 10, 1997.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the following internet address: nprmcmts@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Fred Haynes, (202) 267–3939, or Marisa Mullen, (202) 267–9681, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on December 4, 1996.

Donald P. Bryne,

Assistant Chief Counsel for Regulations.

Disposition of Petitions

Docket No.: 26158
Petitioner: Everett W. Morris
Sections of the FAR Affected: 14 CFR 121
Description of Rulechange Sought: To add a new section that would require that each large turbine-powered airplane be equipped with a takeoff warning system that meets the requirements of 14 CFR § 25.703.
Petitioner's Reason for the Request: The petitioner feels amending the operating rule can provide an earlier required compliance date, thus reducing the probability of future accidents caused by improper configuration of the airplane. *Denial; November 15, 1996*

Docket No.: 27371
Petitioner: Homeowners of Encino
Sections of the FAR Affected: 14 CFR 91.119(d)
Description of Rulechange Sought: To limit helicopter operations below the minimum altitudes prescribed in § 91/119 (b) and (c) except for helicopters operated by any municipal, county, State, or Federal authority for emergency services, rescue operations, or police or fire protection.
Petitioner's Reason for the Request: The petitioner feels that the petition for reconsideration of a previous denial of petition for rulemaking was justified in that the FAA failed to make a reasonable determination of the facts and issues in the original petition for rulemaking. *Denial; October 31, 1996*

Docket No.: 27803
Petitioner: Air Transportation Association of America
Sections of the FAR Affected: 14 CFR 121, 135, and 145
Description of Rulechange Sought: To establish regulations requiring quality/inspection systems for all aircraft parts distributors, suppliers, sellers, brokers, and surplus dealers.
Petitioner's Reason for the Request: The petitioner feels that it is imperative that every step possible be taken to ensure no opportunity is available to introduce an unapproved part into the parts distribution/supply system and there must be regulations which help deter and remove unethical organizations from the aircraft parts business. *Denial; November 25, 1996.*

[FR Doc. 96–31381 Filed 12–10–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 91, 121, 127, and 135

[Docket No. 28577; Notice No. 96–4]

RIN 2120–AG11

Special Flight Rules in the Vicinity of the Rocky Mountain National Park

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; supplemental notice of availability and opportunity for comment.

SUMMARY: A notice of proposed rulemaking (NPRM) relating to special flight rules in the vicinity of the Rocky Mountain National Park was published on May 15, 1996. This document announces the availability for public comment of recently submitted information from the Department of Interior (DOI). This submission contains information concerning the commercial air tour overflight operations in a sample of National Parks.

DATES: Comments must be received on or before December 23, 1996.

ADDRESSES: Comments on this NPRM should be mailed, in triplicate to Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 28577, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the Rules Docket by using the following Internet address: nprmcmts@mail.hq.faa.gov. Comments must be marked Docket No. 28577. Comments may be examined in the Rules Docket Room 915G on weekdays between 8:30 a.m. and 5:00 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Neil Saunders, Airspace and Rules Division, ATA–400, Airspace Management Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: 202–267–8783.

SUPPLEMENTARY INFORMATION:

Background

Notice No. 96–4 was placed on immediate display at the Federal Register on May 10, 1996, and published on May 15, 1996 (61 FR 24852). A correction document was published on July 23, 1996 (61 FR 38119) extending the comment period to August 19, 1996. Notice No. 96–4 proposed several methods of preserving the natural park experience of Rocky Mountain National Park (RMNP) by restricting aircraft-based sightseeing flights. The NPRM indicated that the FAA would select a viable alternative based on comments received and other pertinent information and identify a proposed alternative for final rulemaking. The comment period closed on August 19, 1996.

Following the closing date of the comment period, the FAA prepared a Draft Environmental Assessment (EA) that evaluates various alternatives for addressing potential aviation noise issues at RMNP. The FAA found that it would be in the public interest to reopen the comment period to allow interested persons the opportunity to comment on the Draft EA. Consequently, on November 21, 1996, the FAA announced the availability of the Draft EA and reopened the comment period through December 23, 1996 (61 FR 5909). In addition, certain RMNP sound level data submitted by DOI also was made available for comment.

Availability of Information

The DOI has recently submitted information to the Department of Transportation regarding the effects of commercial air tour overflight operations in a sample of National Parks. The FAA finds that it is in the public interest to provide the opportunity to comment on this information. Accordingly, the DOI submission is being made available in the Docket for public comment.

On April 22, 1996, the President of the United States established priorities concerning the overflights of National Parks by aircraft. Addressing the potential impacts of overflights of Rocky Mountain National Park is one of these priorities. In view of the brevity of this material and the importance of completing this rulemaking in a timely manner, ′the FAA finds that good cause exists for providing less than 30 days comment on this material.

Issued in Washington, DC, on December 6, 1996.

Harold W. Becker,

Acting Program Director for Air Traffic, Airspace Management.

[FR Doc. 96–31528 Filed 12–9–96; 9:00 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Chapter II

[Release Nos. 33–7350, 34–37769, 35–26584, 39–2342, IC–22256, IA–1590; File No. S7–25–96]

Regulatory Flexibility Agenda; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Semiannual regulatory agenda; Correction.

SUMMARY: FR Document No. 96–26278, beginning on page 63548 in the unified agenda published in the Federal Register of Friday, November 29, 1996, the Release Nos. were incorrect and should be as set forth above.

FOR FURTHER INFORMATION CONTACT: Frances R. Sienkiewicz, Office of the Secretary, (202) 942–7072.

Dated: December 5, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–31399 Filed 12–10–96; 8:45 am]

BILLING CODE 8010–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–197; DA 96–2036]

Newspaper/Radio Cross-Ownership Waiver Policy

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry; extension of comment and reply comment period.

SUMMARY: This action extends the deadline for filing comments and reply comments to the Notice of Inquiry in the above-cited docket. It is taken in response to requests to extend the comment and reply comment period made by the law firm of Haley Bader & Potts. The intended effect of this action is to allow the parties to the proceeding to have additional time in which to file comments and reply comments.

DATES: Comments are due on or before February 7, 1997, and reply comments are due on or before March 7, 1997.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Roger Holberg (202–418–2130) or Charles Logan (202–418–2130), Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Order* granting an extension of time for filing comments and reply comments in MM Docket No. 96–197, DA 96–2036, adopted December 5, 1996, and released December 5, 1996. The complete text of this *Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, DC 20037.

Synopsis of Order Granting Extension of Time for Filing Comments

1. On October 1, 1996, the Commission adopted a *Notice of Inquiry (''NOI'')* in this proceeding, 61 FR 53694, October 15, 1996, regarding its policy for waiving the newspaper/radio cross ownership restriction set forth in Section 73.3555(d) of the Commission's Rules, 47 CFR 73.3555(d). The *NOI* invited comment on a variety of questions related to possible revisions to the Commission's current waiver policy. Comments were due to be filed by December 9, 1996, and reply comments by January 8, 1997.

2. On November 7, 1996, the Commission released three notices of proposed rule making concerning (1) the broadcast attribution rules, which define what constitutes a ''cognizable interest'' in applying the broadcast multiple ownership rules, *Further Notice of Proposed Rule Making* in MM Docket Nos. 94–150/92–51/87–154, FCC 96–436 (''*FNPRM*''); (2) the local television ownership rules, including the television duopoly rule and the radio-television cross-ownership rule, *Second Further Notice of Proposed Rule Making* in MM Docket Nos. 91–221/87–8, FCC 96–438 (''FNPRM''); and (3) the national television ownership rule, *Notice of Proposed Rule Making* in MM Docket Nos. 96–222/91–221/87–8, FCC 96–437. The comment date established for each of these three rulemaking proceedings is February 7, 1997, and the due date for reply comments is March 7, 1997.

3. On November 27, 1996, the law firm of Haley Bader & Potts filed a *Request For Extension Of Comment Date (''Request'')* to extend the comment and reply comment deadlines in connection with the *NOI* in MM Docket No. 96–197 to February 7, 1997 and March 7, 1997, respectively. In support of its Request, Haley Bader & Potts asserts that the above-referenced rule makings raise issues that are strongly related to those raised in the NOI. We are mindful that § 1.46 of the Commission's Rules, 47 CFR 1.46, articulates a Commission policy that extensions of time for filing comments in rule making proceedings are not to be routinely granted. Nevertheless, we find that good cause exists for granting the requested extension of the comment and reply comment deadlines. As Haley, Bader & Potts points out, the issues raised by the *FNPRM* are relevant to the newspaper/radio cross-ownership rule in that the attribution rules define what constitutes a cognizable ownership interest in a radio station or daily newspaper. In addition, many of the same competition and diversity concerns that underlie the newspaper/radio cross-ownership restriction are also raised in our examination of the television duopoly rule and radio-television cross-ownership rule. Given the similarity of the issues raised in the *NOI* and the three rulemaking proceedings, we believe it is appropriate that they share the same comment and reply comment deadlines. This will enable interested parties to submit more complete comments regarding the interrelated issues raised by these separate proceedings. This, in turn, will result in a more comprehensive record for the Commission to consider in assessing whether to revise its newspaper/radio cross-ownership waiver policy as well as its broadcast attribution and television ownership rules.

4. Accordingly, *it is ordered* that the request filed by Haley Bader & Potts for an extension of time in which to file comments and reply comments in response to the *Notice of Inquiry* in MM Docket 96–197 *is granted*.

5. *It is further ordered*, that the time for filing comments in the above-captioned proceeding *is extended* to February 7, 1997, and the time for filing reply comments *is extended* to March 7, 1997.

6. This action is taken pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and Sections 0.204(b), 0.283, and 1.45 of the Commission's Rules, 47 CFR 0.204(b), 0.283, and 1.45.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 96–31503 Filed 12–9–96; 10:54 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 961126330–6330–01; I.D. 110796H]

RIN 0648–XX72

Atlantic Mackerel, Squid, and Butterfish Fisheries; 1997 Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed 1997 initial specifications; request for comments.

SUMMARY: NMFS proposes initial specifications for the 1997 fishing year for Atlantic mackerel, squid, and butterfish (SMB). Regulations governing these fisheries require NMFS to publish specifications for the upcoming fishing year and provide an opportunity for the public to comment. This action is intended to promote the development of the U.S. SMB fisheries.

DATES: Public comments must be received on or before January 6, 1997.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's quota paper and recommendations and the Environmental Assessment are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901. Comments should be sent to Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, 1 Blackburn Drive, Gloucester, MA 01930. Please mark the envelope ''Comments—1997 SMB specifications.''

FOR FURTHER INFORMATION CONTACT: Myles Raizin, 508–281–9104.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) prepared by the Mid-Atlantic Fishery Management Council (Council) appear at 50 CFR part 648. These regulations stipulate that NMFS publish a document specifying the initial annual amounts of the initial optimum yield (IOY) as well as the amounts for allowable biological catch (ABC), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and total allowable levels of foreign fishing (TALFF) for the species managed under the FMP. No reserves are permitted under the FMP for any of these species. Procedures for determining the initial annual amounts are found in § 648.21.

Proposed Council Actions Affecting 1997 Specifications

The Council adopted two amendments to the FMP that may affect the final specifications as described below.

Atlantic mackerel—The Council adopted a revision to a measure disapproved under Amendment 5 to the FMP (Resubmitted Amendment 5), which, if approved by the Secretary of Commerce (Secretary) will further restrict ABC for Atlantic mackerel. This measure proposes to define overfishing as catch (U.S. and Canadian) in excess of $F_{0.1}$. The Northeast Fisheries Science Center has certified that this overfishing definition is consistent with the NOAA Guidelines for Fishery Management Plans. The Council recommended that the 1997 Atlantic mackerel ABC specification be restricted to 383,000 mt consistent with this proposed measure. However, the ABC specification for Atlantic mackerel will be 1,178,000 mt under the current FMP and would become 383,000 mt only if the proposed measure is approved by the Secretary.

Atlantic squids—In response to the management advice from the 21st Northeast Stock Assessment Workshop (SAW 21), the Council has adopted, and submitted for Secretarial review, Amendment 6 to the FMP that would establish revised overfishing thresholds and target fishing mortality rates for both *Illex* and *Loligo* squid. SAW 21 recommended, and Amendment 6 proposes, overfishing thresholds of F_{max} for *Loligo* and F_{20} for *Illex*, and Maximum OY (Max OY) would be redefined in the FMP to correspond to these thresholds. The resulting Max OY would be 26,000 mt for *Loligo* and 24,000 mt for *Illex*. The Council's current submission, however, must utilize the definition of Max OY presently specified in the FMP (36,000 mt for *Loligo*, 30,000 mt for *Illex)*. In making recommendations for ABC, however, the Council has used the target fishing mortality rate (F_{50}) recommended by SAW 21 in response to the concerns emanating from SAW 21 as a result of the determination that both species have a life span of only 1 year.

The following table contains the proposed initial specifications for the 1997 Atlantic mackerel, *Loligo* and *Illex* squids, and butterfish fisheries as recommended by the Council.

PRELIMINARY INITIAL ANNUAL SPECIFICATIONS FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FOR THE FISHING YEAR JANUARY 1 THROUGH DECEMBER 31, 1997

[mt]

Specifications	Squid		Atlantic Mackerel	Butterfish
	Loligo	Illex		
Max OY [1]	[2] 36,000	[3] 30,000	N/A	16,000
ABC	21,000	19,000	[4] 1,178,000	7,200
IOY [5]	21,000	19,000	90,000	5,900
DAH	21,000	19,000	[6] 90,000	5,900
DAP	21,000	19,000	50,000	5,900
JVP	0	0	25,000	0
TALFF	0	0	0	0

[1] Maximum optimum yield (OY) equals Maximum Sustainable Yield.
[2] 26,000 mt if overfishing threshold in Amendment 6 is approved.
[3] 24,000 mt if overfishing threshold in Amendment 6 is approved.
[4] 383,000 = (405,000 mt less 22,000 mt) if overfishing definition is approved that was submitted as part of Council's resubmission of measures disapproved in Amendment 5.
[5] IOY can increase to this amount.
[6] Contains 15,000 estimated recreational catch.

Atlantic Mackerel

ABC in U.S. waters for the upcoming fishing year is that quantity of mackerel that could be caught in U.S. and Canadian waters while maintaining a spawning stock size in the year following the year for which quotas are being prepared that is equal to or greater than 900,000 mt. An estimate of Canadian catch is then deducted to calculate ABC. For 1997, this calculation results in an ABC of 1,178,000 mt, assuming a beginning stock size of 2.1 million mt and a Canadian catch in 1997 of 22,000 mt.

IOY is a modification of ABC that reflects social and economic factors. IOY is comprised of two components:

DAH and TALFF. DAH is the sum of a recreational catch estimate, DAP and JVP. The Council estimates that the 1997 recreational catch will be 15,000 mt and DAP will be 50,000 mt. The Council also recommends that IOY be set at a level that provides for a JVP of 25,000 mt and TALFF of zero. The resulting recommended IOY is 90,000 mt.

DAP has historically been estimated using the Council's annual processor survey. However, for the years 1994 through 1996, response was low and did not contain projections from the large, known processors. Therefore, in order to estimate the expected processing capacity for 1997, the Council used the survey responses from those firms that provided estimates for both 1996 and 1997. For these firms, projected amount of fish needed increased 96 percent in 1997. In addition, numerous inquiries concerning entry of displaced New England groundfish trawlers into the Atlantic mackerel fishery have led the Council to recommend no change to the DAP for the 1997 fishery.

The 1997 JVP specification was reduced from 1996 to reflect the concern that the Council has about the negative effect that joint ventures could have on the further development of the U.S. export market. Furthermore, the North Sea mackerel quota was reduced by 55 percent for 1996, and this reduced quota may be extended and reduced further through 1997. These reductions may provide an opportunity for U.S. producers to sell additional mackerel on the international market. The Council intends to proceed on a policy course that recognizes the need for JVs in the short term to allow U.S. harvesters to take mackerel at levels in excess of current U.S. processing capacity. However, in the longer term the Council intends to eliminate JVs as U.S. processing and export capacity increases.

An IOY that results in zero TALFF is recommended for the 1997 Atlantic mackerel fishery. The Fisheries Act of 1995 prohibits a specification of TALFF unless recommended by the Council.

The Council also recommended that four special conditions imposed in previous years continue to be imposed on the 1997 Atlantic mackerel fishery as follows: (1) Joint ventures would be allowed south of 37°30′ N. lat., but river herring bycatch may not exceed 0.25 percent of the over-the-side transfers of Atlantic mackerel; (2) the Regional Administrator should ensure that impacts on marine mammals are reduced in the prosecution of the Atlantic mackerel fishery; (3) the mackerel OY may be increased during the year, but the total should not exceed ABC; and (4) applications from a particular nation for a joint venture for 1997 will not be decided on until the Regional Administrator determines, based on an evaluation of performances, that that nation's purchase obligations for previous years have been fulfilled.

Atlantic Squids

The FMP sets the Max OY for *Loligo* at 36,000 mt. The recommended ABC for the 1997 *Loligo* fishery is 21,000 mt, representing a decrease of 9,000 mt from the 1996 ABC. The level specified for 1997 represents the harvest level associated with a fishing mortality rate of F_{50}, which was recommended by SAW 21 as an appropriate target harvest level for this species. The Council recommended that IOY should equal ABC.

The FMP sets the Max OY for *Illex* squid at 30,000 mt. The Council recommended an ABC of 19,000 mt, which represents the harvest level associated with a fishing mortality rate of F_{50}. This is similar to the SAW 21 recommendation of F_{50} as an appropriate target harvest level for both *Illex* and *Loligo*. The Council recommended that the IOY for *Illex* be set equal to ABC.

Butterfish

The FMP sets the Max OY for butterfish at 16,000 mt. The most recent stock assessment was done in 1994 (SAW 17) and advised that the stock may not be able to sustain landings in excess of the long term historical average (1965–92) of 7,200 mt. Based on this advice, the Council recommends maintaining ABC at 7,200 mt (unchanged from 1996). The Council also recommended maintaining IOY and DAH at 1996 levels (5,900 mt) to reflect the uncertainty that exists regarding the level of discards in the directed fishery.

As a result of the approval of Amendment 5, the FMP specifies that there will be no JVP or TALFF specified for *Loligo*, *Illex*, or butterfish, except that a butterfish bycatch TALFF will be specified if TALFF is specified for Atlantic mackerel. Since the Council recommended no TALFF for Atlantic mackerel, no bycatch TALFF is required for butterfish.

Classification

This action is authorized by 50 CFR part 648, and these proposed specifications are exempt from review under E.O. 12866.

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

Dated: December 4, 1996.

Charles Karnella,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 96–31376 Filed 12–5–96; 3:27 pm]

BILLING CODE 3510–22–W

Notices

Federal Register
Vol. 61, No. 239
Wednesday, December 11, 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.

ASSASSINATION RECORDS REVIEW BOARD

Sunshine Act Meeting

DATE: December 17, 1996, 11:00 a.m.

PLACE: ARRB, 600 E Street, NW, Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review and Accept Minutes of Open Meeting.
2. Discussion of the Assassination Records Review Board's FY 1996 Report, including the section of the report described in the Act at 44 U.S.C. § 2107.9(f)(3)(F).
3. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Eileen Sullivan, Assistant Press and Public Affairs Officer, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

David G. Marwell,

Executive Director.

[FR Doc. 96–31604 Filed 12–9–96; 3:38 pm]

BILLING CODE 6118–01–M

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1997 American Community Survey––Group Quarters Facility Questionnaire.

Form Number(s): ACS–2(GQ).

Agency Approval Number: None.

Type of Request: New collection.

Burden: 17 hours.

Number of Respondents: 100.

Avg Hours Per Response: 10 minutes.

Needs and Uses: Planning is currently underway for the 1997 American Community Survey (ACS). Data from the ACS will determine the feasibility of a continuous measurement system that provides socioeconomic data on a continual basis throughout the decade. The bulk of the 1997 ACS activities were previously cleared by OMB under approval number 0607–0810. However, the Census Bureau must also provide a sample of persons residing in Group Quarters (GQs) the opportunity to be interviewed for the ACS. GQs include places such as student dorms, correctional facilities, hospitals, nursing homes, shelters, and military quarters. Using the ACS–2(GQ) Facility Questionnaire, we will phone a sample of Group Quarters in Franklin County, OH –– one of the 1997 ACS test sites (due to cost and operational restrictions, Franklin County is the only GQ test site). We will verify/update information such as GQ name, address, phone number, and type. We will collect information such as the name of a GQ contact, current/maximum number of residents at the facility, usual length of stay, and availability of facility records. This information will assist in the sampling and enumeration of individuals living in each GQ.

Affected Public: Not–for–profit institutions, Businesses or other for–profit, Farms.

Frequency: One time only.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 USC, Section 182.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: December 4, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–31375 Filed 12–10–96; 8:45 am]

BILLING CODE 3510–07–F

International Trade Administration

[C–401–056]

Viscose Rayon Staple Fiber From Sweden; Extension of Time Limit for Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for countervailing duty administrative review.

SUMMARY: The Department of Commerce (the Department) is extending the time limit of the preliminary results of this administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden. The review covers the period January 1, 1995 through December 31, 1995.

EFFECTIVE DATE: December 11, 1996.

FOR FURTHER INFORMATION CONTACT: Cameron Cardozo or Stephanie Moore, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the original time limit, the Department is extending the time limits for the completion of the preliminary results to no later than May 30, 1997, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA). (*See* Memorandum to the file from Jeffrey P. Bialos to Robert S. LaRussa on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce).

This extension is in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the URAA (19 U.S.C. 1675(a)(3)(A)).

Dated: November 26, 1996.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary for Import Administration.

[FR Doc. 96–31456 Filed 12–10–96; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Hong Kong

December 5, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

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); Uruguay Round Agreements Act.

The import restraint limits for textile products, produced or manufactured in Hong Kong and exported during the period January 1, 1997 through December 31, 1997 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 1997 limits. These limits have been increased, variously, for adjustments permitted under the flexibility provisions of the ATC.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Information regarding the 1997 CORRELATION will be published in the Federal Register at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the ATC, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 5, 1997.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1997, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Hong Kong and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Group I	
200–229, 300–326, 360–369, 400–414, 464–469, 600–629 and 665–670, as a group.	236,571,223 square meters equivalent.
Sublevels in Group I	
219	40,765,382 square meters.
218/225/317/326	72,329,264 square meters of which not more than 3,983,614 square meters shall be in Category 218(1) [1] (yarn dyed fabric other than denim and jacquard).
611	6,427,213 square meters.
617	4,055,120 square meters.
Group I subgroup 200, 226/313, 314, 315, 369(1) and 604, as a group	108,370,178 square meters equivalent.
Within Group I subgroup	
200	351,463 kilograms.
226/313	73,124,341 square meters.
314	19,720,758 square meters
315	9,750,009 square meters.
369(1) [2] (shoptowels)	801,254 kilograms.
604	241,257 kilograms.
Group II	
237, 239, 330–359, 431–459, 630–659 and 443/444/643/644/843/844(1), as a group.	861,136,621 square meters equivalent.
Sublevels in Group II	
237	1,178,824 dozen.
239	5,403,886 kilograms.
331	4,213,404 dozen pairs.
333/334	299,232 dozen.
335	342,293 dozen.
338/339 [3] (shirts and blouses other than tank tops and tops, knit).	2,909,387 dozen.
338/339(1) [4] (tank tops and knit tops).	2,185,837 dozen.
340	2,786,045 dozen.
345	455,179 dozen.
347/348	6,749,465 dozen of which not more than 6,659,465 dozen shall be in Categories 347–W/348–W [5]; not more than 5,046,796 dozen shall be in Category 348–W [6].
352	6,933,688 dozen.
359(1) [6] (coveralls, overalls and jumpsuits).	613,340 kilograms.
359(2) [7] (vests)	1,278,325 kilograms.
433	10,359 dozen.
434	11,121 dozen.
435	76,592 dozen.
436	99,757 dozen.
438	819,284 dozen.
442	91,889 dozen.
443	62,939 numbers.
444	41,607 numbers.
445/446	1,354,168 dozen.
447/448	68,101 dozen.
631	654,264 dozen pairs.
633/634/635	1,342,208 dozen of which not more than 502,016 dozen shall be in Categories 633/634 and not more than 1,030,664 dozen shall be in Category 635.
638/639	4,884,258 dozen.
641	843,978 dozen.
644	44,376 numbers.
645/646	1,338,683 dozen.
647	544,261 dozen.

Category	Twelve-month restraint limit
648	1,159,658 dozen of which not more than 1,144,868 dozen shall be in Category 648–W [8].
649	837,944 dozen.
650	173,283 dozen.
652	4,935,766 dozen.
659(1) [9] (coveralls, overalls and jumpsuits).	677,901 kilograms.
659(2) [10] (swimsuits)	276,711 kilograms.
443/444/643/644/843/844(1) (made-to-measure suits).	57,573 numbers.
Group II subgroup	
336,341, 342, 350, 351, 636, 640, 642 and 651, as a group.	156,179,899 square meters equivalent.
Within Group II subgroup	
336	227,679 dozen.
341	2,820,117 dozen.
342	556,399 dozen.
350	138,726 dozen.
351	1,191,090 dozen.
636	306,415 dozen.
640	955,148 dozen.
642	243,673 dozen.
651	331,841 dozen.
Group III	
831–844 and 847–859, as a group.	47,734,699 square meters equivalent.
Sublevels in Group III	
834	12,470 dozen.
835	113,138 dozen.
836	164,764 dozen.
840	672,047 dozen.
842	261,475 dozen.
847	360,912 dozen.
Limits not in a group	
845(1) [11] (sweaters made in Hong Kong).	1,127,831 dozen.
845(2) [12] (sweaters assembled in Hong Kong from knit-to-shape components, knit elsewhere).	2,699,599 dozen.
846(1) [13] (sweaters made in Hong Kong).	182,381 dozen.
846(2) [14] (sweaters assembled in Hong Kong from knit-to-shape components, knit elsewhere).	439,469 dozen.

[1] Category 218(1): all HTS numbers except 5209.42.0060, 5209.42.0080, 5211.42.0060, 5211.42.0080, 5514.32.0015 and 5516.43.0015.

[2] Category 369(1): only HTS numbers 6307.10.2005.

[3] Categories 338/339: all HTS numbers except 6109.10.0018, 6109.10.0023, 6109.10.0060, 6109.10.0065, 6114.20.0005 and 6114.20.0010.

[4] Category 338/339(1): only HTS numbers 6109.10.0018, 6109.10.0023, 6109.10.0060, 6109.10.0065, 6114.20.0005 and 6114.20.0010.

[5] Category 347–W: only HTS numbers 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.22.3030, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.42.4050, 6203.42.4060, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–W: only HTS numbers 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4055, 6204.62.4065, 6204.69.6010, 6204.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[6] Category 359(1): only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010.

[7] Category 359(2): only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

[8] Category 648–W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.6030, 6204.69.9030, 6210.50.5035, 6211.20.1555, 6211.20.6820, 6211.43.0040 and 6217.90.9060.

[9] Category 659(1): only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[10] Category 659(2): only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[11] Category 845(1): only HTS numbers 6103.29.2074, 6104.29.2079, 6110.90.9024, 6110.90.9042 and 6117.90.9015.

[12] Category 845(2): only HTS numbers 6103.29.2070, 6104.29.2077, 6110.90.9022 and 6110.90.9040.

[13] Category 846(1): only HTS numbers 6103.29.2068, 6104.29.2075, 6110.90.9020 and 6110.90.9038.

[14] Category 846(2): only HTS numbers 6103.29.2066, 6104.29.2073, 6110.90.9018 and 6110.90.9036.

Imports charged to these category limits for the period January 1, 1996 through December 31, 1996 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The limits set forth above are subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the ATC and any administrative arrangements notified to the Textiles Monitoring Body.

The conversion factors for merged Categories 333/334, 633/634/635 and 638/639 are 33, 33.90 and 13, respectively.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–31460 Filed 12–10–96; 8:45 am]

BILLING CODE 3510–DR–F

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Nepal

December 5, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

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 Bilateral Textile Agreement, effected by exchange of notes dated May 30 and June 1, 1986, as amended and extended, and a Memorandum of Understanding (MOU) dated November 6, 1996, between the Governments of the United States and Nepal establish limits for the period January 1, 1997 through December 31, 1997.

These limits are subject to revision pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC). On the date that Nepal becomes a member of the World Trade Organization the restraint limits will be modified in accordance with the ATC.

In the letter published below, the Chairman of CITA directs the

Commissioner of Customs to establish the 1997 limits. The limit for Category 340 has been reduced for carryforward and special carryforward applied in 1996.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Information regarding the 1997 CORRELATION will be published in the Federal Register at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement and MOU, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 5, 1996.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), the Bilateral Textile Agreement, effected by exchange of notes datead May 30 and June 1, 1986, as amended and extended, and a Memorandum of Understanding dated November 6, 1996 between the Governments of the United States and Nepal; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1997, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Nepal and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
336/636	220,957 dozen.
340	260,067 dozen.
341	1,025,084 dozen.
342/642	278,530 dozen.
347/348	718,826 dozen.
369–S [1]	900,000 kilograms.
640	160,617 dozen.
641	362,151 dozen.

[1] Category 369–S: only HTS number 6307.10.2005.

Imports charged to these category limits, except Category 369–S, for the period January 1, 1996 through December 31, 1996 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

Should Nepal become a member of the World Trade Organization, the limits set forth above will be subject to adjustment in the future pursuant to the provisions of the Uruguay Round Agreements Act, the Uruguay Round Agreement on Textiles and Clothing and any administrative arrangements notified to the Textiles Monitoring Body.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 96–31461 Filed 12–10–96; 8:45 am]

BILLING CODE 3510–DR–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Collection: Comment Request

December 6, 1996.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3508(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed. Currently, the Corporation for National and Community Service is soliciting comments concerning its proposed combination of the Participant Enrollment Form and National Service Trust Enrollment Form into one form, the National Service Enrollment Form, and the combination of the Member Exit Form National Service Trust End of Term Form into one form, the National Service Member Exit Form. Copies of the information collection requests can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section on or before February 5, 1997.

The Corporation for National and Community Service is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- 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 submissions of responses.

ADDRESSES: Send comments to Lance Potter, Director, Office of Evaluation, Corporation for National and Community Service, 1201 New York Ave., N.W., Washington, D.C., 20525.

FOR FURTHER INFORMATION CONTACT: Lance Potter, (202) 606–5000, ext. 448.

SUPPLEMENTARY INFORMATION:

Part I

I. Background (Participant Enrollment Form/National Service Trust Enrollment Form)

This notice involves the revision of the Participant Enrollment Form (OMB 3200–0018) which is being revised to incorporate elements from the National Service Trust Enrollment Form (OMB 3045–0006) in an effort to reduce burden and facilitate data collection. After its revision, the form will be called the National Service Enrollment Form, and it will eliminate the need to distribute the National Service Trust Enrollment Form.

II. Current Action

The Corporation for National and Community Service seeks the revision of the Participant Enrollment Form to be renamed the National Service Enrollment Form to collect evaluation

related data. The Participant Enrollment Form is one of the only two direct sources of information that the Corporation collects from its members. The purpose of the National Service Trust Enrollment Form is to function as a legal certification that a Member has satisfied the requirements to qualify for an educational award, and the form reserves an educational award in the National Service Trust.

Type of Review: Revision.

Agency: Corporation for National and Community Service.

Title: National Service Enrollment Form.

OMB Number: 3200–0018.

Agency Number: N/A.

Affected Public: Individuals and Not-for-profit institutions.

Total Respondents: 21,000.

Frequency: Annually.

Average Time Per Response: 7 Minutes.

Estimated Total Burden Hours: 2450.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $137,000.

Part II. Background (Member Exit Form/National Service Trust End of Term Form)

This notice involves the revision of the Member Exit Form (OMB 3045–0015) which is being revised to incorporate elements from the National Service Trust End of Term Form (OMB 3045–0009) in an effort to reduce burden and facilitate data collection. After its revision, the form will be called the National Service Member Exit Form, and it will eliminate the need to distribute the National Service Trust End of Term Form.

II. Current Action

The Corporation for National and Community Service seeks the revision of the Member Exit Form to be renamed the National Service Member Exit Form to collect evaluation related data. The Member Exit Form is one of the only two direct sources of information that the Corporation collects from its members. The purpose of the National Service Member Exit Form is to function as a legal certification that a Member has satisfied the requirements to qualify for an educational award. The National Service Member Exit Form certifies that the Member has qualified for the educational award.

Type of Review: Revision.

Agency: Corporation for National and Community Service.

Title: National Service Enrollment Form.

OMB Number: 3045–0015.

Agency Number: N/A.

Affected Public: Individuals and Not-for-profit institutions.

Total Respondents: 21,000.

Frequency: Annually.

Average Time Per Response: 12 Minutes.

Estimated Total Burden Hours: 4200.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $137,000.

Requirements relating to the educational awards are detailed in 42 U.S.C. 12501, and 42 U.S.C. 12594 through 42 U.S.C. 12604. Requirements relating to evaluation of Member's experience and development are provided in 42 U.S.C. 12639. Both of these new forms combine these legislative mandates into one unified form.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 6, 1996.

Lance Potter,

Director, Office of Evaluation.

[FR Doc. 96–31480 Filed 12–10–96; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

Army Corps of Engineers

Intent To Prepare A Draft Environment Impact Statement (EIS) for the Alexander and Pulaski Counties Feasibility Study, Alexander and Pulaski Counties, IL

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent and second public scoping meeting.

SUMMARY: This notice advises the public that the U.S. Army Corps of Engineers, in cooperation with the Illinois Department of Natural Resources, intends to prepare a Draft Environmental Impact Statement (EIS) for the Alexander and Pulaski Counties Feasibility Study in Alexander and Pulaski Counties, Illinois. A description of the proposed project, location and environmental issues to be addressed in the draft EIS are provided below (**SUPPLEMENTARY INFORMATION**). In addition to this notice, a second public scoping meeting will be held to further define the scope of the feasibility study and to receive public comments regarding the scope of the study and draft EIS. The public will be invited to participate in the scoping process review of the draft EIS and two public meetings. This notice is published in accordance with the National Environmental Policy Act (NEPA) regulations found in 40 CFR 1501.7. The purpose of this notice is to solicit suggestions and information from other agencies and the public on the scope of the feasibility study and issues to be addressed in the draft EIS. Comments and participation in this process are encouraged.

Tentative Schedule:

a. Phase 2 Public Workshop & Letters (Scoping) (Subject: Alternative Measures)—Nov 1996.

b. Phase 2 Public Involvement Results, Mailed to Public—Jan 1997.

c. Draft Feasibility Report & Draft EIS Mailed to Public for Review/Comment—1998.

d. Phase 3 Public Involvement (Workshop, Meeting, Letters; Subject: Alternative Plans)—1998.

e. Final Feasibility Report & Final EIS Mailed to Public (Includes Phase 3 Public Involvement Analysis)—1999.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and draft EIS can be answered by: Mr. David Gates, (314) 331–8478, or Mr. T. Miller, (314) 331–8458, Planning Division, U.S. Army Corps of Engineers, St. Louis District, 1222 Spruce Street, St. Louis, Missouri 63103.

SUPPLEMENTARY INFORMATION:

1. The study is in response to two Congressional Authorizations: (1) Resolution of the House Committee on Flood Control, adopted 21 June 1944—The Board of Engineers for Rivers and harbors created under Section 3 of the Rivers and Harbors Act approved 13 June 1902, was requested to review the report on flood control on the Mississippi River between Coon Rapids Dam and the mouth of the Ohio River, contained in House Document No. 669, 76th Congress, 3rd Session, with a view to determining whether flood protection should be provided for the area in Illinois between the proposed new outlet Cache River, Illinois and Miller City, Illinois. (2) Resolution sponsored by Congressman Paul Simon of Illinois and adopted on 25 April 1978 by the House Committee on Public Works and Transportation—The Board of Engineers for Rivers and Harbors was requested to review the report entitled ''Comprehensive Flood Control Plan for the Ohio and Lower Mississippi Rivers'' published as Flood Control Committee Document No. 1. 75th Congress, 1st Session, and other pertinent reports with a view toward provision of a comprehensive study of the flood

control problems and related water resources needs of streams in Alexander and Pulaski Counties, Illinois, and those portions of the streams and basins in adjacent Illinois counties tributary to Alexander and Pulaski Counties.

2. For reasons of marginal flood control benefits, changing land use, the recognized environmental uniqueness of the area, changing Corps wetlands restoration policies and sponsorship, the planning investigation has shifted from its original focus on flood control to its present purpose of habitat restoration.

Sedimentation from tributary streams, and an altered hydrologic regime are destroying one of the most impressive wetland areas in the Cache River—the Lower Cache River Swamp National Natural Landmark area. Heron Pond Little Black Slough National Natural Landmark area is threatened by drainage induced by entrenchment of the Post Creek/Upper Cache River channel.

Prior Corps of Engineers projects have contributed at least partially to these problems: flood water recharge of the Lower Cache River wetlands has been reduced as a result of Upper Cache River and Ohio River flows being deflected away from the Lower Cache via the Corps constructed Cache River and Reevesville Levees. The Cache River levee has contributed to the entrenchment process by ensuring that major flood flows from the Upper Cache River and Main Ditch area are directed down the Post-Creek Cutoff channel. The Cache River levee culverts have contributed to reverse flowage during high and low water stages on the Lower Cache. During higher tributary stages, sediment-laden waters are carried into Lower Cache River Swamp, and during dry periods (due to the low culvert inserts), the swamp is excessively drained. The Corps' Cache River diversion outlet and levee has diverted flows away from the lowermost 7 miles of Old Cache River channel.

Unless these problems are controlled through sound environmental engineering, the landmark areas will be lost. Solutions to these problems will require a thorough understanding of the complex hydrology of the Cache River basin. The Corps has an opportunity to provide the highly specialized hydrological engineering expertise needed for such an effort. The Corps is also in a unique position to provide the implementation capabilities for installing needed structural solutions.

3. Potential habitat restoration measures include: Big Creek and Cypress Creek floodplain restoration; sediment retention dams in the uplands of Big Creek and Cypress Creek; selective sediment removal from Lower Cache River Swamp; diverting flow from the Upper Cache towards Lower Cache River Swamp; Lower Cache River Swamp water control structures; and rock weirs placement in Post Creek and the Upper Cache River.

4. Scoping process includes the Nov 1996 Phase 2 Public Workshop & Written Comments period.

5. Draft EIS will be made available to the public in 1998.

Thomas J. Hodgini,

COL, EN, Commanding.

[FR Doc. 96–31409 Filed 12–11–96; 8:45 am]

BILLING CODE 3710–55–M

Coastal Engineering Research Board (CERB); Notice

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Coastal Engineering Research Board (CERB).

Dates of Meeting: January 14–16, 1997.

Place: Inn at Morro Bay, Morro Bay, California, and the U.S. Army Engineer Division, South Pacific, San Francisco, California.

Time: 8:00 a.m. to 4:15 p.m. (January 14, 1997), 8:00 a.m. to 3:30 p.m. (January 15, 1997), 8:00 a.m. to 11:00 a.m. (January 16, 1997).

FOR FURTHER INFORMATION CONTACT: Inquiries and notice of intent to attend the meeting may be addressed to Colonel Bruce K. Howard, Executive Secretary, Coastal Engineering Research Board, U.S. Army Engineer Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, Mississippi 39180–6199.

SUPPLEMENTARY INFORMATION: *Proposed Agenda:* The 64th meeting of the Coastal Engineering Research Board is a civilian Board meeting hosted by the U.S. Army Engineer Division, South Pacific. The civilian members of the Board will visit the Morro Bay site with a discussion of the project at the Inn at Morro Bay on the morning of January 14. There will be a discussion of the Surfside-Sunset Alternative Structure Plan the afternoon of January 14. The Board will travel to San Francisco where on Wednesday, January 15, there will be site visits to the Pillar Point Harbor Project, San Francisco Beach Project, and Fisherman's Wharf Project. On Thursday morning, January 16, there will be discussions with Division/District personnel to discuss projects viewed and recommendations made.

This meeting is open to the public, but since seating capacity is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements for those wishing to attend.

Bruce K. Howard,

Colonel, Corps of Engineers, Executive Secretary.

[FR Doc. 96–31408 Filed 12–10–96; 8:45 am]

BILLING CODE 3710–PU–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.235W]

Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals With Disabilities; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1997

Purpose of Program: To provide financial assistance to projects for expanding or otherwise improving vocational rehabilitation and other rehabilitation services for individuals with disabilities, especially individuals with the most severe disabilities.

Eligible Applicants: State agencies; other public agencies and organizations, including Indian tribes; and nonprofit private agencies and organizations.

Deadline for Transmittal of Applications: March 18, 1997.

Deadline for Intergovernmental Review: May 19, 1997.

Applications Available: December 11, 1996.

Available Funds: $2,958,000.

Estimated Range of Awards: $180,000—$220,000.

Estimated Average Size of Awards: $200,000.

Estimated Number of Awards: 13–16.

Note: The Department is not bound by any estimates in this notice.

Maximum Award: In no case does the Secretary make an award greater than $220,000 for a single budget period of 12 months. The Secretary rejects and does not consider an application that proposes a budget exceeding this maximum amount.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, and 85; and (b) The regulations for this program in 34 CFR parts 369 and 373.

Priorities

Competitive Preference Priority

The competitive preference priority concerning Empowerment Zones and Enterprise Communities in the notice of final priorities for this program, published in the Federal Register on December 9, 1994 (59 FR 63860), applies to this competition.

Under 34 CFR 75.105(c)(2)(i) the Secretary gives preference to applications that meet the following competitive priority. The Secretary awards 10 bonus points to an application that meets this competitive priority in a particularly effective way. These bonus points are in addition to any points the application earns under the selection criteria for the program:

Competitive Preference Priority—Providing Program Services in an Empowerment Zone or Enterprise Community

Under this program the Secretary gives competitive preference to applications that—

(1) Propose the provision of substantial services in Empowerment Zones or Enterprise Communities; and

(2) Propose projects that contribute to the strategic plan of the Empowerment Zone or Enterprise Community and that are made an integral component of the Empowerment Zone or Enterprise Community activities.

Under this program a project is considered to be providing substantial services if a minimum of 51 percent of the persons served by the project reside within the Empowerment Zone or Enterprise Community.

Invitational Priorities

Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Projects To Increase Client Choice

Projects that emphasize and demonstrate effective ways to increase the choices and involvement of eligible clients in the rehabilitation process, including the selection of goals, services, and the providers of vocational rehabilitation services.

Invitational Priority 2—Programs To Demonstrate Early Intervention Strategies

Projects that provide early intervention in providing vocational rehabilitation services to individuals with chronic and progressive diseases, including HIV/AIDS. Projects should demonstrate the utility of early intervention in providing vocational evaluation, training, and counseling services to develop new careers and employment or to improve job retention.

Invitational Priority 3—Projects Focusing on Career Advancement

Projects that demonstrate service delivery models that further high quality employment outcomes for individuals with disabilities by providing services to ensure that those individuals possess the knowledge and skills necessary to compete for jobs with potential for career advancement and by providing services to improve career advancement opportunities for individuals who are employed.

FOR APPLICATIONS CONTACT: Joyce R. Jones, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3038 Switzer Building, Washington, D.C. 20202–2649; or call (202) 205–8351.

FOR FURTHER INFORMATION CONTACT:

Pamela Martin or Alfreda Reeves, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3314, Switzer Building, Washington, D.C. 20202–2650. Telephone: (202) 205–8494 or (202) 205–9361.

Individuals who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at gopher://gcs.ed.gov/); or on the World Wide Web (at http://gcs.ed.gov). This information can also be viewed on the Rehabilitations Services Administration's electronic bulletin board, telephone (202) 401–6147. However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Authority: 29 U.S.C. 777a(a)(1).

Dated: December 4, 1996.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–31386 Filed 12–10–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation Policy; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed ''subsequent arrangement'' under the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States of America and the European Atomic Energy Community (EURATOM) and the Agreement for Cooperation between the Government of the United States of America and the Government of Norway concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/NO(EU)–62, for the transfer of two irradiated fuel segments containing 293.1 grams of US-obligated enriched uranium with 5 grams of the isotope U-235 (1.5% enrichment) and 1.7 grams of plutonium from EURATOM to Norway for irradiation in the frame of the TPW programme.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner that fifteen days after the date of publication of this notice.

Dated: December 6, 1996.

For the Department of Energy.

Edward T. Fei,

Acting Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 96–31423 Filed 12–10–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP97–5–001]

Texas Eastern Transmission Corporation; ANR Pipeline Company; Notice of Petition To Amend

December 5, 1996.

Take notice that on December 3, 1996, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 770056–5310 and ANR Pipeline Company (ANR), 500

Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP97–5–001 a joint petition to amend the order issued October 30, 1996, in Docket No. CP97–5–000 pursuant to Section 7(b) and Section 7(c) of the Natural Gas Act for permission and approval to abandon operations and maintenance by ANR, and the commencement of operations and maintenance by Texas Eastern, of the existing Springboro Meter Station, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that by order issued October 30, 1996, ANR was authorized to abandon by sale to Texas Eastern an undivided 50 percent interest in its Springboro Meter Station located in Warren County, Ohio, and Texas Eastern was authorized to acquire such 50 interest in ANR's Springboro Meter Station. The October 30, 1996, order also reflected that ANR would continue to operate and maintain the Springboro Meter Station. It is stated that, subsequently, Texas Eastern's customer to be served through Texas Eastern's interest in the facility, and the only existing firm transportation customer at the facility, Cincinnati Gas & Electric Co., requested that Texas Eastern operate the Springboro Meter Station. It is further stated that Texas Eastern and ANR have agreed that Texas Eastern will operate and maintain the Springboro Meter Station.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on our before December 16, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31392 Filed 12–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–115–000]

Western Gas Interstate Company; Notice of Request Under Blanket Authorization

December 3, 1996.

Take notice that on November 22, 1996, Western Gas Interstate Company (WGI), 211 North Colorado, Midland, Texas 79701 filed in Docket No. CP97–115–000 a request pursuant to Sections 157.205, and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for approval and permission to construct and operate a two-inch tap and related facilities for the City of Guymon, Oklahoma (Guymon), under the blanket certificate issued in Docket No. CP82–441–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

WGI states that it proposes to be authorized under its blanket certificate, facilities that were originally constructed under emergency authority granted in Subpart I of Part 284 of the Commission's regulations in Docket No. EM96–5–000. WGI further states that it only recently acquired its interstate pipeline system, including the subject facilities, from a subsidiary of the Southern Union Company. WGI asserts that at the time it acquired these facilities, WGI's current owner was not aware that the company's previous owner had failed to take steps to secure appropriate regulatory approval for the tap, or that service through these facilities was no longer authorized.

WGI indicates that deliveries to Guymon are currently authorized under WGI's Rate Schedule FT–N. WGI further indicates that peak day and annual deliveries are 125 Mcf and 25,000 Mcf, respectively. WGI asserts that service to Guymon will not affect service to any existing firm customer.

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 Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities 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 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. 96–31391 Filed 12–9–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER97–544–000]

Minnesota Power & Light Company; Notice of Filing

December 5, 1996.

Take notice that on October 21, 1996, Minnesota Power & Light Company (MP) tendered for filing a report of short-term transaction made under MP's market-based tariff.

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 December 13, 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31478 Filed 12–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–2658–001]

TPC Corporation; Notice of Filing

December 5, 1996.

Take notice that on October 15, 1996, TPC Corporation tendered for filing its Code of Conduct in compliance with the Commission's September 30, 1996, order issued in this docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 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 December 13, 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–31479 Filed 12–10–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–492–002, et al.]

CNG Transmission Corporation, et al.; Natural Gas Certificate Filings

December 4, 1996.

Take notice that the following filings have been made with the Commission:

1. CNG Transmission Corporation

[Docket No. CP96–492–002]

Take notice that on November 26, 1996, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP96–492–001, an amendment to its pending application in Docket No. CP96–492–000 for a certificate of public convenience and necessity, pursuant to Section 7(c) of the Natural Gas Act, to construct and operate facilities for the transportation and storage of natural gas on a firm basis. Take notice also that on October 30, 1996, CNG filed a supplement to its pending application in Docket No. CP96–492–000 requesting authorization for the conversion and operation of existing salt caverns and the construction and operation of new salt caverns for the storage of natural gas in interstate commerce at the Bath Petroleum Storage Inc. (Bath Petroleum) site in Steuben County, New York. CNG's proposals are more fully set forth in the amendment and supplement which are on file with the Federal Energy Regulatory Commission (Commission) and open to public inspection.

In its supplement, CNG requests authorization for Bath Petroleum to convert and operate existing salt caverns (well numbers 1, 3, 5, 6, and 7) at the Bath Petroleum site and lease storage capacity to CNG for natural gas storage in 1997. CNG also seeks authorization for Bath Petroleum to construct and operate well Numbers 9, 10, 11, 12, and 13, and to lease storage capacity in these caverns to CNG for natural gas storage after 1998.

CNG's amendment reflects a change in the pipe diameter of the TL–504 pipeline, changes in the rates associated with this project, a change in the well numbers to be designated for natural gas storage, and requests appropriate authorization for additional brine disposal wells associated with the development of salt covers for natural gas storage.

Comment date: December 26, 1996, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

2. Northern Natural Gas Company

[Docket No. CP97–121–000]

Take notice that on November 25, 1996, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124, filed in Docket No. CP97–121–000, an abbreviated application pursuant to Section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations, for permission and approval to abandon the Big Lake Compressor Station located in Regan County, Texas, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that due to changes in operating conditions on the Northern system, the proposed abandonment of natural gas compression facilities at the Big Lake Compressor Station will not adversely affect Northern's ability to meet current service obligations. Moreover, Northern says the proposed abandonment of facilities will not result in the abandonment of service to any of Northern's existing shippers.

Comment date: December 26, 1996, in accordance with Standard Paragraph F at the end of this notice.

3. NorAm Gas Transmission Company

[Docket No. CP97–122–000]

Take notice that on November 25, 1996, NorAm Gas Transmission Company (NGT), 525 Milam, Shreveport, Louisiana 71151 filed in Docket No. CP97–122–000 a request pursuant to Sections 157.205, and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for approval and permission to construct and operate a delivery tap for ARKLA, a distribution division of NorAm Energy Corporation (ARKLA), under the blanket certificate issued in Docket No. CP82–384–000, as amended in Docket No. CP82–384–001, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

NGT states that it proposes to construct and operate a new two-inch delivery tap on NGT's Line JM–23 in Crittenden County, Arkansas to provide service to ARKLA. NGT further states that ARKLA will construct the four-inch meter station and convey it to NGT. NGT indicates that it will own and operate the tap, first-cut regulator and meter. NGT asserts that the estimated volumes to be delivered through the above facilities are 5,760 MMBtu annually and 10 MMBtu on a peak day. NGT also asserts that these facilities will be constructed at a cost of $2,435 of which ARKLA will reimburse NGT $1,538.

Comment date: January 21, 1997, in accordance with Standard Paragraph G at the end of this notice.

4. Northern Natural Gas Company

[Docket No. CP97–125–000]

Take notice that on November 26, 1996, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP97–125–000 a request pursuant Sections 157.205(b) and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205(b) and 157.212) to install and operate a new delivery point, located in Ochiltree County, Texas to accommodate interruptible natural gas deliveries to Midgard Energy Company (Midgard) under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that it requests authority to install and operate the proposed delivery point to accommodate interruptible natural gas deliveries to Midgard for commercial use under Northern's currently effective throughput service agreement(s). Northern asserts that Midgard has requested the proposed delivery point to provide compressor fuel and starting gas located in Ochiltree County, Texas.

Northern states that the proposed volumes that would be delivered to Midgard at the proposed delivery point are 2,000 MMBtu on a peak day and 500,000 MMBtu on an annual basis. Northern estimates a cost of $11,600 for installing the proposed delivery point. It is stated that Midgard would reimburse Northern for the total cost of installing the delivery point.

Comment date: January 21, 1997, in accordance with Standard Paragraph G at the end of this notice.

5. Columbia Gas Transmission Corporation

[Docket No. CP97–127–000]

Take notice that on November 22, 1996, Columbia Gas Transmission

Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25325–1273, filed in Docket No. CP97–127–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain certificated facilities by sale. In addition, Columbia requests an order declaring that upon and after approval for the abandonment, the subject facilities are and will be exempt from Commission jurisdiction under the Natural Gas Act as gathering facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia states that the sale of these certificated facilities is an integral part of Columbia's plan to sell the majority of its gathering facilities in order to expedite Columbia's full unbundling of rates and services as required under Order No. 636. Columbia states that the sale of its gathering facilities, including the certificated facilities, will allow Columbia to cease providing gathering services and to mitigate costs. Columbia further states that it intends to sell the gathering facilities (divided into eighteen designated geographic groups for descriptive purposes), located in Ohio, Pennsylvania, West Virginia and Maryland. In addition, Columbia states that of the eighteen designated systems, all facilities, with the exception of a portion of the system committed for sale at net book value to Mountaineer Gas Company (Mountaineer), will be offered for sale by public auction. Specifically, Columbia states that it proposes to abandon by sale the certificated facilities consisting of approximately 189.7 miles of various sized pipeline and the 225 horsepower McClellandtown compressor station. In addition, Columbia proposes to abandon the points of delivery as identified in Exhibit T to the application which consists of 139 town border stations and 4,081 mainline consumers. Also requested is the authorization needed to abandon five points of exchange with CNG Transmission Corporation under Columbia's Rate Schedules X–35 and X–84, all of which are served from the certificated facilities and noncertificated gathering facilities to be sold.

It is stated that the subject Docket No. CP97–127–000 is related to and is being filed concurrently with a partial settlement in Columbia's pending Section 4 rate proceeding in Docket No. RP95–408, *et al.* (Settlement), which resolves all issues related to the unbundling of gathering costs and services.

Columbia states that the certificated facilities proposed to be abandoned by public auction and sale are currently functioning as gathering facilities and are an integral part of the geographic gathering groups to be auctioned and sold. Columbia states that the purchasing parties are generally unknown at this time. Columbia further states that Mountaineer is purchasing certain of the facilities in West Virginia, and a bid has been accepted (subject to certain contingencies) whereby Somerset Exploration Corporation will purchase certain of the facilities located in Pennsylvania. Columbia states that as a condition of the sale, Columbia will require the purchasers of the gathering facilities to continue to provide Columbia's gathering customers with gathering service on an open access, non-jurisdictional basis and to charge, during a period of up to two years, no more than the rates specified in the Settlement.

Columbia maintains that approval of this proposal will allow Columbia to focus on its primary businesses of interstate gas transportation and storage. Columbia further maintains that the auction and sale of these gathering facilities will further result, ultimately, in reduced costs for Columbia's customers through reduction in operation and maintenance costs. In addition, Columbia states that it will credit the net proceeds from the sale of the gathering facilities to reduce its customers' cost responsibility in accordance with the Settlement. Finally, as reflected in the Settlement, Columbia states that the respective purchasers of Columbia's gathering facilities will be obligated to continue to provide service to Columbia's gathering customers on an open-access basis and to charge rates not to exceed the gathering rates established by the Settlement for a period of up to two years from the date of purchase, but not beyond January 31, 2000.

Columbia advises that it has provided notice of the sale via press releases to newspapers and trade journals and has posted notice of the sale, including maps of the affected facilities, on its electronic bulletin board which is accessible through the Internet (World Wide Web) at http://www.Columbiaenergy.com/sale, and Columbia is now in the process of accepting and evaluating bids for the gathering systems by geographic area.

In addition, Columbia states that of the approximately 3,332 miles of pipeline being auctioned, many of the facilities were not certificated because of their location and function. Only 189.7 miles of pipeline and one of the eight compressor stations (the 225 horsepower McClellandtown compressor station), totaling 1,317 horsepower, in the eighteen gathering groups have ever been certificated. The certificated lines and the compressor station proposed for sale are primarily functionalized on Columbia's books of account as transmission and storage facilities except for 8.3 miles of pipeline currently functionalized as gathering. However, Columbia states, that once these facilities have been sold, these lines and stations will perform a non-jurisdictional gathering function.

Comment date: December 26, 1996, in accordance with Standard Paragraph F at the end of this notice.

6. Natural Gas Pipeline Company of America

[Docket No. CP97–132–000]

Take notice that on November 27, 1996, Natural Gas Pipeline Company of America (Natural), 701 East 2nd Street, Lombard, Illinois 60148, filed an application pursuant to Section 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations for an order granting permission and approval to abandon a firm transportation service for Chevron Chemical Company (Chevron Chemical) performed under Natural's Rate Schedule X–139, authorized in Docket No. CP85–347, as amended. The application is on file with the Commission and open to public inspection.

Natural states that said transportation service was effected by Chevron U.S.A., Inc. (Chevron U.S.A.), a producer, tendering gas it produced in West Cameron Blocks 532, 533 and 534, offshore Louisiana for Chevron Chemical's account at existing interconnections between Chevron U.S.A. and Stingray Pipeline Company (Stingray). Pursuant to a gas transportation agreement between Natural and Chevron Chemical dated September 26, 1977 (Agreement), as amended on January 11, 1985, Natural transported through its capacity in Stingray up to 3,750 Mcf of natural gas per day for Chevron Chemical to an onshore interconnection between Natural and Stingray located in Cameron Parish, Louisiana (Holly Beach). From Holly Beach, Natural further transported the gas to an interconnection with Koch Gateway Pipeline Company at the Texaco Henry Plant in Vermilion Parish, Louisiana for ultimate delivery to Chevron Chemical.

Natural states that by a letter agreement dated November 12, 1996, Natural and Chevron Chemical agreed to terminate the Agreement, as amended, as of December 1, 1996.

Comment date: December 26, 1996, in accordance with Standard Paragraph F at the end of this notice.

7. Questar Pipeline Company

[Docket No. CP97–133–000]

Take notice that on November 29, 1996, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP97–133–000 a request pursuant to Sections 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212 and 157.216) for authorization to abandon existing metering and regulating (M&R) facilities and to install replacement M&R facilities for the purpose of increasing delivery capacity to Mountain Fuel Supply Company (MFS), Questar's local distribution company affiliate, at the existing Gookin Tap delivery point located in Sweetwater County, Wyoming, under Questar's blanket certificate issued in Docket No. CP82–491–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Questar explains that the city of Rock Springs, Wyoming is experiencing substantial growth in the vicinity of the Gookin Tap delivery point. Questar states that as a result of the continuing growth in residential hook-ups, the existing M&R facilities are too small to service the capacity demands required by the MFS distribution system. Questar explains that to continue providing reliable customer service to MFS, Questar must install replacement M&R facilities of greater capacity at the Gookin Tap delivery point to satisfy the increasing MFS customer demand.

It is stated that the existing M&R facilities, proposed to be replaced, comprise a 4-inch meter, two 1-inch regulator banks and appurtenant facilities contained in a 4-foot by 6-foot skid-mounted meter building. The replacement M&R facilities would include a 6-inch turbine meter, two 2-inch regulator banks, a filter and related valves, telemetry and station piping housed in a 6-foot by 6-foot skid-mounted meter building. In addition, Questar proposes to replace approximately 35 feet of 1-inch diameter pipeline with 2-inch diameter pipeline extending from a block valve on Questar's Jurisdictional Lateral (J.L.) No. 4 to the Gookin Tap delivery point site. Questar states that the 35 feet of replacement pipeline will be installed within Questar's existing, previously-disturbed J.L. No. 4 right-of-way. Questar states that the estimated cost to install the replacement M&R facilities is $35,200 and that the replacement of the Gookin Tap M&R facilities will have no effect on the existing environment.

Questar further states that the current Gookin Tap delivery point meter can deliver up to 9,000 standard cubic feet (Scf) per hour, or approximately 229 Dekatherms (Dth) per day, while the proposed replacement delivery point facilities, described above, will be capable of delivering up to 100,000 Scf per hour or approximately 2,549 Dth per day. Questar states that it has sufficient pipeline capacity to increase firm deliveries at the Gookin Tap delivery point without detriment or disadvantage to Questar's other customers.

Comment date: January 21, 1997, 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. 96–31452 Filed 12–10–96; 8:45 am]

BILLING CODE 6717–01–P

Notice of Cases Filed With the Office of Hearings and Appeals; Week of November 11 Through November 15, 1996

During the Week of November 11 through November 15, 1996, the appeal listed in this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in this case may file written comments on the appeal within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585–0107.

Dated: December 4, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of November 11 through November 15, 1996]

Date	Name and location of applicant	Case No.	Type of submission
11/13/96	James H. Stebbings, Naperville, Illinois	VFA–0242	Appeal of an Information Request Denial. If granted: The April 19, 1996 Freedom of Information Request Denial issued by the Argonne Area Office would be rescinded, and James H. Stebbings would receive access to certain Department of Energy information.

[FR Doc. 96–31419 Filed 12–10–96; 8:45 am]
BILLING CODE 6450–01–P

Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of October 21 Through October 25, 1996

During the week of October 21 through October 25, 1996, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: December 4, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 4

Week of October 21 through October 25, 1996

Appeals

Perkins Coie, 10/25/96 *VFA–0221*

The law firm of Perkins Coie filed an Appeal from a determination issued to it on August 20, 1996 by the Bonneville Power Administration (BPA) of the Department of Energy (DOE). In that determination, BPA denied in part Perkins Coie's request for information filed under the Freedom of Information Act (FOIA). In its Appeal, Perkins Coie challenged BPA's application of Exemption 5 to three requested documents in dispute and requested that the DOE direct BPA to release the documents. In considering the Appeal, the Office of Hearings and Appeals found that BPA properly applied the threshold requirements of Exemption 5 to the requested documents at issue, and that there was no public interest in its release. However, the Office of Hearings and Appeals remanded this Appeal to BPA to issue a new determination, either releasing reasonably segregable factual material or explaining the reasons for withholding any factual material contained in the documents. Therefore, the Department of Energy granted Perkins Coie's Appeal.

Radian International, 10/21/96 *VFA–0220*

The Department of Energy (DOE) issued a Decision and Order (D&O) denying a Freedom of Information Act (FOIA) Appeal that was filed by Radian International. In its Appeal, Radian requested that we review a determination issued by the Oak Ridge Operations office that certain documents were not ''agency records'' and were therefore not subject to release under the FOIA. Radian also expanded the scope of its original request to include additional documents. In the Decision, the OHA found that the documents in question were not agency records, and that a FOIA appeal is not the appropriate venue for the consideration of an initial request for documents. The OHA therefore remanded Radian's request for additional documents to the Oak Ridge Office for processing under the FOIA, and denied Radian's appeal of Oak Ridge's original determination.

Personnel Security Hearing

Pittsburgh Naval Reactors Office, 10/24/96, VSO–0103

A Hearing Officer from the Office of Hearings and Appeals issued an Opinion regarding the eligibility of an individual for access authorization under the provisions of 10 C.F.R. Part 710. After carefully considering the record of the processing in view of the standards set forth in Part 710, the Hearing Officer found that: (i) the individual has a history of abuse of illegal drugs; (ii) the individual provided false information to the DOE; (iii) the acts of the individual tend to show that the individual is not honest, reliable, or trustworthy; and (iv) the DOE's security concerns regarding these behaviors were not overcome by evidence mitigating the derogatory information underlying the DOE's charges. Accordingly, the Hearing Officer found that the individual's access authorization should not be granted.

Requests for Exception

J. Enterprises, Inc., 10/24/96, VEE–0027

J. Enterprises, Inc. filed an Application for Exception from the requirement that it file Form EIA–782B, the ''Reseller/Retailer's Monthly Petroleum Product Sales Report.'' The DOE found that the firm was not affected by the reporting requirement in a manner different from other similar firms, and consequently was not experiencing a special hardship, inequity, or unfair distribution of burdens. Accordingly, the firm's Application for Exception was denied.

Oil Products, Inc., 10/21/96, VEE–0023

Oil Products, Inc. filed an Application for Exception from the Energy Information Administration requirement that it file Form EIA–782B, the ''Resellers'/Retailers' Monthly Petroleum Product Sales Report.'' In considering Oil Product's request, the DOE found that the firm was not experiencing a serious hardship or gross inequity. Accordingly, exception relief was denied.

Interlocutory Order

Meta, Inc., 10/23/96, VWZ–0007

A Hearing Officer from the Office of Hearings and Appeals denied a Motion to Dismiss filed by Maria Elena Torano Associates, Inc. (META). In its Motion, META sought the dismissal of a complaint filed by C. Lawrence Cornett (Cornett) under the DOE's Contractor Employee Protection Program, 10 C.F.R. Part 708. META alleged that Cornett's complaint failed to state an actionable claim. Specifically, META asserted that Cornett failed to make a protected

disclosure under Part 708 since the information contained in his alleged disclosures was already known by DOE or META and that information disclosed did not involve any substantial and specific threats to health and safety. The Hearing Officer held that, under Part 708, a disclosure need not consist of unique information that is unknown to the recipient. Further, the Hearing Officer found that a disclosure, to be protected under Part 708, need not in fact involve a substantial and specific danger to employees or public health and safety as long as individual making the disclosure in good faith believes that the disclosure concerns a substantial and specific danger. The Hearing Officer also found that the question regarding Cornett's beliefs was a factual matter. Consequently, the Hearing Officer denied the Motion.

Refund Application

Steuben CO. Farm Bureau, 10/21/96, RF272–97912

The DOE issued a Decision and Order concerning one Application for Refund filed by Steuben Co. Farm Bureau in the Subpart V crude oil overcharge refund proceeding. The DOE determined that Steuben Co. Farm Bureau was not entitled to a refund since it had filed a Retailer's Escrow Settlement Claim Form and Waiver. In this filing, Steuben Co. Farm Bureau requested a Stripper Well refund from the Retailers' escrow, thereby waiving its right to a Subpart V crude oil refund. Accordingly, the DOE denied the Application for Refund.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Aline Manire, et al	RF272–94540	10/23/96
Atlantic Richfield Co./Jerair Panosian	RF304–15505	10/24/96
Atlantic Richfield Co./Ron's ARCO	RF304–15506	10/24/96
Beaver Valley Builders Supply, Inc., et al	RF272–95100	10/24/96
Crude Oil Supple Ref Dist	RB272–00092	10/23/96
Holstein Coop Elevator, et al	RG272–6	10/23/96
Ruth A. Martinek	RJ272–24	10/24/96
W.E. Bartholw & Son Const., et al	RK272–01406	10/21/96

Dismissals

The following submissions were dismissed.

Name	Case No.
Craig W. Anderson	VFA–0207
Craid W. Anderson	VFA–0212
Loyd Jones Well Service	RF272–96591

[FR Doc. 96–31418 Filed 12–10–96; 8:45 am]

BILLING CODE 6450–01–P

Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of November 11 Through November 15, 1996

During the week of November 11 through November 15, 1996, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: December 4, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 7

Week of November 11 through November 15, 1996.

Appeals

Nathaniel Hendricks, 11/13/96, VFA–0229

The OHA denied an appeal of a Freedom of Information determination issued by the Chicago Operations Office (COO). Previously, the OHA had remanded to COO a request by the appellant so that COO could search for responsive documents concerning five specific events that occurred in Chicago in the 1940's. The appellant conjectured that the events were connected with Manhattan Project. When COO responded that it could find no responsive documents, the appellant claimed that COO had not conducted an adequate search. The OHA questioned personnel at COO about the search, and determined that there had been a search reasonably calculated to uncover requested documents. Consequently, the OHA denied the appeal.

Personnel Security Hearings

Albuquerque Operations Office, 11/14/96, VSO–0102

A Hearing Officer of the Office of Hearings and Appeals issued an opinion concerning the continued eligibility of an individual for access authorization under 10 C.F.R. Part 710, ''Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.'' After considering the record in view of the standards set forth in Part 710, the Hearing Officer found that the information presented by the DOE with respect to the individual's positive drug test for marijuana use was sufficient to raise a substantial concern that the individual may be a frequent recreational user of that drug and to support a denial of access authorization pursuant to 10 C.F.R. 710.8(k). The Hearing Officer also found that the individual had failed to present sufficient evidence to support his assertion that his marijuana use was

limited to one occasion in recent years. As a result, the Hearing Officer found that the evidence of rehabilitation and reformation was insufficient to mitigate the concerns raised by the positive drug test. Finally, the Hearing Officer found that conflicting statements concerning drug use made by the individual to his drug counselor and to DOE security personnel were sufficient to support a denial of access authorization pursuant to 10 C.F.R. 710.8(l). Accordingly, the Hearing Officer concluded that, in his opinion, the individual's access authorization should not be restored.

Oak Ridge Operations Office, 11/13/96, VSO–0100

A Hearing Officer issued an Opinion regarding the eligibility of an individual to maintain an access authorization under the provisions of 10 C.F.R. Part 710. The DOE Personnel Security Division alleged that the individual: (1) deliberately falsified significant information provided to the DOE; (2) ''[t]rafficked in, sold, transferred, possessed, used, or experimented with a drug or other substance listed in the Schedule of Controlled Substances established pursuant to Section 202 of the Controlled Substances Act of 1970''; and (3) ''[e]ngaged in * * * unusual conduct or is subject to circumstances which tend to show that the individual is not honest, reliable, or trustworthy * * * ''. *See* 10 C.F.R. 710.8 (f), (k), and (l). On September 24, 1996, an evidentiary hearing was convened in which one witness testified. After carefully examining the record of the proceeding, the Hearing Officer determined that the individual deliberately falsified information on a Questionnaire for Sensitive Positions, used an illegal drug, and engaged in conduct demonstrating that he is not honest, reliable or trustworthy within the meaning of 10 C.F.R. 710.8(l). Accordingly, the Hearing Officer recommended that DOE Security not restore the individual's access authorization.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Columbia Township Schools, et al	RF272–87150	11/15/96
Cochise Airlines, Inc., et al	RG272–84	11/15/96
S.W. Foley	RJ272–25	11/13/96
SIGMA–4 Express, Inc., et al	RF272–97335	11/12/96
Summit City Enterprises	RF272–97829	11/12/96
Ben-Lee Motor Service	RF272–97858	
Town Center Management Corp	RR272–248	11/12/96

Dismissals

The following submissions were dismissed.

Name	Case No.
Air Florida Airlines	RG272–996
Allegheny Development Corp	RG272–765
Crooker & Sons, Inc	RG272–918
Diocese of Monterey	RG272–785
Franklin Co. Grain Growers, Inc	RG272–942
Graves Construction Co, Inc	RG272–757
Great Bay Distributors Inc	RG272–756
National Linen Service	RG272–995
Ray Bell	RG272–755
Roman Catholic Bishop of Monterey	RG272–786
Roman Catholic Diocese of Sacramento	RG272–787
Tri-City Electrical Contractors, Inc	RG272–799
Wayne Densch, Inc	RG272–791
West Bldg Materials/ Associated Dist	RG272–790
Unisource	RG272–797

[FR Doc. 96–31420 Filed 12–10–96; 8:45 am]
BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00454; FRL–5572–5]

FIFRA Scientific Advisory Panel, Appointments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is given of the appointment of a new member to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel established pursuant to Section 25(d) of FIFRA, as amended (86 Stat. 973 and 89 Stat. 75l; 7 U.S.C. l36 et seq.). Public notice of nominees along with a request for public comments appeared in the Federal Register of February 14, 1996 (61 FR 5762).

ADDRESSES: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. 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 docket number [OPP–00454]. No CBI should be submitted through e-mail. Electronic comments on this notice of filing may be filed online at many Federal Depository Libraries.

Information submitted as a comment concerning this document may be claimed confidential by marking any

part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Larry C. Dorsey, Designated Federal Official, FIFRA Scientific Advisory Panel (7501C), Office of Pesticide Programs, Environmental Protection Agency, 40l M St., SW., Washington, DC 20460, Office location: Rm. 815B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22203, Telephone: (703) 305–5369, e-mail: dorsey.larry@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Congress mandated that the Scientific Advisory Panel would consist of seven members, selected from candidates nominated by the National Science Foundation (NSF) and the National Institutes of Health (NIH). Congress also mandated that the terms of appointment would be staggered. A list of nominees, including biographical data, appeared in the Federal Register as indicated above. No comments were received in response to this Notice.

Dr. Patricia Buffler and Dr. Ron Kendall have been appointed as members of the FIFRA Scientific Advisory Panel. Dr. Buffler is Dean of the School of Public Health at the University of California at Berkeley; she will provide the experience and technical background needed in the area of epidemiology and public health. Dr. Kendall is the Director of The Institute of Wildlife and Environmental Toxicology at Clemson University; he will provide expertise in the area of wildlife and environmental toxicology.

The decision to appoint Dr. Buffler and Dr. Kendall is based upon several factors, including: Dr. Buffler's expertise in the areas of association of diet, smoking, air pollution, toxic chemical wastes, low-level radiation, and electromagnetic fields on the risks of cancer, lung diseases, fertility, pregnancy outcomes, diseases and conditions among working and nonworking populations, and the protective effects of vitamin A and beta-carotene for laryngeal cancer; Dr. Kendall's work in the areas of effects of pesticides on fish and wildlife populations, behavioral toxicology of pesticides in wildlife, heavy metal and industrial contamination in the environment, toxicology of lead, cadmium, and PCBs in avian and mammalian wildlife species, and ecological risk assessment; the need for a disciplinary mix; and the need for broader scientific views.

Meetings of the Scientific Advisory Panel are always announced in the Federal Register at least fifteen days prior to each meeting, in accordance with the directives of the Federal Advisory Committee Act.

List of subjects

Environmental protection.

Dated: December 2, 1996.

Carol M. Browner,

Administrator.

[FR Doc. 96–31304 Filed 12–10–96; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–140251; FRL–5576–5]

Access to Confidential Business Information by Syracuse Research Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Syracuse Research Corporation (SRC), of Syracuse, New York, access to information which has been submitted to EPA under sections 4, 5, 6, and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than December 24, 1996.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under contract number 68–W6–0047, contractor SRC, of Merrill Lane, Syracuse, NY, will assist the Office of Pollution Prevention and Toxics (OPPT) in reviewing new chemical submissions, and in creating and updating chemical data bases of existing chemicals.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–W6–0047, SRC will require access to CBI submitted to EPA under sections 4, 5, 6, and 8 of TSCA to perform successfully the duties specified under the contract. SRC personnel will be given access to information submitted to EPA under sections 4, 5, 6, and 8 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, and 8 of TSCA that EPA may provide SRC access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters, SRC's site located at Crystal Gateway, Arlington, VA and Merrill Lane, Syracuse NY.

SRC will be authorized access to TSCA CBI at its facilities under the EPA of *TSCA Confidential Business Information Security Manual.* Before access to TSCA CBI is authorized at SRC's sites, EPA will approve SRC's security certification statements, perform the required inspection of its facilities, and ensure that the facilities are in compliance with the manual. Upon completing review of the CBI materials, SRC will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until September 30, 2001.

SRC personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Access to confidential business information.

Dated:December 3, 1996.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 96–31433 Filed 12–10–96; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–140250; FRL–5576–4]

Access to Confidential Business Information by Eastern Research Group and Subcontractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Eastern Research Group

(ERG), of Lexington, Massachusetts and it subcontractors Science Applications International Corp (SAIC) of McLean, Virginia, Mathtech (MAT) of Falls Church, Virginia, and ICF Incorporated (ICF) of Fairfax, Virginia, access to information which has been submitted to EPA under sections 4, 5, 6, and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than December 24, 1996.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, TSCA Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under contract number 68–W6–0022, contractor ERG, of 110 Hartwell Avenue, Lexington, MA and its subcontractors SAIC, of 1710 Goodridge Drive, McLean VA, MAT of 5111 Leesburg Pike, Falls Church, VA, and ICF of 9300 Lee Highway, Fairfax, VA, will assist the Office of Pollution Prevention and Toxics (OPPT) in evaluating the potential risk of new and existing chemical substances and develop data bearing on such risks.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 68–W6–0022, ERG, SAIC, MAT, and ICF will require access to CBI submitted to EPA under sections 4, 5, 6, and 8 of TSCA to perform successfully the duties specified under the contract. ERG, SAIC, MAT, and ICF personnel will be given access to information submitted to EPA under sections 4, 5, 6, and 8 of TSCA. Some of the information may be claimed or determined to be CBI.

In a previous notice published in the Federal Register of January 11, 1991 (56 FR 1185; FRL–3843–2), ERG was authorized access to CBI submitted to EPA under sections 4, 5, 6, 8, 9, and 21 of TSCA under contract number 68–D0–0020. EPA is issuing this notice to allow ERG, to continue its works under the new contract number 68–W6–0022 and to allow TSCA CBI access for the new subcontractors SAIC, MAT, and ICF.

EPA is issuing this notice to inform all submitters of information under sections 4, 5, 6, and 8 of TSCA that EPA may provide ERG, SAIC, MAT, and ICF access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at ERG's Lexington, MA facility; SAIC, MAT, and ICF will have access only at EPA Headquarters.

ERG will be authorized access to TSCA CBI at their facility under the EPA *TSCA Confidential Business Information Security Manual*. Before access to TSCA CBI is authorized at ERG's site, EPA will approve their security certification statements and ensure that the facility is in compliance with the manual. Upon completing review of the CBI materials, ERG will return all transferred materials to EPA.

Clearance for access to TSCA CBI under this contract may continue until April 30, 2001.

ERG, SAIC, MAT, and ICF personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Access to confidential business information.

Dated: December 3, 1996.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 96–31434 Filed 12–10–96; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–140249; FRL–5575–2]

Access to Confidential Business Information by Hyperdyne

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Hyperdyne, (HYP) of Silver Spring, Maryland, access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATES: Access to the confidential data submitted to EPA will occur no sooner than December 24, 1996.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under contract number 6W–4683–YASA, contractor HYP, of 1416 Fenwick Lane, Silver Spring, MD will assist the Office of Pollution Prevention and Toxics (OPPT) in performing maintenance and enhancements to the TSCA Chemical Update System (CUS) residing on the EPA Confidential Business Information (CBI) Local Area Network. In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number 6W–4683–YASA, HYP will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. HYP personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide HYP access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters only.

Clearance for access to TSCA CBI under this contract may continue until December 31, 1996. HYP personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

List of Subjects

Environmental protection, Access to confidential business information.

Dated: December 3, 1996.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 96–31435 Filed 12–10–96; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5663–4]

Environmental Justice Community/University Partnership Grants Program; Request for Applications (RFA) for Fiscal Year (FY) 1997; Sponsored by U.S. Environmental Protection Agency (EPA), Office of Environmental Justice

Purpose of Notice

The purpose of this notice is to solicit applications from eligible candidates under the Environmental Justice Community/University Partnership Grants Program, sponsored by the Environmental Protection Agency.

Grants Program Overview

The grant program was established to help community groups and tribal governments effectively address local

environmental justice issues through active partnerships with all institutions of higher education. These institutions are expected to have an ongoing relationship with the community partner, including institutions such as Historically Black Colleges and Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges (TC), urban institutions and those serving Asian-American (AA) and other minority as well as low-income communities. The Universities/Colleges shall support affected environmental justice community groups and American Indian tribes who engage in or plan to carry out projects that address environmental justice issues. The Universities/Colleges that focus on the design, methods, and techniques to evaluate and solve the environmental justice issues of concern of affected communities, in actual partnership with these communities, will be given priority. This grants program will further the federal government's commitment to develop stronger partnerships with stakeholders in order to enhance community-based environmental protection.

The emphasis of this grants program is on meaningful, two-way cooperation between communities or tribes and institutions of higher education serving disproportionately exposed communities or tribes in order to address environmental justice issues. Partnerships must be established with formal agreements (i.e. Memorandum of Agreements) between at least one College/University and at least one socio-economically disadvantaged community or tribes which is adversely impacted by an environmental hazard and public health concerns. These partnerships become the catalyst for increasing environmental awareness and involvement in resolving environmental problems, such as exposure to environmental pollutants in minority and low-income communities and on Tribal lands.

The main objective of this grants program is to link community residence/organizations and tribes with their neighboring or affiliated academic institutions to forge partnerships to address local environmental and public health concerns. This effort is designed to ensure that these partners:

- Are aware of basic environmental regulations, laws, concepts, issues, and resources;
- Understand their role in identifying and defining problems, and monitoring contaminants related to environmental exposures;
- Are included in the dialogue that results in shaping future policies, guidances, and approaches to problem solving; and
- Are encouraged to be active partners in developing responses and setting priorities for intervention.

Through these partnerships, communities will be encouraged to become involved in accessing information from environmental databases, in cleaning-up and restoring environmental quality in communities that have environmental insults, and in surveying and monitoring environmental quality.

Number of Grants Proposed: A minimum of six grants are expected to be awarded for fiscal year (FY) 1997.

Grant Award Amount: A maximum of $250,000 will be awarded to each recipient, contingent upon the availability of funds. Work funded by this program is expected to begin upon award of the grant. All grants under this notice are expected to be awarded by September 1997.

Grant Term: The grant award will be a maximum of $250,000, but the project period can extend up to three years, if necessary. However, if the project period extends beyond one year the funding will be dispersed to the grantee over the course of the project period, not all in the first year.

Eligibility: Participation is limited to institutions of higher education, including Historically Black Colleges or Universities (HBCUs), Hispanic Serving Institutions (HSIs), Tribal Colleges (TCs), and institutions serving Asian-American (AA's) and other minority communities, low-income communities or tribes that have formal partnerships (i.e., a signed Memorandum of Agreement) with any affected party which is eligible under applicable statutory authorities (i.e., community-based/grassroots organizations, churches, schools or other non-profit community organizations, etc.) and tribal governments. ''Preference will be given to University or Community groups who have not previously been recipients of a CUP award''.

The Environmental Justice Community/University Partnerships may be either a partnership among two single entities or consortium of entities. If a consortium is proposed, the lead academic institution must be identified and be one of the eligible applicants. This lead institution is recognized as the grantee and as such is responsible for all activities under the agreement.

Statutory Authorities: The granting authority is multi-media and the grant proposal must address two or more of the statutory requirements.

Clean Water Act, Section 104(b)(3)
Solid Waste Disposal Act, Section 8001(a)
Clean Air Act, Section 103(b)(3)
Marine Protection, Research and Sanctuaries Act, Section 203
Toxic Substances Control Act, Section 10(a)
Safe Drinking Water Act, Section 1442(b)(3)
Federal Insecticide, Fungicide, and Rodenticide Act, Section 20(a)

Background

In its 1992 report, *Environmental Equity: Reducing Risk for All Communities,* EPA found that people of color and low-income communities experience higher than average exposure to toxic pollutants than the general population. The Office of Environmental Justice (OEJ) was established in 1992 to help these communities identify and assess pollution sources, implement environmental awareness and training programs for affected residents and work with local stakeholders (community-based organizations, academia, industry, local governments) to devise strategies for environmental improvements.

In June of 1993, OEJ was delegated granting authority to solicit projects, select suitable projects from among those proposed, supervise such projects, evaluate the results of projects, and disseminate information on the effectiveness of the projects, and feasibility of the practices, methods, techniques and processes in environmental justice areas.

General

The following questions and answers are designed to respond to frequent concerns of applicants.

A. What Specific Requirements Exist for the Environmental Justice Community/University Partnership Grants Program?

Projects or proposals that meet the Environmental Justice Community/University Partnership Grant requirements shall include, but are not limited to:

1. Design and demonstration of field methods, practices, and techniques, including assessment and analysis of environmental justice conditions and problems which may have a wide applicability and/or addresses a high priority environmental justice issue (i.e., socio-economic impact studies);

2. Research projects to understand, assess or address, regional and local trends in environmental justice issues or problems (i.e., monitoring of socio-economic change in a community as a result of an environmental abuse);

3. Demonstration or dissemination of environmental justice information, including development of educational tools and materials (i.e., establish an environmental justice clearinghouse of successful environmental justice projects and activities or teach about risk reduction, pollution prevention, or ecosystem protection as potential strategies for addressing environmental justice problems or issues);

4. Determine the necessary improvements in communication and coordination among local, state and tribal environmental programs and facilitate communication, information exchange, and community partnerships among all stakeholders to enhance critical thinking, problem solving, and decision making;

5. Provide technical expert consultation and training for accessing, analyzing, and interpreting public environmental data, and utilization of electronic communications technology (i.e., TRI, GIS, Internet and E-mail);

6. Provide for a minimal ''hard science'' analysis capability (i.e., analyze water and soil samples to test for basic pollutants, provide radon testing kits, etc.);

7. Projects that involve new and innovative approaches and/or significant new combinations of resources, both of which should be identified in the partnership agreements;

8. An applicant is required to include in the application a signed agreement which describes the role of the prospective partner(s) in the project and its implementation, and which includes a commitment or intent to commit resources from the prospective partner(s) contingent only upon receipt of funds. The college/university must identify the community residents or tribal government representatives who will serve on the ''partnership team.'' It is expected that the community or tribal representatives on the team will be appropriately compensated for their work; and that overall resources will be balanced among the partners.

9. Applications should include partnerships between colleges and universities which are providers of training and programs for these communities. One of the goals of the partnerships should be to develop a plan to shift the focus of these organizations from maintenance to that of self-sufficiency;

B. What Does Environmental Justice Involve Under the Environmental Justice Community/University Partnership Grant?

Environmental justice involves the fair treatment of people of all races, cultures, and income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. It seeks to ensure that all stakeholders (communities, industry, federal, tribal, state and local governments, grassroots organizations, and individuals) act responsibly to protect the environment and public health of all communities. Environmental justice efforts may include, but are not necessarily limited to enhancing the gathering, observing, measuring, classifying, experimenting and other data gathering techniques that assist individuals in discussing, inferring, predicting, and interpreting information to address environmental justice issues and concerns. Environmental justice projects or activities should enhance critical thinking, problem solving, and effective decision-making skills.

C. Who May Submit An Application?

Any institution of higher education which has a working relationship with affected communities or American Indian tribes, such as Historically Black College or University (HBCU), Hispanic Serving Institutions (HSI), Tribal Colleges (TC), and institutions of higher education serving Asian-American (AA), other minority communities, or low-income communities may submit an application upon publication of this solicitation. College/University consortiums are eligible to apply. In order to be considered for funding, applicants must provide a signed Memorandum of Agreement which identifies the partners and defines the roles and responsibilities of each partner.

D. May An Individual Apply?

No. Only institutions of higher education may apply. The professional qualifications or community-based experience of those individuals participating in the proposed project will be an important factor in the selection process.

Funding Priorities

E. What Types of Proposed Environmental Justice Community/University Partnerships Will Have the Best Chance of Being Funded?

The Environmental Justice Community/University Partnerships must meet the objectives and criteria as described in section B. The evaluations will be conducted, and items weighed, as indicated in Section H.

F. Are Matching Funds Required?

Yes. Federal funds for the Environmental Justice Community/University Partnerships shall not exceed 95% of the total cost of the project. EPA encourages non-Federal matching shares of greater than 5%. The non-Federal share of costs may be provided in cash or by in-kind contributions and other non-cash support. In-kind contributions often include salaries or other verifiable costs. In the case of salaries, applicants may use either minimum wage or fair market value. The proposed match, including the value of in-kind contributions, is subject to negotiation with EPA. All grants are subject to audit, so the value of in-kind contributions *must be carefully documented.* The matching (non-Federal) share is a percentage of the entire cost of the project. For example, if the total project cost is approximately $260,000 then the Federal portion can be no more than $247,000, which is 95% of the total project cost. For this example, the grant recipient would be required to provide $13,000 for the project. The amount of non-Federal funds, including in-kind contributions, must be briefly itemized in Block 15 of the *application form (SF 424) included at the end of this notice.* Among other things, *EPA funds cannot be used* as matching funds for other Federal grant match requirements, *nor used for construction, buying furniture, lobbying, or legal action (or any non-federal contributions used as a match for the grant).*

Application Procedure

An ''Application for Federal Assistance'' form (Standard Form 424 or SF 424), a ''Budget Information: Non-Construction Programs'' form (SF 424A), a Work Plan (described below), and a Memorandum of Agreement must be submitted. These documents contain all the information EPA needs to evaluate the merits of your proposed grant proposal.

Each instrument approved under the environmental justice delegation must be consistent with the Federal Grant and Cooperative Agreements Act of 1977, Public Law 95–224, as amended, 31 U.S.C. Section 6301; Title 40 of the Code of Federal Regulations, Parts 30, 31, 33, 40, 45 and 47, as appropriate; and existing media-specific regulations pertinent to the statement of work.

G. How Must the Application Be Submitted and Specifically What Must It Include?

The applicants must submit one original, signed by a person authorized to receive funds for the applicant, and two copies of the application (double-sided copies encouraged). Applications must be reproducible (for example; stapled once in the upper left hand corner, on white paper, and with page numbers).

For the purposes of this grants program, an application must contain an SF 424, SF 424A, 424B, a work plan, a Memorandum of Agreement (MOA), and the Certification Forms. The following describes these items:

1. Application for Federal Assistance (SF 424). An SF 424 is an official form required for all Federal grants. A completed SF 424 must be submitted as part of your preapplication. This form, along with instructions are included at the end of this notice.

2. Budget Information: Non-Construction Programs (SF 424A). An SF 424A is an official form required for all Federal grants. A completed SF 424A must be submitted as part of your application. This form, along with instructions are included at the end of this notice. In addition, a detailed budget which breaks down the budget categories is required.

3. Work Plan. A work plan describes the applicant's proposed project. Work plans must be no more than 15 pages total. One page is one side of a single spaced typed page. The pages must be letter size (8½ × 11), with normal type size (19 or 12 cpi) and at least 1″ margins. The only appendices and letters of support that EPA will accept are a budget, resumes of key personnel, and commitment letters.

4. Memorandum of Agreement. The Memorandum of Agreement will provide the foundation for the working relationship between the college/university and the partners involved in the project. This agreement must be signed and have the roles and responsibilities of each partner clearly defined.

5. Necessary Signed Forms. Procurement Systems Certification, Certification Regarding Debarment, Suspension and Other Responsibility Matters, Certification Regarding Lobbying. These forms are provided in the grant package.

H. How Will the Applications Be Evaluated?

The applications will be evaluated by a review panel and selected according to the following criteria. The percentages next to the items are the weights EPA will use to evaluate the applications. Please note that certain sections are given greater weight than others.

(a) A concise introduction of no more than three pages that states the nature of the college/university, how the college/university has been successful in the past, proposed uses, objectives, methods, plans, target audiences, and expected results of the proposed project. (10%)

(b) Clear and concise description of the project which includes the following:

1. A section describing the field methods, practices, and techniques, including assessment and analysis, which the partnership expects to implement to address national, regional and local environmental justice issues. (10%)

2. A section describing how the partnership will disseminate environmental justice information and provide training, including educational tools and materials. (10%)

3. A section describing how the partnership will improve communications and coordination among local, state, tribal and federal environmental programs and community organizations, and how the partnership will enhance critical thinking, problem solving and decision making among all stakeholders. Specify effective and realistic methods for involving members of the targeted population. (10%)

4. A section describing who or how the partnership will obtain expert consultation and provide training for the partners to access, analyze and interpret public and environmental data and utilize electronic communications technology. (10%)

5. A section describing the ''hard science'' analysis capability of the college(s)/university(ies). (10%)

(c) A conclusion discussing how the applicant will evaluate the success of the partnership, in terms of the anticipated strengths and challenges in developing and administering the partnership. (10%)

(d) An appendix with a budget describing how funds (including Federal and non-Federal shares) will be used in terms of personnel, fringe benefits, travel, equipment, supplies, contract costs, and other. Funds cannot be used for construction, lobbying, or legal action. The budget must list proposed milestones with deadlines and estimated cost and completion dates. All costs must be consistent with the Office of Management and Budget (OMB) ''The Cost Principles for Educational Institutions,'' such as A–87 and A–122. (10%)

(e) An appendix with one or two page resumes of up to five key personnel. (5%)

(f) An appendix with one page letters of commitment from community-based organizations with a significant role in the development and administration of the partnership. Letters of endorsement will not be considered. (5%)

(g) A Memorandum of Agreement signed by each representative of the partnership team which identifies the roles and responsibilities of each partner. (10%)

I. When and Where Must the Applications Be Submitted?

An original plus two copies of the application must be mailed to EPA postmarked no later than Friday, March 7, 1997. Applications must be submitted to this EPA headquarters address:

United States Environmental Protection Agency
Office of Environmental Justice, Mail Code 2201–A
Environmental Justice Community/University Partnership Grants, 401 M Street S.W., Washington, D.C. 20460

Review and Selection Process

J. How Will Applications Be Reviewed?

EPA's Office of Environmental Justice will form a selections committee comprised of EPA, other federal agency staff, and outside reviewers to evaluate proposals and recommend selections. Applications will be screened to ensure they meet all eligible activities described in Sections A–I. Reviewers will specifically evaluate the degree to which the applications meet EPA's objectives and criteria as discussed in section H. Applications will be disqualified if they are incomplete or do not meet EPA's basic criteria.

K. How Will the Final Selections Be Made?

After the applications are reviewed and ranked as described in section H, EPA officials will compare the best applications and make final selections. Factors EPA will take into account include: geographic and socio-economic balance, diversity, substantial community group participation in development of proposal and if the partnership's benefits can be sustained after the grant is completed.

L. How Will Applicants Be Notified?

After all applications are received, EPA will mail acknowledgments to each applicant. Once applications have been recommended for funding, EPA will

notify those applicants selected and request any additional information necessary to complete the award process. The EPA Office of Environmental Justice will notify those applicants whose grant applications were not selected for funding.

Post-Award

M. When Should the Proposed Partnership Begin Functioning?

Partnerships cannot operate or begin development on this specific project before funds are awarded. Start dates are currently targeted for September 15, 1997. It is EPA's intent to fund each center only once. Future funding is dependent upon congressional appropriations.

N. How Much Time Do Grant Recipients Have To Complete the Work Proposed?

Activities must be completed within the time frame specified in the grant award, usually two or three years from the award date. Grant project periods may be approved for up to three years.

O. Who Will Develop and Manage the Partnerships?

EPA requires that partnerships be developed and managed by the applicant or by persons satisfactory to the applicant and EPA. All applications must identify any person(s) other than the applicant for approval. The lead institution (applicant) is recognized as the grantee and as such is responsible for all activities under the agreement.

P. What Reports Must Grant Recipients Complete?

Recipients of grants will be expected to report on quarterly progress, as well as final project completion. All recipients must submit final reports for EPA approval prior to the expiration of the project period. Specific reporting requirements will be detailed in the award agreement. EPA plans to collect, evaluate, and disseminate grantees' final reports to serve as model programs. Since networking is crucial to the success of the program, grantees may be asked to transmit an extra copy to a central collection point.

Q. What Is the Expected Time Frame for the Review and Awarding of the Grants?

December 15, 1996—Request for Applications Published in the Federal Register
December 15, 1996—Eligible grant recipients develop their proposals March 7, 1997
March 7, 1997—Applications must be postmarked or received by EPA by this date
April 15, 1997—Federal Agency Officials and review panel evaluate and recommend award
May 9, 1997—Selection
May 12, 1997—EPA grants division processes grants and makes awards
July 31, 1997—Applicants will be contacted by the grants office if their proposals were selected for funding. Additional information may be required from the selectees
September 15, 1997—EPA anticipates the awarding of the grants and the beginning of the partnership projects/activities

Fiscal Year 1998 Grants

To receive information on the Fiscal Year (FY) 1998 Environmental Justice Community/University Partnership (CUP) Grants Program and future year grants, please mail or fax your request along with your name, organization, address, and phone number to the Office of Environmental Justice (OEJ), FY 1997 CUP Grants. OEJ's address is provided in Section I. OEJ's fax number is (202) 501–0740. You may also obtain this information by calling OEJ's 24 hour hotline number 1–800–962–6215.

Available Translations

A Spanish translation of this announcement is available upon request. Please call the Office of Environmental Justice at 1–800–962–6215 for a copy.

Hay traducciones disponsibles en español. Si usted esta interesado en obtener una traduccion de este anuncilo en español, por favor llame a la Oficina de Justicia Ambiental conocida como ''Office of Environmental Justice'', linea de emergencia (1–800–962–6215).

Thank you for your interest in our Community/University Partnership Grant and we wish you luck in the application process.

Dated: December 5, 1996.

Clarice E. Gaylord,

Director, Office of Environmental Justice.

[FR Doc. 96–31431 Filed 12–10–96; 8:45 am]

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Office of Environmental Justice Small Grants Program—Application Guidance FY 1997

Introduction

This guidance outlines the purpose, goals, and general procedures for application and award under the Fiscal Year (FY) 1997 Office of Environmental Justice Small Grants Program. For FY 1997, EPA will award approximately $2,500,000 in grant funds to eligible organizations. Applications must be mailed to your appropriate EPA regional office (listed in Section III) and postmarked no later than Friday, March 7, 1997.

This guidance includes the following:

I. Scope and Purpose of the OEJ Small Grants Program
II. Eligible Applicants and Activities
III. Application Requirements
IV. Process for Awarding Grants
V. Expected Time-frame for Reviewing and Awarding Grants
VI. Project Period and Final Reports
VII. Fiscal Year 1998 OEJ Small Grants Program
Appendix A: Standard Forms 424 and 424A and Completed Sample Forms
Appendix B: Copy of 40 CFR 30.27 ''Allowable Costs''
Appendix C. Guidance on Lobbying Restrictions
Appendix D: Tips on Preparing an Application

Translations Available

A Spanish translation of this announcement may be obtained by calling the Office of Environmental Justice at 1–800–962–6215.

Hay traducciones disponibles de este anuncio en espanol. Si usted esta interesado en obtener una traduccion de este anuncio en espanol, por favor llame a La Officina de Justicia Ambiental conocida como ''Office of Environmental Justice,'' linea gratuita (1–800–962–6215).

I. Scope and Purpose of the OEJ Small Grants Program

The purpose of this grant program is to provide financial assistance to eligible community groups (i.e., community-based/grassroots organizations, churches, or other non-profit organizations) and federally recognized tribal governments that are working on or plan to carry out projects to address environmental justice issues. Preference for awards will be given to community-based/grassroots organizations that are working on local solutions to local environmental problems. Funds can be used to develop a new activity or substantially improve the quality of existing programs that have a direct impact on affected communities.

Background

In its 1992 report, Environmental Equity: Reducing Risk for All Communities, EPA found that minority and low-income populations may experience higher than average exposure to toxic pollutants than the general population. The Office of Environmental Justice (OEJ) was established in 1992 to help these

communities identify and assess pollution sources, to implement environmental awareness and training programs for affected residents, and to work with community stakeholders to devise strategies for environmental improvements.

In June of 1993, OEJ was delegated granting authority to solicit, select, supervise, and evaluate environmental justice-related projects, and to disseminate information on the projects' content and effectiveness. Fiscal year (FY) 1994 marked the first year of the OEJ Small Grants Program. Seventy-one (71) grants totaling $507,000 were awarded in FY 1994 and in FY 1995, over $3,000,000 was awarded to 175 small grant recipients. In FY 1996, $3,000,000 was awarded to 150 organizations across the nation.

How Does EPA Define Environmental Justice Under the Environmental Justice Small Grants Program?

Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no groups of people, including racial, ethnic, or socioeconomic groups, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

II. Eligible Applicants and Activities

A. Who May Submit Applications and May an Applicant Submit More Than One?

Any affected, non-profit community organization 501c (3) or 501c (4) [1] or federally recognized tribal government may submit an application upon publication of this solicitation. Applicants must be non-profit to receive these federal funds. State recognized tribes or indigenous peoples organizations are able to apply for grant assistance as long as they meet the definition of a non-profit organization. ''Non-profit organization'' means any corporation, trust, association, cooperative, or other organization that (1) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; (2) is not organized primarily for profit; and (3) uses its net proceeds to maintain, improve, and/or expand its operations. While state and local governments and academic institutions are eligible to receive grants, preference will be given to non-profit, community-based/grassroots organizations and federally recognized tribal governments. Individuals are not eligible to receive grants.

EPA will consider only one application per applicant for a given project. Applicants may submit more than one application as long as the applications are for separate and distinct projects or activities. Applicants that were previously awarded small grant funds may submit an application for FY 1997. Every application for FY 1997 will be evaluated based on the merit of the proposed project in relation to the other FY 1997 pre-applications (regardless of whether or not the proposal expands a project funded in previous years).

B. What Types of Projects Are Eligible for Funding?

In order to be considered for funding, the application must include the following information: (1) how the proposed project addresses issues related to at least two environmental statutes and (2) how the proposed project meets at least two of the program goals.

(1) Multi-Media Statutory Requirement

The OEJ Smalls Grants Program awards grants under a multi-media granting authority. This means that recipients of these funds must implement projects that address pollution in more than one environmental medium (e.g., air, water). To show evidence of the breadth of the project's scope, the application must identify at least two environmental statutes that the project will address. In most cases, your project will include activities outlined in the following environmental statutes:

a. *Clean Water Act,* Section 104(b) (3): conduct and promote the coordination of research, investigations, experiments, training, demonstration, surveys, and studies relating to the causes, extent, prevention, reduction, and elimination of water pollution.

b. *Safe Drinking Water Act,* Section 1442(b) (3): develop, expand, or carry out a program (that may combine training, education, and employment) for occupations relating to the public health aspects of providing safe drinking water.

c. *Solid Waste Disposal Act,* Section 8001(a): conduct and promote the coordination of research, investigations, experiments, training, demonstrations, surveys, public education programs, and studies relating to solid waste (e.g., health and welfare effects of exposure to materials present in solid waste and methods to eliminate such effects).

d. *Clean Air Act,* Section 103(b) (3): conduct research, investigations, experiments, demonstrations, surveys, and studies related to the causes, effects (including health and welfare effects), extent, prevention, and control of air pollution.

In some circumstances, your project may be very research-oriented and specific to a particular environmental problem. If this is the case, you may reference the following environmental statutes (either list one of the following in addition to one listed above or list two of the following).

e. *Toxic Substances Control Act,* Section 10(a): conduct research, development, and monitoring activities on toxic substances.

f. *Federal Insecticide, Fungicide, and Rodenticide Act,* Section 20(a): conduct research on pesticides.

g. *Comprehensive Environmental Response, Compensation, and Liability Act,* Section 311(a): conduct basic research and training related to the detection, assessment, and evaluation of the risks and human health effects of exposure to hazardous substances.

h. *Marine Protection, Research, and Sanctuaries Act,* Section 203: conduct research, investigations, experiments, training, demonstrations, surveys, and studies relating to the minimizing or ending of ocean dumping of hazardous materials and the development of alternatives to ocean dumping.

Please note: if your project includes scientific research and data collection, you must be prepared to submit a Quality Assurance Plan (QAP) to your EPA Project Officer prior to the beginning of the research.

(2) Office of Environmental Justice Small Grants Program Goals

In addition to the multi-statute requirement outlined above, the application must also include a description of how an applicant plans to meet at least two of the three program goals listed below. See Section III ''Application Requirements'' for more details.

1. Identify necessary improvements in communication and coordination among all stakeholders, including existing community-based/grassroots organizations and local, state, tribal, and federal environmental programs.

[1] As a result of the Lobbying Disclosure Act of 1995, EPA (and other federal agencies) may not award grants to non-profit, 501(c)(4) organizations that engage in lobbying activities. This restriction applies to any lobbying activities of a 501(c)(4) organization without distinguishing between lobbying funded by federal money and lobbying funded by other sources.

Facilitate communication and information exchange, and create partnerships among stakeholders to address disproportionate, high and adverse environmental exposure (e.g., workshops, awareness conferences, establishment of community stakeholder committees);

2. Build community capacity to identify local environmental justice problems and involve the community in the design and implementation of activities to address these concerns. Enhance critical thinking, problem-solving, and active participation of affected communities (e.g., train-the-trainer programs).

3. Enhance community understanding of environmental and public health information systems and generate information on pollution in the community. If appropriate, seek technical experts to demonstrate how to access and interpret public environmental data (e.g., Geographic Information Systems (GIS), Toxic Release Inventories (TRI), and other databases).

The issues discussed above may be defined differently among applicants from various geographic regions, including areas outside the continental U.S. (Alaska, American Samoa, Guam, Hawaii, Puerto Rico, and the U.S. Virgin Islands). Each application should define its issues as they relate to the specific project. In your narrative/work plan, include a succinct explanation of how the project may serve as a model in other settings and how it addresses a high-priority environmental justice issue. The degree to which a project addresses a high-priority environmental justice issue will vary and must be defined by applicants according to their local environmental justice concerns.

C. How Much Money May Be Requested, and Are Matching Funds Required?

The ceiling for any one grant is $20,000 in federal funds. EPA's ten regional offices will each have approximately $250,000 to issue awards. Applicants are not required to provide matching funds.

D. Are There Any Restrictions on the Use of the Federal Funds?

Yes. EPA grant funds can only be used for the purposes set forth in the grant agreement. Among other things, the grant funds from this program cannot be used for matching funds for other federal grants, construction, personal gifts (e.g., t-shirts, buttons, hats), buying furniture, litigation, lobbying, or intervention in federal regulatory or adjudicatory proceedings. In addition, the recipient may not use these federal assistance funds to sue the federal government or any other government entity. Refer to 40 CFR 30.27, entitled ''Allowable Costs'' (see Appendix B).

III. Application Requirements

A. What Is Required for Applications?

In order to be considered for funding under this program, proposals from eligible organizations must have the following:

1. Application for Federal Assistance (SF 424) the official form required for all federal grants that requests basic information about the grantee and the proposed project. The applicant must submit the original application, plus two copies, signed by a person duly authorized by the governing board of the applicant.

Please complete Part 10 of the SF 424 form, ''Catalog of Federal Domestic Assistance Number'' with the following information: 66.604—Environmental Justice Small Grants Program. See Appendix A for a copy of this form and a completed sample.

2. The Federal Standard Form (SF 424A) and budget detail, which provides information on your budget. For the purposes of this grants program, complete only the non-shaded areas of SF 424A. See Appendix A for a copy and completed sample of a budget detail. Budget figures/projections should support your work plan/narrative. The EPA portion of these grants will not exceed $20,000, therefore your budget should reflect this upper limit on federal funds.

3. Narrative/work plan of the proposal, not to exceed ten pages. A narrative/work plan describes the applicant's proposed project. The pages of the work plan must be letter size (8½″ × 11″), with normal type size (12 cpi), and at least 1″ margins.

The narrative/work plan is one of the most important aspects of your application and (assuming that all other required materials are submitted) will be used as the primary basis for selection. Work plans must be submitted in the format described below:

a. A one page summary that:

- Identifies the environmental justice issue(s) to be addressed by the project;
- Identifies the EJ community/target audience;
- Identifies at least two environmental statutes/Acts addressed by the project; and
- Identifies at least two program goals that the project will meet and how it will meet them.

b. A concise introduction that states the nature of the organization (i.e., how long it has been in existence, if it is incorporated, if it is a network, etc.), how the organization has been successful in the past, purpose of the project, EJ community/target audience, project completion plans/time frames, and expected results.

c. A concise project description that describes how the applicant is community-based and/or plans to involve the target audience in the project and how the applicant plans to meet at least two of the three program goals outlined in Section IIB: ''Office of Environmental Justice Small Grants Program Goals.'' Additional credit will not be given for projects that fulfill more than two goals.

d. A conclusion discussing how the applicant will evaluate and measure the success of the project, including the anticipated benefits and challenges in implementing the project.

e. An appendix with resumes of up to three key personnel who will be significantly involved in the project.

4. Letter(s) of commitment. If your proposed project includes the significant involvement of other community organizations, your application must include letters of commitment from these organizations. This requirement may not apply to your proposed project—only include if applicable.

Applications that do not include the information listed above in items 1–3 and if applicable, item 4, will not be considered for an award.

Please note: your application to this EPA program may be subject to your state's intergovernmental review process and/or the consultation requirements of Section 204, Demonstration Cities and Metropolitan Development Act. Check with your state's Single Point of Contact to determine your requirements—some states do not require this review. Applicants from American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands should also check with their Single Point of Contact. If you do not know who your Single Point of Contact is, please call your EPA regional contact (Section III) or EPA Headquarters at (202) 260–9266. Federally recognized tribal governments are not required to comply with this procedure.

B. When and Where Must Applications be Submitted?

The applicant must submit/mail one signed original application with required attachments and two copies to the primary contact at the EPA regional office listed below. The application

must be postmarked no later than Friday, March 7, 1996.

Regional Contact Names and Addresses

Region 1—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Primary Contact: Rhona Julien, (617) 565–9454, USEPA Region 1 (RAA), John F. Kennedy Federal Building, Boston, MA 02203

Secondary Contact: Pat O'Leary, (617) 565–3834.

Region 2—New Jersey, New York, Puerto Rico, U.S. Virgin Islands

Primary Contact: Natalie Loney, (212) 637–3639, USEPA Region 2, 290 Broadway, 26th Floor, New York, NY 10007.

Secondary Contact: Melva Hayden, (212) 637–5027.

Region 3—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

Primary Contact: Reginald Harris, (215) 566–2988, USEPA Region 3 (3DA00), 841 Chestnut Building, Philadelphia, PA 19107–4431.

Secondary Contact: Mary Zielinski, (215) 566–5415.

Region 4—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Primary Contact: Josephine Brown, (404) 562–9672, USEPA Region 4, 100 Alabama Street, SW, Atlanta, GA 30303.

Secondary Contact: Connie Raines, (404) 562–9671.

Region 5—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Primary Contact: Margaret Millard, (312) 353–1440, USEPA Region 5 (MC T–175), 77 West Jackson Boulevard, Chicago, IL 60604–3507.

Secondary Contact: Karla Johnson, (312) 886–5993.

Region 6—Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Primary Contact: Shirley Augurson, (214) 665–7401, USEPA Region 6 (6M-P), 1445 Ross Avenue, 12th Floor, Dallas, Texas 75202–2733.

Region 7—Iowa, Kansas, Missouri, Nebraska

Primary Contact: Althea Moses, (913) 551–7649 or 1–800–223–0425, USEPA Region 7, 726 Minnesota Avenue, Kansas City, KS 66101.

Region 8—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Primary Contact: Patricia Denham, (303) 312–6557, USEPA Region 8 (8ENF–EJ), 999 18th Street, Suite 500, Denver, CO 80202–2466.

Secondary Contact: Elisabeth Evans, (303) 312–6053.

Region 9—Arizona, California, Hawaii, Nevada, American Samoa, Guam

Primary Contact: Willard Chin, (415) 744–1204, USEPA Region 9 (A–2–2), 75 Hawthorne Street, San Francisco, CA 94105.

Secondary Contact: EJ Information Line, (415) 744–1565.

Region 10—Alaska, Idaho, Oregon, Washington

Primary Contact: Susan Morales, (206) 553–8580, USEPA Region 10 (MD–142), 1200 Sixth Avenue, Seattle, WA 98101.

Secondary Contact : Joyce Kelly, (206) 553–4029.

IV. Process for Awarding Grants

A. How Will Applications Be Reviewed?

EPA regional offices will review, evaluate, and select grant recipients. Applications will be screened to ensure that they meet all eligible activities and requirements described in Sections II and III. Applications will also be evaluated by regional review panels based on the criteria outlined in this solicitation. Applications will be disqualified if they do not meet these criteria.

B. How Will the Final Selections Be Made?

After the individual projects are reviewed and ranked, EPA regional officials will compare the best applications and make final selections. Additional factors that EPA will take into account include geographic and socioeconomic balance, diverse nature of the projects, cost, and projects whose benefits can be sustained after the grant is completed. Regional Administrators will select the grants with concurrence from the Director of the Office of Environmental Justice at EPA Headquarters.

Please note that this is a very competitive grants program. Limited funding is available and many grant applications are expected to be received. Therefore, the Agency cannot fund all applications. If your project is not funded, a listing of other EPA grant programs may be found in the Catalog of Federal Domestic Assistance. This publication is available at local libraries, colleges, or universities.

C. How Will Applicants Be Notified?

After all applications are received, EPA regional offices will mail acknowledgments to applicants in their regions. Once applications have been recommended for funding, the EPA Regions will notify the finalists and request any additional information necessary to complete the award process. The finalists will be required to complete additional government application forms prior to receiving a grant, such as the EPA Form SF–424B (Assurances—Non-Construction Programs), EPA Form 5700–48, and the Certification Regarding Debarment, Suspension, and Other Responsibility Matters. The federal government requires all grantees to certify and assure that they will comply with all applicable federal laws, regulations, and requirements.

The EPA Regional Environmental Justice Coordinators or their designees will notify those applicants whose projects are not selected for funding.

V. Expected Time-Frame for Reviewing and Awarding Grants

December 16, 1996 FY 1997 OEJ Small Grants Program Application Guidance is published in the Federal Register.

December 16, 1996 to March 7, 1997 Eligible grant recipients develop and complete their applications.

March 7, 1997 Applications must be postmarked by this date and mailed or delivered to the appropriate EPA regional office.

March 10, 1997 to April 15, 1997 EPA regional program officials review and evaluate applications and select grant finalists.

April 15, 1997 to August 1, 1997 Applicants will be contacted by the Region if their application is being considered for funding. Additional information may be required from the finalists, as indicated in Section IV. EPA regional grant offices process grants and make awards.

September 15, 1997 EPA expects to release the national announcement of the FY 97 Office of Environmental Justice Small Grant Recipients.

VI. Project Period and Final Reports

Activities must be completed and funds spent within the time frame specified in the grant award, usually one year. Project start dates will depend on the grant award date (most projects begin in August or September). The recipient organization is responsible for the successful completion of the project. The recipient's project manager is subject to approval by the EPA project officer but EPA may not direct that any particular person be the project manager.

All recipients must submit final reports for EPA approval within ninety (90) days of the end of the project period. Specific report requirements

(e.g., Final Technical Report and Financial Status Report) will be described in the award agreement. EPA will collect, evaluate, and disseminate grantees' final reports to serve as model programs.

VII. Fiscal Year 1998 OEJ Small Grants Program

A. How Can I Receive Information on the Fiscal Year 1998 Environmental Justice Grants Program?

If you wish to be placed on the national mailing list to receive information on the FY 1998 Environmental Justice Small Grants Program, you must mail your request along with your name, organization, address, and phone number to:

U.S. Environmental Protection Agency, Office of Environmental Justice Small Grants Program (2201A), FY 1998 Grants Mailing List, 401 M Street, SW, Washington, DC 20460, (800) 962–6215.

Thank you for your interest in our Small Grants Program and we wish you luck in the application process.

Dated: December 5, 1996.

Clarice E. Gaylord,

Director, Office of Environmental Justice.

[FR Doc. 96–31430 Filed 12–10–96; 8:45 am]

BILLING CODE 6560–50–P

[OPP–66233; FRL 5573–6]

Notice of Receipt of Requests to Voluntarily Cancel 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 requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by March 11, 1997, orders will be issued cancelling all of these registrations.

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 No. 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 the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the Federal Register before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 20 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000070–00254	Rigo Home Pest Control RTU	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl *d-trans*-2,2-dimethyl- *N*-Octyl bicycloheptene dicarboximide (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% 4-Chloro-alpha-(1-methylethyl)benzeneacetic acid, cyano(3-phenoxyphenyl)methyl
000070–00256	Rigo Aero-Spray Home Pest Control	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl *d-trans*-2,2-dimethyl- *N*-Octyl bicycloheptene dicarboximide (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% 4-Chloro-alpha-(1-methylethyl)benzeneacetic acid, cyano(3-phenoxyphenyl)methyl
000432–00770	Foliafume XK Insecticide	Pyrethrins Rotenone
000869–00230	Green Light BT Worm Killer Bacillus Thuringiensis ME	Delta endotoxin of Bacillus thuringiensis variety kurstaki encapsulated in
003125–00321	Bolstar 6	*O*-Ethyl *O*-(4-(methylthio)phenyl) *S*-propylphosphorodithioate
003125–00328	Bolstar Technical Insecticide	*O*-Ethyl *O*-(4-(methylthio)phenyl) *S*-propylphosphorodithioate
003125 AZ–91–0006	Monitor 4	*O,S*-Dimethyl phosphoramidothioate
003125 FL–82–0046	Bolstar 6 Emulsifiable Insecticide	Xylene range aromatic solvent *O*-Ethyl *O*-(4-(methylthio)phenyl) *S*-propylphosphorodithioate
004758–00143	Hill's Holiday Flea & Tick Pump Spray	Isopropanol (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins Limonene
004816–00661	Dog Dip E.C.	Rotenone Cube Resins other than rotenone
007969 ID–88–0005	Poast	*O,O*-Dimethyl *S*-((methylcarbamoyl)methyl)phosphorodithioate
007969 ID–88–0006	Poast	*O,O*-Dimethyl *S*-((methylcarbamoyl)methyl)phosphorodithioate

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
010182–00167	Ordram 5-G	*S*-Ethyl hexahydro-1*H*-azepine-1-carbothioate
010182–00272	Ordram A 10-G	*S*-Ethyl hexahydro-1*H*-azepine-1-carbothioate
010182–00306	Drexel Molinate 96% Technical	*S*-Ethyl hexahydro-1*H*-azepine-1-carbothioate
010182–00307	Drexel Molinate 8E	*S*-Ethyl hexahydro-1*H*-azepine-1-carbothioate
010182–00308	Drexel Molinate 10G	*S*-Ethyl hexahydro-1*H*-azepine-1-carbothioate
033688–00001	No Crab	4-(1,1-Dimethylethyl)-*N*-(1-methylpropyl)-2,6-dinitrobenzenamine
045728–00008	Ferbam Technical	Ferric dimethyldithiocarbamate
056077–00050	Ethephon Concentrate	(2-Chloroethyl)phosphonic acid

Unless a request is withdrawn by the registrant within 90 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 90-day period. 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 VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000070	SureCo Inc., 10012 N. Dale Mabry, Ste. 221, Tampa, FL 33618.
000432	Agrevo Environmental Health, 95 Chestnut Ridge Rd., Montvale, NJ 07645.
000869	Green Light Co., Box 17985, San Antonio, TX 78217.
003125	Bayer Corp., Agriculture Division, 8400 Hawthorn Rd., Box 4913, Kansas City, MO 64120.
004758	Pet Chemicals, 4242 BF Goodrich Blvd, Box 18993, Memphis, TN 38181.
004816	Agrevo Environmental Health, 95 Chestnut Ridge Rd., Montvale, NJ 07645.
007969	BASF Corp., Agricultural Products, Box 13528, Research Triangle Park, NC 27709.
010182	Zeneca Ag Products, Box 15458, Wilmington, DE 19850.
033688	Richard Otten, Agent For: CFPI Agro, S.A., 5116 Wood Valley Dr., Raleigh, NC 27613.
045728	Compliance Services International, Agent For: UCB Chemicals Corp., 2001 Jefferson Davis Highway, Ste. 1010, Arlington, VA 22202.
056077	Cedar Chemical Corp., 5100 Poplar, Suite 2414, Memphis, TN 38137.

III. Loss of Active Ingredients

Unless the requests for cancellation are withdrawn, three pesticide active ingredients will no longer appear in any registered products. Those who are concerned about the potential loss of these active ingredients for pesticidal use are encouraged to work directly with the registrants to explore the possibility of withdrawing their request for cancellation. The active ingredients are listed in the following Table 3, with the EPA Company and CAS Number.

TABLE 3. — ACTIVE INGREDIENTS WHICH WOULD DISAPPEAR AS A RESULT OF REGISTRANTS' REQUESTS TO CANCEL

CAS No.	Chemical Name	EPA Company No.
35400–43–2	Sulprofos	003125

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before March 11, 1997. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in Federal Register (56 FR 29362) June 26, 1991; [FRL 3846–4]. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the

affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: November 22, 1996.

Oscar Morales

Acting Director, Program Management and Support Division, Office of Pesticide Programs.

[FR Doc. 96–31122 Filed 12–10–96; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30425; FRL–5574–6]

Toagosei Co.; Application to Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application to register a pesticide product containing an active ingredient involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by January 10, 1997.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30425] and the file symbol (70231–R) 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: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will be accepted on disks in Wordperfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30425]. No ''Confidential Business Information'' (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Denise Greenway, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8263; e-mail: greenway.denise@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received an application from Toagosei Co., Ltd. of Japan, represented by Nichimen America, Inc., 1185 Avenue of the Americas, New York, NY 10036, to register the pesticide product Kaligreen, a fungicide (EPA File Symbol 70231–R), containing the active ingredient potassium bicarbonate at 82 percent, an active ingredient which involves a change use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. The product is classified for general use to include in its presently registered use, a new use to control powdery mildew on grapes, cucumbers, strawberries, tobacco, and roses. Notice of receipt of the application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the Federal Register. The procedure for requesting data will be given in the Federal Register if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

A record has been established for this notice under docket number [OPP–30425] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division at the address provided from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: November 26, 1996.

Flora Chow,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 96–31436 Filed 12–10–96; 8:45 am]

BILLING CODE 6560–50–F

[PF–675; FRL–5574–4]

Pesticide Tolerance Petition; Notice of Filing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing.

SUMMARY: This notice is a summary of a pesticide petition proposing the establishment of a regulation for residues of clopyralid in or on field corn. This summary was prepared by the petitioner.

DATES: Comments, identified by the docket number [PF–675], must be received on or before, January 10, 1997.

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 Highway, Arlington, VA 22202.

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 docket number [PF-675]. 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 as comments concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Joanne Miller, PM–23, (7505C) Rm. 237, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–6224; e-mail: miller.joanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition (PP) 8F3622 from DowElanco, 9330 Zionsville Road Indianapolis, IN 46268–1054, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. section 346a(d), to amend 40 CFR Part 180 by establishing a tolerance for residues of the herbicide clopyralid in or on the raw agricultural commodities (RACs) field corn, fodder at 10.0 ppm; field corn, forage at 3.0 ppm; field corn, grain at 1.0 ppm and on processed agricultural commodity (PAC) field corn, milling fractions at 1.5 ppm. The proposed analytical method is available for enforcement purposes.

Pursuant to the section 408(d)(2)(A)(i) of the FFDCA, as amended, DowElanco has submitted the following summary of information, data and arguments in support of their pesticide petition. This summary was prepared by DowElanco and EPA has not fully evaluated the merits of the petition. EPA edited the summary to clarify that the conclusions and arguments were the petitioners and not necessarily EPAs and to remove certain extraneous material.

I. DOWELANCO Petition Summary:

A. Residue Chemistry

1. *Plant Metabolism*. The metabolism in plants is adequately understood. No metabolites of significance were detected in plant metabolism studies.

2. *Analytical Method*. There is a practical analytical method for detecting and measuring levels of clopyralid in or on food with a limit of quantitation that allows monitoring of food with residues at or above the levels set in these tolerances. EPA has provided information on this method to FDA. The method is available to anyone who is interested in pesticide residue enforcement.

3. *Magnitude of Residues*. Time limited tolerances were established on April 25, 1994 (59 FR 19639) for residues of the herbicide clopyralid in or on the following raw agricultural commodities which are to expire December 31, 1996: field corn, grain at 1.0 parts per million (ppm), field corn, fodder at 10.0 ppm, field corn, forage at 3.0 ppm, and for corn processed milling fractions at 1.5 ppm. Adequate residue data supporting these tolerances were submitted to the Agency in mid year 1994.

4. *Residues of Clopyralid Found in Field Corn* - Clopyralid was applied at the maximum label rate and residues were detected at the following ppm ranges; Grain 0.01 - 0.8, Fodder 0.02 - 8.8, and Silage 0.04 - 2.7. The proposed tolerances would adequately cover these anticipated residues.

5. *Residues of Clopyralid Found in Processed Field Corn* - Clopyralid was applied to corn at approximately 1X and 5X the label rate. The 5X treatment was used for the processing residue study. At the 5X rate, the corn grain RAC (raw agricultural commodity) sample was found to contain 4.3 ppm clopyralid. Starch and refined oil samples obtained from the wet milling of corn contained no residues above the LOQ (0.05 ppm) of the method, while crude oil was found to contain 0.063 ppm. The dry milling fractions contained 4.9 ppm in flour, 2.7 ppm in meal, with no residues above the LOQ found in crude and refined oil. Grain dust contained 4.8 ppm clopyralid, similar to levels found in the RAC. The proposed milling fractions tolerance would cover these residue levels when adjusted from the 5X treatment rate.

B. Toxicological Profile

1. *Acute Toxicity*. Clopyralid has low acute toxicity. The rat oral LD50 is 5000 mg/kg or greater for males and females. The rabbit dermal LD50 is ≤2000 mg/kg and the rat inhalation LC50 is ≤1.0 mg/L air (the highest attainable concentration). In addition, clopyralid is not a skin sensitizer in guinea pigs and is not a dermal irritant. Technical clopyralid is an ocular irritant but ocular exposure to the technical material would not normally be expected to occur to infants or children or the general public. End use formulations of clopyralid have similar low acute toxicity profiles and most have low ocular toxicity as well. Therefore based on the available acute toxicity data, clopyralid does not pose any acute dietary risks.

2. *Genotoxicity*. Clopyralid is not genotoxic. The following studies have been conducted and all were negative for genotoxic responses. Ames bacterial mutagenicity assay (with and without exogenous metabolic activation) Host-Mediated assay In vivo cytogenetic test, rat; In vivo cytogenetic test, mouse; In vivo dominant lethal test, rat; In vitro unscheduled DNA synthesis assay in primary rat hepatocyte cultures; In vitro mammalian cell gene mutations assay in Chinese hamster ovary cell cultures (with and without exogenous metabolic activation).

3. *Reproductive and Developmental Toxicity*. Developmental toxicity was studied using rats and rabbits. The developmental study in rats resulted in a developmental NOEL of >250 mg/kg/

day (a maternally toxic dose) and a maternal toxicity NOEL of 75 mg/kg/day. A 1974 study in rabbits revealed no evidence of developmental or maternal toxicity at 250 mg/kg/day; thus the developmental and maternal NOEL was >250 mg/kg/day. A more recent study in rabbits (1990) resulted in developmental and maternal NOELs of 110 mg/kg/day based on maternal toxicity at 250 mg/kg/day. Based on all of the data for clopyralid, there is no evidence of developmental toxicity at dose levels that do not result in maternal toxicity.

In a 2–generation reproduction study in rats, pups from the high dose group which were fed diets containing clopyralid had a slight reduction in body weight during lactation and an increase in liver weights in fla and flb weanlings. The NOEL for parental systemic toxicity was 500 mg/kg/day. There was no effect on reproductive parameters at >1500 mg/kg/day nor was there an adverse effect on the morphology, growth or viability of the offspring; thus, the reproductive NOEL is >1500 mg/kg/day.

4. *Subchronic Toxicity*. The following studies have been conducted using clopyralid. In a rat 90–day feeding study, Fischer 344 rats were fed diets containing clopyralid at doses of 5, 15, 50 or 150 mg/kg/day with no adverse effects attributed to treatment. In a second study, Fischer 344 rats were fed diets containing clopyralid at doses of 300, 1500 and 2500 mg/kg/day. Effects at the highest doses were decreased food consumption accompanied by decreased body weights and weight gains in both males and females. Slightly increased mean relative liver and kidney weights were noted in males of all 3 doses and in females at the top 2 doses. Because there were no other effects, the kidney and liver weight effects were judged as being adaptive rather than directly toxic. The no-observed-adverse effect level (NOAEL) was 1500 mg/kg/day for males and females. The no-observed-effect level (NOEL) was 300 mg/kg/day for females.

In a mouse 90–day feeding study, B6C3F1 mice were fed diets containing clopyralid at doses of 200, 750, 2000 or 5000 mg/kg/day. A slight decrease in body weight occurred at the top dose in both sexes. The liver was identified as the target organ based on slight increases in liver weights and minimal microscopic alterations at the higher dose levels. The liver changes were considered to be reversible and adaptive. The NOEL for males was 2000 mg/kg/day and for females was 750 mg/kg/day.

In a 180–day feeding study, beagle dogs were fed diets containing clopyralid at doses of 15, 50 or 150 mg/kg/day; there were no adverse effects. In a second dietary study, dogs also were fed diets containing clopyralid at doses of 15, 50 or 150 mg/kg/day; the only effect was an increase in the mean relative liver weight in females at the 150 mg/kg/day.

In a 21–day dermal study, clopyralid was applied by repeated dermal application to New Zealand White rabbits at dose levels up to 1000 mg/kg/day. Treatment produced no systemic effects.

5. *Chronic Toxicity*. In a chronic toxicity and oncogenicity study, Sprague-Dawley rats were fed diets containing clopyralid at doses of 5, 15, 50 or 150 mg/kg/day. The only effect was a trend toward a decreased body weight of female rats receiving the 150 mg/kg/day dose with a NOEL of 50 mg/kg/day. In a second study clopyralid was fed to Fischer 344 rats in the diet at doses of 15, 150 or 1500 mg/kg/day. The effects were confined almost entirely to the 1500 mg/kg/day dose groups and included slightly decreased food consumption and body weights, slightly increased liver and kidney weights and macroscopic and microscopic changes in the stomach. No tumorigenic response was present. The NOEL for this study was 15 mg/kg/day.

B6C3F1 mice were maintained for 2 years on diets formulated to provide targeted dose levels of 10, 500 or 2000 mg/kg/day. The only evidence of toxicity was body weight depression in males dosed at 2000 mg/kg/day. There was no evidence of tumorigenic response at any dose level.

Based on the chronic toxicity data, EPA has established the RfD for clopyralid at 0.5 milligrams (mg)/kilogram (kg)/day. The RfD for clopyralid is based on a 2–year chronic oncogenicity study in rats with a no-observed-effect level (NOEL) of 50 mg/kg/day and an uncertainty (or safety) factor of 100. Thus, it would not be necessary to require the application of an additional uncertainty factor above the 100–fold factor already applied to the NOEL.

6. *Carcinogenicity*. Using its Guidelines for Carcinogen Risk Assessment published September 24, 1986 (51 FR 33992), clopyralid would be classified as Group E for carcinogenicity (no evidence of carcinogenicity) based on the results of the carcinogenicity studies. There was no evidence of carcinogenicity in 2–year feeding studies in mice and rats at the dosage levels tested. The doses tested are adequate for identifying a cancer risk. Thus, a cancer risk assessment would not be appropriate.

7. *Animal Metabolism*. Disposition and metabolism of clopyralid were tested in male and female rats at a dose of 5 mg/kg (oral). The majority of a radioactive dose was excreted in 24 hours of all dose groups. Fecal elimination was minor. Detectable levels of residual radioactivity were observed in the carcass and stomach at 72 hours post-dose. HPLC and TLC analysis of pooled urine and fecal extracts showed no apparent metabolism of clopyralid.

8. *Metabolite Toxicity*. There are no clopyralid metabolites of toxicological significance.

9. *Endocrine Effects*. There is no evidence to suggest that clopyralid has an effect on any endocrine system.

C. Aggregate Exposure

1. *Dietary Exposure - Food*. For purposes of assessing the potential dietary exposure under these tolerances, exposure is estimated based on the TMRC from the existing and pending tolerances for clopyralid on food crops. The TMRC is obtained by multiplying the tolerance level residues by the consumption data which estimates the amount of those food products eaten by various population subgroups. Exposure of humans to residues could also result if such residues are transferred to meat, milk, poultry or eggs. The following assumptions were used in conducting this exposure assessment: 100% of the crops were treated, the RAC residues would be at the level of the tolerance, certain processed food residues would be at anticipated (average) levels based on processing studies and all current and pending tolerances were included. This results in an overestimate of human exposure and a conservative assessment of risk.

Based on a NOEL of 50 mg/kg/day in a 2–year chronic feeding/oncogenicity study in the rat and a hundredfold safety factor, the reference dose (RfD) would be 0.5 mg/kg/day. Consequently, all existing and pending tolerances have a theoretical maximum residue contribution of 0.001535 mg/kgBW/day and would utilize less than 2.3 percent of the RfD.

2. *Dietary Exposure - Drinking Water*. Another potential source of dietary exposure to residues of pesticides are residues in drinking water. There is no established Maximum Concentration Level for residues of clopyralid in drinking water. Although there has been limited detections at ppb levels in some of the specially designed studies under highly vulnerable test conditions, no ongoing monitoring studies (U.S. Geological Survey, Selected Water Resources

Abstracts, and Pesticides in Ground Water Database - A Compilation of Monitoring Studies: 1971 - 1991 National Summary; U.S. Department of Agriculture, AGRICOLA database; U.S. Department of Commerce, National Technical Information Service) have reported residues of clopyralid in ground or surface waters.

Consequently, these data on potential water exposure indicate insignificant additional dietary intake of clopyralid and any exposure is more than compensated for in the conservative dietary risk evaluation.

3. *Non-Dietary Exposure*. Non-occupational exposure to clopyralid is limited to re-entry to treated turf grass sites. Estimated exposures for children is less than 0.05 mg/kg/day or 10% of the reference dose.

D. Cumulative Effects

The potential for cumulative effects of clopyralid and other substances that have a common mechanism of toxicity was considered. The mammalian toxicity of clopyralid is well defined. However, no reliable information exists to indicate that toxic effects produced by clopyralid would be cumulative with those of any other chemical compound. Therefore, consideration of a common mechanism of toxicity with other compounds is not appropriate. Thus only the potential exposures to clopyralid were considered in the aggregate exposure assessment.

E. Safety Determinations

1. *U.S. Population in General*. Using the conservative exposure assumptions described above and based on the completeness and reliability of the toxicity data, it is concluded that aggregate exposure to clopyralid will utilize approximately 7 percent of the RfD for the U.S. population. Generally, exposures below 100 percent of the RfD are of no concern because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risk to human health. Thus, there is a reasonable certainty that no harm will result from aggregate exposure to clopyralid residues.

2. *Infants and Children*. In assessing the potential for additional sensitivity of infants and children to residues of clopyralid, data from the previously discussed developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat were considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism during prenatal development resulting from pesticide exposure to one or both parents. Reproduction studies provide (1) information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and (2) data on systemic toxicity. These studies indicate no evidence of developmental toxicity at dose levels below those that cause maternal toxicity.

FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database. Based on the current toxicological data requirements, the database relative to pre and post-natal effects for children is complete. Therefore, it is concluded that an additional uncertainty factor is not warranted and that the RfD at 0.5 mg/kg/day is appropriate for assessing aggregate risk to infants and children.

Using the conservative exposure assumptions, it is concluded that the percent of the RfD that will be utilized by aggregate exposure to residues of clopyralid will be less than 12 percent of the RfD for all populations and subgroups. This estimate represents the ''worst case'' exposure for a given population (i.e. children ages 1–6), exposure is less for any other sub-population e.g. infants. Therefore, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, it is concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate exposures to clopyralid residues.

F. International Tolerances

There are no Codex maximum residue levels established for clopyralid.

II. Administrative Matters

Interested persons are invited to submit comments on this notice of filing. Comments must bear a notation indicating the document control number, [PF–675]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8:30 a.m. to 4 p.m., Monday through Friday, except legal holidays.

A record has be established for this notice under docket number [PF–675] including comments and data submitted electronically as described below. A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

The public record is located in: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, Rm. 1132, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Electronic comments can be sent directly to EPA at:

opp=Docket@epamail.epa.gov

Electronic comments must be submitted as 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 Agency, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 27, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–31345 Filed 12–10–96; 8:45 am]

BILLING CODE 6560–50–F

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting; Farm Credit Administration Board

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on December 12, 1996, from 10:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. *Approval of Minutes*
B. *Report*
—Farm Credit System Building Association Quarterly Report
C. *New Business Regulations*

1. Regulation Review/Deletions [12 CFR Parts 602, 611, 614, 615, 618, and 619] (Interim with Request for Comment).
2. Book-Entry Farm Credit Securities [12 CFR Part 615, Subpart O] (Interim Final).

Dated: December 9, 1996.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 96–31573 Filed 12–9–96; 2:14 pm]

BILLING CODE 6705–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by FCC for Extension Under Delegated Authority 5 CFR 1320 Authority, Comments Requested

December 4, 1996.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission'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.

The FCC is reviewing the following information collection requirements for possible 3-year extension under delegated authority 5 CFR 1320, authority delegated to the Commission by the Office of Management and Budget (OMB).

DATES: Written comments should be submitted on or before January 10, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to dconway@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Number: 3060–0242.

Title: Section 74.604 Interference Avoidance.

Form Number: None.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Number of Respondents: 1.

Estimated Time per Response: 3 hours (2 hours respondent/1 hour attorney).

Total Annual Burden: 2.

Needs and Uses: Licensees assigned a common channel for TV pickup, TV studio transmitter link, or TV relay purposes in the same area, where simultaneous operation is contemplated, shall take such steps as may be necessary to avoid mutual interference. Section 74.604 requires that the Commission be notified if a mutual agreement to avoid interference cannot be reached. The data is used by FCC staff to take such action as may be necessary to assure an equitable distribution of available frequencies, thereby preventing mutual interference.

OMB Number: 3060–0241.

Title: 74.633 Temporary Authorizations.

Form Number: None.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Number of Respondents: 65.

Estimated Time per Response: 2 hours (1–2 hours respondent; 1 hour consulting engineer or attorney).

Total Annual Burden: 69.

Needs and Uses: Section 74.633 requires that licenses of television auxiliary broadcast stations submit an informed request for special temporary authority to operate that station on a temporary basis under certain circumstances. The data is used by FCC staff to ensure that interference will not be caused to other established stations.

OMB Number: 3060–0240.

Title: Section 74.651 Equipment Changes.

Form Number: None.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Number of Respondents: 10.

Estimated Time per Response: 1 hour/respondent.

Total Annual Burden: 10.

Needs and Uses: Section 74.651(b) requires licensees of TV auxiliary broadcast stations to notify the FCC in writing of equipment changes which may be made at licensee's discretion without use of a formal application form. The data is used by FCC staff to maintain complete technical records regarding a licensee's facilities.

OMB Number: 3060–0041.

Title: Application for Authority to Operate a Broadcast Station by Remote Control.

Type of Review: Extension of currently approved collection.

Form Number: FCC 301–A.

Affected Public: Business or other for-profit.

Number of Respondents: 80.

Estimated Time per Response: 0.5 hours (0.25 hours respondent; 0.25 hours consulting engineer).

Total Annual Burden: 30.

Needs and Uses: FCC Form 301–A is required to be filed by AM licensees or permittees with directional antennas when requesting authority to operate a station by remote control. The Commission will be adding the antenna registration information that was approved by OMB under control number 3060–0714 to this form. The data is used by FCC to assure that the directional antenna system is stable.

Federal Communications Commission.

William F. Caton,

Acting, Secretary.

[FR Doc. 96–31410 Filed 12–10–96; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Rescission of Statement of Policy; Retail Repurchase Agreements

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Rescission of statement of policy.

SUMMARY: As part of the FDIC's systematic review of its regulations and written policies under section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI), the FDIC is rescinding its policy statement concerning retail repurchase agreements (Statement). The Statement alerts insured nonmember banks to legal and safety and soundness issues involved in the issuance of retail repurchase agreements (retail repos). The FDIC is rescinding the Statement because it is now outmoded. The rescission does not reflect any substantive change in the FDIC's supervisory attitude toward the need for fundamental disclosure of investor risks, as reflected in the Interagency Statement on Retail Sales of Nondeposit Investment Products.

EFFECTIVE DATE: This Statement is rescinded effective December 11, 1996.

FOR FURTHER INFORMATION CONTACT: Kenton Fox, Senior Capital Markets Specialist, Division of Supervision, (202) 898–7119; Gerald J. Gervino, Senior Attorney, (202) 898–3723, Legal Division, FDIC, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: The FDIC is conducting a systematic review of its regulations and written policies. Section 303(a) of the CDRI (12 U.S.C. 4803(a)) requires each federal banking agency to streamline and modify its regulations and written policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability. Section 303(a) also requires each federal banking agency to remove inconsistencies and outmoded and duplicative requirements from its regulations and written policies.

As part of this review, the FDIC has determined that the Statement is outmoded, and that the FDIC's written policies can be streamlined by its elimination.

The Statement was published on October 6, 1981, 46 FR 49197. The Statement requires banks to follow safe and sound banking practices in the issuance of retail repurchase agreements, alerts banks to certain requirements of 12 CFR part 329 and the Investment Company Act of 1940, establishes disclosure requirements, and restricts bank advertising and solicitations.

The Government Securities Act of 1986 established, among other things, requirements for repurchase agreement transactions using U.S. government and agency securities. In addition, the Division of Supervision has issued guidance for the sale of investment products by banks in the Interagency Statement on Retail Sales of Nondeposit Investment Products. This law partially supersedes the Policy Statement. Similarly, the Interagency Statement provides broader guidance for securities transactions, including retail repurchase transactions. The presence of these two newer guideposts may lead to confusion as to the application of the Policy Statement.

The Policy Statement references parts of the FDIC's interest rate regulations, 12 CFR part 329, that are no longer in force. Much of the discussion on the Investment Company Act of 1940, 17 U.S.C. 80a–1 through 80a–64, is unnecessary as the subject has not been raised in recent years. These factors have caused confusion among banks, their advisors, and consumers.

For the above reasons, the Policy Statement is hereby rescinded.

By order of the Board of Directors.

Dated at Washington, DC, this 26th day of November, 1996.

Federal Deposit Insurance Corporation

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–31393 Filed 12–10–96; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 96-30783) published on pages 64356 and 64357 of the issue for Wednesday, December 4, 1996.

Under the Federal Reserve Bank of St. Louis heading, the entry for Henry McCaslin, Jr., is revised to read as follows:

1. Henry McCaslin, Jr., Cleveland, Mississippi; to acquire an additional 8.72 percent, for a total of 28.93 percent, of the voting shares of Rosedale First National Corporation, Rosedale, Mississippi, and thereby indirectly acquire First National Bank, Rosedale, Mississippi.

Comments on this application must be received by December 17, 1996.

Board of Governors of the Federal Reserve System, December 5, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–31373 Filed 12-10-96; 8:45 am]

BILLING CODE 6210-01-F

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 26, 1996.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Joseph E. Corbitt, Waverly, West Virginia; to acquire an additional 2.30 percent, for a total of 13.67 percent, of the voting shares of First National Bancorp, Inc., St. Marys, West Virginia, and thereby indirectly acquire The First National Bank of St. Marys, St. Marys, West Virginia.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Jerome Dansker, New York, New York; to acquire a total of 33.33 percent of the voting shares of Intervest Bancshares Corporation, New York, New York, and thereby indirectly acquire Intervest Bank, Clearwater, Florida.

Board of Governors of the Federal Reserve System, December 5, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–31374 Filed 12-10-96; 8:45 am]

BILLING CODE 6210-01-F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. 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 standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company 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'' (12 U.S.C. 1843). Any request for a hearing 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, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 6, 1997.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Security National Corporation, Sioux City, Iowa; to acquire 100 percent of the voting shares of Security National Bank of South Dakota, Dakota Dunes, South Dakota (in organization).

Board of Governors of the Federal Reserve System, December 5, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–31372 Filed 12-10-96; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–97–30]

Proposed Data Collections Submitted for Public Comment and Recommendations

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 Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

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 for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. Congenital Syphilis Case Investigation and Report Form (CDC 73.126 REV 09–91) (0920–0128)—This request is for a 3-year extension of clearance. Reducing congenital syphilis (CS) is a national objective in the DHHS Report entitled *Healthy People 2000: Midcourse Review and 1995 Revisions.* Objective 19.4 of this document states the goal: ''reduce congenital syphilis to an incidence of no more than 40 cases per 100,000 live births'' by the year 2000. In order to meet this national objective, an effective surveillance system for CS must be continued in order to monitor current levels of disease and progress towards the year 2000 objective. This data will also be used to develop intervention strategies and to evaluate ongoing control efforts. The total estimated cost to respondents is $14,550.

Respondents	Number of respondents	Number of responses/respondent (in hrs.)	Average burden/response (in hrs.)	Total burden (in hrs.)
State and local health department	2000	1	0.25	500
Total	.....	.....	.....	500

2. Survey to Evaluate the 1989 Revisions of the U.S. Standard Certificates of Live Birth and Death and the U.S. Standard Report of Fetal Death—New—OMB approved the information collections for the evaluation of the 1978 revisions of the U.S. standard certificates and reports under OMB No. 0937–0114. The standard certificates are used by state vital statistics offices as models in developing their own birth, death, and fetal death reporting forms. Data obtained from these reporting forms in each individual state are used to compile national vital statistics. The standard certificates are the principal means of achieving uniformity of information upon which national vital statistics are based. To ensure that the standard certificates meet the various

needs for which they are designed, it is essential that they be evaluated and revised periodically. This information collection will be used to evaluate the items on the 1989 revisions of the standard certificates and to determine if there is other information that should be included on the standards that is needed for relevant public health research. Respondents will include individuals and organizations who are involved in the completion of vital records or who utilize vital statistics data and have an interest in the content of the standard certificates. The information collected will be used by a group of consultants to determine what changes may be needed in the 1989 standard certificates. The total cost to respondents is estimated at $90,000.

Respondents	Number of respondents	Number of respondents/responses	Average burden/response (in hrs.)	Total burden (in hrs.)
Live Birth Questionnaire	2000	1	0.5	1000
Fetal Death Questionnaire	2000	1	0.5	1000
Death Questionnaire	2000	1	0.5	1000
Total	.....	.....	.....	3000

Dated: December 4, 1996.

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–31415 Filed 12–10–96; 8:45 am]

BILLING CODE 4163–18–P

[30DAY–24]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

The following requests have been submitted for review since the last publication date on November 27, 1996.

Proposed Project

1. Chronic Fatigue Syndrome Surveillance and Related Studies—Prevalence and Incidence of Fatiguing Illness in Sedgewick County, Kansas—New—In 1994, OMB approved the information collection ''Epidemiology of Fatiguing Illness in Wichita: A Population-Based Study'' under OMB Number (0920–0336). Data from this cross-sectional, point prevalence, random-digit-dial survey of prolonged fatiguing illness in San Francisco, CA concluded that CFS continues to exit and that prolonged fatigue occurs in over five percent of the population in San Francisco.

The proposed study replicates the San Francisco study using identical methodology and data collection instruments. Beginning with a random-digit-dial telephone survey to identify fatigued individuals, followed by a case-control study where surveillance interview instruments will be used to obtain comparative data on fatigued individuals and matched health (non-fatigued) controls. Study objectives remain to refine estimates of CFS in Wichita, identify similarities and differences among cases and controls, and to evaluated the merits of a physician-based surveillance conducted by the Wichita department of health. The total annual burden is 7646. Send comments to CDC Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503.

Respondents	Number of respondents	Number of responses/respondent	Avg. burden/response (in hrs.)
Household Screener	26,000	1	0.083
*Cross-sectional interview	6,864	1	.....
*Follow-up interview	5,148	1	.....
Adolescent Questionnaire	5,532	1	0.027

*These respondents are a subset of the 26,000 respondents to household.

Dated: December 4, 1996.

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–31416 Filed 12–10–96; 8:45 am]

BILLING CODE 4163–18–P

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Child Support Enforcement Technical Assistance Survey and Best Practices Report.

OMB No.: New Collection.

Description: The new welfare reform law requires the Federal Office of Child Support Enforcement (OCSE) to provide technical assistance to States and localities. This information collection is designed to help OCSE learn what type of technical assistance is needed, and what child support practices have been successful. We plan to collect the first type of information through voluntary needs assessment and technical

assistance reporting documents, and the second through a voluntary best practices reporting form.

Respondents: States, District of Columbia, Guam, Puerto Rico and Virgin Islands.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Needs Assessment	54	1	16	864
Technical Assistance Request/Report	54	1	3	162
Best Practices Report	54	1	3	162

Estimated Total Annual Burden Hours: 1,188.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments 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) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: December 5, 1996.

Douglas J. Godesky,

Reports Clearance Officer.

[FR Doc. 96–31377 Filed 12–10–96; 8:45 am]

BILLING CODE 4184–01–M

Food and Drug Administration

[Docket No. 96M–0472]

Neuromedical Systems, Inc.; Premarket Approval of the PAPNET® Testing System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Neuromedical Systems, Inc., Suffern, NY, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the PAPNET® Testing System. After reviewing the recommendation of the Hematology and Pathology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of November 8, 1995, of the approval of the application.

DATES: Petitions for administrative review by January 10, 1997.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter E. Maxim, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1293.

SUPPLEMENTARY INFORMATION: On September 21, 1994, Neuromedical Systems, Inc., Suffern, NY 10901–4164, submitted to CDRH an application for premarket approval of the PAPNET® Testing System. The device is a semi-automated test indicated to aid in the rescreening of cervical Papanicolaou (Pap) smears previously reported as negative. The PAPNET® Testing System is intended to detect evidence of cervical epithelial abnormalities including the following categories of the Bethesda System for classification of cervical cytology results: (1) Primary squamous cell carcinoma of the cervix and its possible precursor lesions, i.e., low grade squamous intra epithelial lesions (LGSIL), high grade intra epithelial (HGSIL), and atypical squamous cells of undetermined significance (ASCUS); and (2) primary endocervical adenocarcinoma and its possible precursor lesion, atypical glandular cells of undetermined significance (AGUS). The PAPNET® testing is intended as an adjunct to all standard laboratory quality control and mandated re-screening procedures.

On August 7, 1995, the Hematology and Pathology Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application. On November 8, 1995, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under 21 CFR part 12 of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a

notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before January 10, 1997, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 24, 1996.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 96–31422 Filed 12–10–96; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

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 of January 1997:

Name: Advisory Committee on Infant Mortality.

Date and Time: January 9, 1997, 9:00 a.m.; January 10, 1997, 8:30 a.m.

Place: Radisson Barcelo Hotel, 2121 P Street, N.W., Washington, DC 20037. The meeting is open to the public.

Agenda: Topics that will be discussed include: Updates on the Healthy Start Program, Evaluation, and Media Campaign; the Southern Governor's infant mortality initiatives; and Teenage Pregnancy Prevention Programs.

Anyone requiring information regarding the Committee should contact Dr. Peter van Dyck, Executive Secretary, Advisory Committee on Infant Mortality, Health Resources and Services Administration, Room 18–31, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–2204.

Persons interested in attending any portion of the meeting or having questions regarding the meeting should contact Ms. Kerry P. Nesseler, Maternal and Child Health Bureau, Health Resources and Services Administration, Telephone (301) 443–2204.

Agenda Items are subject to change as priorities dictate.

Dated: December 5, 1996.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 96–31421 Filed 12–10–96; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: Jeffry Eberhart, Dallas, GA, PRT–822430.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Dewey Morrison Dalton, Dallas, TX, PRT–822764.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Derek Baker, San Jose, CA, PRT–821239.

The applicant amends a request for a permit to import 25 Asian bonytongue (*Scleropages formosus*) from P.S. Bintang Kalbor, Lakimantan, Indonesia for the purpose of survival of the species through propagation. The original request was to import three Asian bonytonque and the notification appeared in the Federal Register Vol. 61. No. 26, page 55013, published October 23, 1996, pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*)

Applicant: Teri Embery, Bartlesvillew, OK, PRT–822244.

On November 20, 1996, Federal Register/Vol. 61, No. 225, page 59106, column 3, the following notice was published:

The applicant requests a permit for the import of one captive-born female leopard cat (*Prionailurus b. bengalensis*) from Jungle Cat World, Ontario, Canada for the purpose of enhancement of the survival of the species through propagation.

The animal requested in this application should have been listed as a male.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203, and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application(s) for permits to conduct certain activities with marine mammals. The application(s) was/were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Applicant: Point Defiance Zoo and Aquarium, Tacoma, WA, PRT–822531.

Type of Permit: Import for public display.

Name and Number of Animals: Polar Bear (*Ursus maritimus*), 2.

Summary of Activity to be Authorized: The applicant has requested a permit to import two polar bears presently held at the Calgary Zoo, Canada, which were legally removed from the wild at Churchill, Manitoba.

Source of Marine Mammals for Research/Public Display: Canada.

Period of Activity: Up to five years from issuance of a permit, if issued.

Concurrent with the publication of this notice in the Federal Register, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 430, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for

a copy of such documents within 30 days of the date of publication of this notice at the above address.

Dated: December 6, 1996.

Mary Ellen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 96–31482 Filed 12–10–96; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[NM–910–07–1020–00]

New Mexico Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of council meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix 1, The Department of the Interior, Bureau of Land Management (BLM), announces a meeting of the New Mexico Resource Advisory Council (RAC). The meeting will be held on January 9 and 10, 1997 at the Amberely Suites Hotel, 7620 Pan America Freeway, Albuquerque, NM 87109.

The agenda for the RAC meeting will include agreement on the meeting agenda, any RAC comments on the draft summary minutes of the last RAC meeting of Oct 10–11, 1996 in Albuquerque, NM., briefing on the status of the RAC Standards for Rangeland Health and Guidelines for Livestock Grazing NEPA process, and presentations by Bureau of Land Management staff and RAC members on various resource concerns.

The meeting will begin on January 9, 1997 at 8:00 a.m. The meeting is open to the public. The time for the public to address the RAC is on the Thursday, January 9, 1997, from 3:00 p.m. to 5:00 p.m. The RAC may reduce or extend the end time of 5:00 p.m. depending on the number of people wishing to address the RAC. The length of time available for each person to address the RAC will be established at the start of the public comment period and will depend on how many people there are that wish to address the RAC. At the completion of the public comments the RAC may continue discussion on its Agenda items.

The meeting on January 10, 1997, will be from 8:00 a.m. to 4:00 p.m. The end time of 4:00 p.m. for the meeting may be changed depending on the work remaining for the RAC.

FOR FURTHER INFORMATION CONTACT: Bob Armstrong, New Mexico State Office, Policy and Planning Team, Bureau of Land Management, 1474 Rodeo Road, P.O. Box 27115, Santa Fe, New Mexico 87502–0115, telephone (505) 428–7436.

SUPPLEMENTARY INFORMATION: The purpose of the Resource Advisory Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of public lands. The Council's responsibilities include providing advice on long range planning, establishing resource management priorities and assisting the BLM to identify State and regional standards for rangeland health and guidelines for grazing management.

Dated: November 27, 1996.

William C. Calkins,

State Director.

[FR Doc. 96–31378 Filed 12–10–96; 8:45 am]

BILLING CODE 4310–FB–M

[AZ–910–0777–61–241A]

State of Arizona Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Arizona Resource Advisory Council Meeting, notice of meeting.

SUMMARY: This notice announces the seventh meeting of the Arizona Resource Advisory Council. The meeting will be held January 9, 1997, beginning at 8:30 a.m. in the 1A Conference Room at the Bureau of Land Management Arizona State Office, 222 North Central Avenue, Phoenix, Arizona. The agenda items to be covered at the one-day business meeting include review of previous meeting minutes, and reports to the Council on the Standards and Guidelines statewide plan amendment, proposed Lake Havasu planning process, recreation fee program, statewide land exchange effort, and the Arizona State Office Public Information Center. In addition, the Recreation and Public Relations subgroups will report on current activities. A public comment period will take place at 11:30 a.m. January 9, 1997 for any interested publics who wish to address the Council.

FOR FURTHER INFORMATION CONTACT: Deborah Stevens or Ken Mahoney, Bureau of Land Management, Arizona State Office, 222 North Central Avenue, Phoenix, Arizona 85004–2203, (602) 417–9512.

Michael A. Ferguson,

Deputy State Director, Resource Planning, Use and Protection Division.

[FR Doc. 96–31417 Filed 12–10–96; 8:45 am]

BILLING CODE 4310–32–P

[NV–930–1430–01; N–47851]

Notice of Realty Action: Sale of Public Land in Lander County, Nevada, by Noncompetitive Sale Procedures

AGENCY: Bureau of Land Management, Interior.

ACTION: Direct Sale of Public Lands in Lander County, Nevada.

SUMMARY: The following described land in Lander County, Nevada, has been examined and identified as suitable for disposal by direct sale under Sections 203 and 209 of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976 (43 U.S.C. 1713 and 1719) at no less than appraised fair market value:

Mount Diablo Meridian, Nevada

T. 31 N., R. 43 E.,
Section 26, lot 10;
Section 27, lots 31–33, 35, 36, 48–52

Comprising 36.18 acres, more or less.

The above-described lands are hereby classified for disposal in accordance with Executive Order 6910 and the Act of June 28, 1934, as amended.

The land is being offered as a direct sale to the adjacent landowner, Battle Mountain Gold Corporation. The land will not be offered for sale until at least 60 days after the date of publication of this notice in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Judy A. Fry, Realty Specialist, Bureau of Land Management, Battle Mountain Field Office, 50 Bastian Road, P.O. Box 1420, Battle Mountain, NV, 89820, (702) 635–4000.

SUPPLEMENTARY INFORMATION: The land has been identified as suitable for disposal by the Shoshone-Eureka Resource Management Plan. The land is not needed for any resource program and is not suitable for management by the Bureau or another Federal department or agency.

The land to be sold is difficult and uneconomical for the Bureau to manage. It consists of three parcels, two of which are totally surrounded by patented mining claims owned by the sale proponent. The third parcel is bordered on three sides by the proponent's patented claims, and on the fourth by unpatented mining claims held by the proponent.

The locatable, salable, and leasable mineral estates, with the exception of geothermal resources, have been determined to have no known value. Therefore, the mineral estate, excluding geothermal resources, will be conveyed simultaneously with the surface estate in accordance with Section 209(b)(1) of Federal Land Policy and Management Act of 1976. Acceptance of the sale offer will constitute application for conveyance of the available mineral interests. The sale proponent will be required to submit a $50.00 nonrefundable filing fee for conveyance of the mineral interests specified above with the purchase price for the land. Failure to submit the nonrefundable fee for the mineral estate within the time frame specified by the authorized officer will result in cancellation of the sale.

Upon publication of this Notice of Realty Action in the Federal Register, the lands will be segregated from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws or disposals pursuant to Sections 203 and 209 of FLPMA. The segregation shall terminate upon issuance of a patent or other document of conveyance, upon publication in the Federal Register of a termination of segregation, or 270 days from date of this publication, which ever occurs first.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, (43 U.S.C. 945);

2. Geothermal resources;

And will be subject to all other valid existing rights.

For a period of 45 days from the date of publication in the Federal Register, interested parties may submit comments to the District Manager, Battle Mountain District, 50 Bastian Way, Box 1420, Battle Mountain, NV 89820. Any adverse comments will be evaluated by the State Director, who may sustain, vacate or modify this realty action and issue a final determination. In the absence of timely filed objections, this realty action will become a final determination of the Department of the Interior.

Dated: November 15, 1996.

Wayne King,

Acting District Manager.

[FR Doc. 96–31388 Filed 12–10–96; 8:45 am]

BILLING CODE 4310–HC–P

[ID–957–1150–02]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m. December 2, 1996.

The plat representing the dependent resurvey of portions of the west boundary and subdivisional lines, the subdivision of section 7, and the survey of lot 9 in section 7, T. 16 N., R. 26 E., Boise Meridian, Idaho, Group No. 959, was accepted December 2, 1996.

This survey was executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 S. Vinnell Way, Boise, Idaho, 83709–1657.

Dated: December 2, 1996.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 96–31470 Filed 12–10–96; 8:45 am]

BILLING CODE 4310–GG–M

[ID-957-1220-00]

Idaho: Filing of Plats of Survey; Idaho

The plats of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m. December 2, 1996.

The plat representing the corrective dependent resurvey of portions of the south boundary, T. 15S., R. 23 E. Boise Meridian, Idaho, Group No. 954, was accepted December 2, 1996.

The plat representing the dependent resurvey of a portion of the south boundary and of the subdivisional lines and the subdivision of sections 27 and 34, T.15 S., R.24 E., Boise Meridian, Idaho, Group No. 954, was accepted December 2, 1996.

These surveys were executed to meet certain administrative needs of the Bureau of Land Management and of the National Parks Service, City of Rocks National Reserve.

All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706–2500.

Dated: December 2, 1996.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 96–31471 Filed 12–10–96; 8:45 am]

BILLING CODE 4310–GG–M

[ID–957–1910–00–4573]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m. December 2, 1996.

The plat representing the dependent resurvey of portions of the north boundary and subdivisional lines, and the subdivision of certain sections, T. 4 S., R. 34 E., Boise Meridian, Idaho, Group No. 848, was accepted December 2, 1996.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs, Fort Hall Agency.

All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Indian Affairs, Fort Hall Agency.

All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 S. Vinnell Way, Boise, Idaho, 83709–1657.

Date: December 2, 1996.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 96–31472 Filed 12–10–96; 8:45 am]

BILLING CODE 4310–GG–M

National Park Service

Notice of Intent to Extend Existing Concession Contracts and Permits

SUMMARY: Pursuant to the Act of October 9, 1965, (79 Stat. 969; 16 U.S.C. 20 et esq.), notice is hereby given that the National Park Service intends to extend the following concession contracts and permits. These extensions are necessary to allow the continuation of public services during the completion of the planning for the parks. The current concessioners have performed their obligations to the satisfaction of the Secretary and retain their rights of preference under this administrative action of extending the existing contracts and permits.

The following concession contracts and permits will be extended for a period of one year through December 31, 1997: BRYCE CANYON NATIONAL PARK, CC–BRCA002–87, Bryce-Zion Trail Rides, Inc.; CANYONLANDS NATIONAL PARK, CP–CANY001–87, Adventure Bound, Inc.; CP–CANY002–87, Sheri Griffith River Expeditions; CP–CANY003–87, Navtec Expeditions, Inc.; CP–CANY004–87, Colorado Outward

Bound School, Inc.; CP–CANY005–87, Colorado River & Trail Expeditions; CP–CANY006–87, Don Hatch River Expeditions; CP–CANY007–87, Holiday River Expeditions; CP–CANY009–87, Moki Mac River Expeditions, Inc.; CP–CANY010–87, North American River Expeditions, Inc.; CP–CANY011–88, Adventure River Expeditions; CP–CANY012–87, Niskanen and Jones, Inc. dba San Juan Expeditions; CP–CANY014–87, Niskanen & Jones dba Tag-A-Long Expeditions; CP–CANY015–88, Holiday River Expeditions; CP–CANY016–87, Tour West, Inc.; CP–CANY017–87, Western River Expeditions; CP–CANY018–87, American Wilderness Expeditions dba Adrift Adventures; CP–CANY019–87, Niskanen & Jones dba Tag-A-Long Expeditions; CP–CANY020–87, World Wide River Expeditions; GRAND CANYON NATIONAL PARK, CC–GRCA003–67, Babbitt Brothers Trading Company; GRAND TETON NATIONAL PARK, CC–GRTE004–78, Triangle X Ranch; LP–GRTE024–90, Jackson Hole Ski Corporation; LP–GRTE025–90, Rendezvous Ski Tours; LP–GRTE032–90, Spring Creek Ranch; LP–GRTE044–91, Greater Yellowstone Expeditions; LP–GRTE047–90, The National Outdoor Leadership School; LP–GRTE049–91, Fox Creek Pack Station, Inc.; and CP–GRTE051–91, Triangle X Float Trips.

The following concession contracts and permits will be extended for a period of two years through December 31, 1998: AMISTAD NATIONAL RECREATION AREA, CC–AMIS003–87, Rough Canyon Marina; CANYONLANDS NATIONAL PARK, CP–CANY022–89, North American River Expeditions dba Canyonlands Tours; CP–CANY024–89, Niskanen and Jones, Inc. dba Tag-A-Long Tours; CP–CANY025–89, Lin Ottinger Tours; CP–CANY026–91, Niskanen and Jones, Inc. dba Tag-A-Long Tours; CP–CANY027–91, 3–D River Visions, Inc. dba Tex's Riverways; CP–CANY031–92, Holiday River Expeditions, Inc.; CP–CANY032–92, Kaibab Mountain Bike Tours; CP–CANY033–92, Nichols Expeditions, Inc.; CP–CANY034–92, Rim Tours; CP–CANY035–92, Western Spirit Cycling, Inc.; CARLSBAD CAVERNS NATIONAL PARK, CC–CACA001–70, The Cavern Supply Company, Inc.; CURECANTI NATIONAL RECREATION AREA, CC–CURE001–89, Elk Creek Marina, Inc.; DINOSAUR NATIONAL MONUMENT, CP–DINO010–87, Faron and Wayne Wilkins dba Wilkin's Firewood and Beverage; GLACIER NATIONAL PARK, CC–GLAC001–89, Glacier Park Boat Company, Inc.; CP–GLAC006–89, Glacier Wilderness Guides, Inc.; CP–GLAC008–92, Rocky Mountain Transportation, Inc.; GRAND CANYON NATIONAL PARK, CC–GRCA030–84, Samaritan Health Service; GRAND TETON NATIONAL PARK, CC–GRTE002–90, Leek's Marina; CP–GRTE005–89, American Alpine Club, Inc.; CP–GRTE006–89, Barker-Ewing Scenic Tours; CP–GRTE008–89, Jack Dennis Fishing Trips; CP–GRTE010–89, Fort Jackson Float Trips; LP–GRTE011–89, Heart 6 Float Trips; LP–GRTE014–89, Rivermeadows Associates; CP–GRTE015–89, National Park Float Trips; CP–GRTE017–89, O.A.R.S, Inc; CP–GRTE020–89, Solitude Float Trips; CP–GRTE022–87, Teton Boating Company, Inc.; PETRIFIED FOREST NATIONAL PARK, CC–PEFO001–84, AmFac Parks and Resorts, Inc.; ROCKY MOUNTAIN NATIONAL PARK, CC–ROMO002–87, Hi Country Stables, Inc.; SAN ANTONIO MISSIONS NATIONAL HISTORICAL PARK, CP–SAAN001–89, Los Compadres de San Antonio National Historical Park, Inc.

The following concession contracts and permits will be extended for a period of three years through December 31, 1999: AMISTAD NATIONAL RECREATION AREA, CC–AMIS002–89, Lake Amistad Resort and Marina; GRAND TETON NATIONAL PARK, CC–GRTE009–89, Exum Mountain Guide Service; CP–GRTE012–89, Jackson Hole Mountain Guides, Inc.; LP–GRTE034–90, Wilderness Ventures; LP–GRTE038–90, Teton Valley Ranch; LP–GRTE041–91, Jackson Hole Trail Rides; LAKE MEREDITH NATIONAL RECREATION AREA, CC–LAMR002–87, Marina at Lake Meredith; PADRE ISLAND NATIONAL SEASHORE, CC–PAIS001–85, Padre Island Park Company; ROCKY MOUNTAIN NATIONAL PARK, CP–ROMO003–90, Colorado Mountain School; ZION NATIONAL PARK, CC–ZION001–87, Bryce-Zion Trail Rides, Inc.

SUPPLEMENTARY INFORMATION: These concession contracts and permits will expire on December 31, 1996, unless extended. The National Park Service will not renew these contracts and permits for an extended period until planning can be conducted to determine the future direction for concession services at these parks. The necessary planning processes are expected to begin shortly and will affect the future of these concessions. The planning processes are expected to take one, two, or three years to complete. Until the planning processes are completed, it will not be in the best interest of the National Park Service to enter into long term concession contracts and permits. For these reasons, it is the intention of the National Park Service to extend the current contracts and permits for a period of one, two, or three years beginning January 1, 1997.

Information about this notice can be sought from: Program Leader, Intermountain Office of Concessions Management Support Attention: Judy Jennings, National Park Service, 12795 West Alameda Parkway, P.O. Box 25287, Denver, Colorado 80225–0287, or call: (303) 969–2661.

Dated: November 26, 1996.

Robert Reynolds,

Acting Field Director, Intermountain Field Area.

[FR Doc. 96–31449 Filed 12–10–96; 8:45 am]

BILLING CODE 4310–70–P

Notice of the Intention To Issue a Prospectus for the Operation and Management of a Tennis Complex

SUMMARY: The National Park Service will be releasing a concession Prospectus seeking parties interested in operating a tennis complex and related support facilities within American Memorial Park in the Commonwealth of the Northern Mariana Islands on the Island of Saipan. The operation consists of four (4) lighted hard surfaced tennis courts with a small pro shop and restroom facilities. The proposed operation will be year round and is anticipated to operate both in the daytime and evening hours. There is no existing operator and this opportunity is fully competitive. All the existing facilities are government owned. The incoming operator will be required to provide all the necessary items to adequately stock the pro shop and staff the operation. The term of the proposed concession contract will be for seven (7) years.

SUPPLEMENTARY INFORMATION: The cost for purchasing a Prospectus is $30.00. Parties interested in obtaining a Prospectus should send a check made payable to the ''National Park Service''. Send the check to the National Park Service, Office of Concession Program Management, Pacific Great Basin System Support Office, 600 Harrison Street, Suite 600, San Francisco, CA 94107–1372. Please include a mailing address of where to send the Prospectus. On the front of the envelope mark ''Attention: Office of Concession Program Management—Mail Room Do Not Open''. If there are any questions contact Mr. Mac Foreman, Office of Concession Program Management, Pacific Great Basin System Support Office, San Francisco, CA (415) 744–3981.

Dated: November 25, 1996.

Stanley T. Albright,

Field Director, Pacific West Area.

[FR Doc. 96–31448 Filed 12–10–96; 8:45 am]

BILLING CODE 4310–70–P

Draft Environmental Impact Statement (DEIS) for Lake Cresent Management Plan, Olympic National Park, WA

ACTION: Notice of change of dates for public meetings.

SUMMARY: The dates of the public meetings specified in the National Park Service Notice of Availability (FR, Vol. 61, No. 204, p. 54676) were November 20, 1996, in Seattle, WA, and November 21, 1996, in Port Angeles, WA. This current Notice announces that the dates for those public meetings have been changed as follows: Wednesday, January 15, 1997, from 7:00 to 9:30 p.m., at the Jackson Federal Building, South Auditorium, Seattle, WA, and Thursday, January 16, 1997, from 7:00 to 9:30 p.m., at the Vern Burton Community Center, Port Angeles, WA. All comments received will become part of the public record and copies of comments, including any names, addresses and telephone numbers provided by respondents, may be released for public inspection.

DATES: Comments on the DEIS must be received no later than February 3, 1997.

ADDRESSES: Written comments should be submitted to the Superintendent, Olympic National Park, 600 E. Park Ave., Port Angeles, WA 98362.

FOR FURTHER INFORMATION CONTACT: Superintendent, Olympic National Park, at the above address or at telephone number (360) 452–4501, ext. 207.

Dated: November 29, 1996.

William C. Walters,

Deputy Field Director, Pacific West Field Area.

[FR Doc. 96–31451 Filed 12–10–96; 8:45 am]

BILLING CODE 4310–70–P

General Management Plan—Environmental Impact Statement Zion National Park, UT

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement for a General Management Plan, hereafter known as a Visitor Management Resource Protection Plan (VMRPP), for Zion National Park.

SUMMARY: Under the provisions of the National Environmental Policy Act, the National Park Service is preparing an environmental impact statement for a Visitor Management Resource Protection Plan for Zion National Park.

The project will result in a Plan encompassing visitor use, concessions management, and preservation of natural and cultural resources. In cooperation with local, state, tribal, and other federal agencies, attention will also be given to cooperative management of resources outside the boundaries that affect the integrity of Zion National Park. Alternatives that will be considered in the EIS will include no-action, the preferred alternative, and other feasible options.

One of the major issues to be addressed in this plan will be the identification and implementation of visitor carrying capacity throughout the park. This will be accomplished by the Visitor Experience and Resource Protection (VERP) process. VERP is a planning framework that focuses on visitor use impacts as they relate to visitor experiences and park resources. Other issues to be addressed include: natural and cultural resource management, the transportation system, and backcountry management. External threats, such as aircraft overflights, wild and scenic rivers, and wilderness will also be addressed. Provided as guidance to these issues will be legislative mandates, the park's purpose and significance statement, and the desired futures as established in the park's Statement for Management. A scoping newsletter has been prepared that details the issues and alternatives identified to date. Copies can be obtained from Superintendent, Zion National Park, Springdale, Utah 84767–1099.

FOR FURTHER INFORMATION CONTACT: Contact planning team coordinator, Darla Sidles, Zion National Park, 801–772–0211.

Dated: November 26, 1996.

Donald A. Falvey,

Superintendent.

[FR Doc. 96–31447 Filed 12–10–96; 8:45 am]

BILLING CODE 4310–70–P

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 30, 1996. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by December 26, 1996.

Carol D. Shull,

Keeper of the National Register.

ARKANSAS

Baxter County

Batesville East Main Historic District (Boundary Increase), 1011, 1041, 1063, and 1087 College Ave., Batesville, 96001520

FLORIDA

Indian River County

First Methodist Episcopal Church (Fellsmere MPS), 31 N. Broadway, Fellsmere, 96001521

Leon County

Strickland—Herold House, Main St., NW of jct. of Moccasin Gap Rd. and FL 59, Miccosukee, 96001523

Sarasota County

Johnson—Schoolcrafy Building (Venice MPS), 201–203 W. Venice Ave., Venice, 96001522

MASSACHUSETTS

Hampden County

Russell Center Historic District, Jct. of Main and Lincoln Ave., Russell, 96001524

MONTANA

Lincoln County

Ant Flat Ranger Station, Forest Service Rd. 36, approximately 2 mi. S of Fortine, Kootenai National Forest, Fortine vicinity, 96001533

NORTH CAROLINA

Anson County

Chambers—Morgan Farm, W side of NC 1228, .1 mi. N of NC 1225, White Store vicinity, 96001526

Gaston County

Belmont Historic District, Roughly bounded by Sacred Heart College campus, RR line, N. and S. Main, Glenway, Bryant Sts., Keener Blvd., Central Ave, Belmont, 96001525

Haywood County

Davis Family House, N side of NC 1355, .8 mi. NW of Ferguson Br. over the Pigeon River, Crabtree vicinity, 96001527

UTAH

Box Elder County

Mountain States Telephone and Telegraph Building (Brigham City MPS), 20 E. 100 South St., Brigham City, 96001530

Sanpete County

Watkins—Tholman—Larsen Farmstead, 422 E. 400 South St., Mt. Pleasant, 96001531

VERMONT

Chittenden County

Gray Rocks (Agricultural Resources of Vermont MPS), US 2, near jct. with US 89, Richmond, 96001534

WEST VIRGINIA

Ohio County

Shaw Hall, West Liberty State College, Bethany Pike, approximately 1.25 mi. S of jct. with Locust Grove Rd., West Liberty, 96001528

Shotwell Hall, West Liberty State College, Bethany Pike, approximately 1.25 mi. S of jct. with Locust Grove Rd., West Liberty, 96001529

WISCONSIN

Grant County

Potosi Badger Huts Site, .5 mi. SW of jct. of WI 133 and WI U, Potosi vicinity, 96001532

[FR Doc. 96–31450 Filed 12–10–96; 8:45 am]

BILLING CODE 4310–70–P

Bureau of Reclamation

Draft Environmental Impact Statement for Rio Grande and Low Flow Conveyance Channel Between San Acacia, NM and Elephant Butte Reservoir

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended, the Bureau of Reclamation (Reclamation) proposes to prepare a draft environmental impact statement (DEIS) addressing possible changes to the configuration and operation of the Rio Grande ''Floodway'' and Low Flow Conveyance Channel between San Acacia, New Mexico and Elephant Butte Reservoir. Public scoping meetings will be held to obtain comments from interested organizations and individuals on what issues should be considered in the DEIS.

DATES: Two public meetings will be held in January 1997 to present information and solicit public input. The first meeting will be held on January 21, 1997, in Albuquerque, at the University of New Mexico from 3:00 p.m. until 8:30 p.m. The second meeting will be held on January 22, 1997, in Socorro, New Mexico at the Bureau of Reclamation Field Division Office from 6:30 p.m. until 8:30 p.m.

ADDRESSES: The meeting in Albuquerque will be held at the University of New Mexico Union Building, Rooms 250 A, B, and C (the Union Bldg., is located north of Pope Joy Hall). The Socorro meeting will be held at the Bureau of Reclamation Socorro Field Division Office Building, 2401 State Road 1, in the east assembly room. Written comments should be submitted to Mr. Chris Gorbach, Project Team Leader at the address listed below.

FOR FURTHER INFORMATION CONTACT:

Mr. Chris Gorbach, Project Team Leader, Bureau of Reclamation, 505 Marquette NW, Suite 1313, Albuquerque, New Mexico, 87102; telephone: 505–248–5379. E-mail: cgorbach@uc.usbr.gov.

SUPPLEMENTARY INFORMATION: The Flood Control Acts of 1948 and 1950 authorize Reclamation to construct and maintain channel works on the Rio Grande between Velarde, New Mexico and Caballo Reservoir. These works promote efficient conveyance of water to Elephant Butte Reservoir. Channel works assist in meeting water delivery obligations required by interstate compact and international treaty. They also assist in providing reliable valley drainage and contribute to the safe passage of flood waters. To assure that these project purposes continue to be met effectively, Reclamation is reevaluating the configuration and operation of the channel system between San Acacia, New Mexico and Elephant Butte Reservoir. The channel facilities specifically involved in this reevaluation are the Low Flow Conveyance Channel and the Rio Grande Channel or ''Floodway.''

Factors prompting a reevaluation of the channel system and its operation include changes in the flow of the Rio Grande due to climatic variation and infrastructure changes. Chronic sediment management problems, anticipated reductions in Federal funding, and new legal constraints, such as the Endangered Species Act, on system operation are also factors that prompt this reevaluation. The needs of endangered species and requirements for preservation and enhancement of the Rio Grande bosque will be considered. The DEIS will address possible actions or changes in the operation of the system that may result from the findings of these investigations.

Besides ensuring continued fulfillment of original project purposes, Reclamation will analyze the environmental impacts associated with the maintenance and operation of the floodway and Low Flow Conveyance Channel system.

Dated: December 4, 1996.

Charles A. Calhoun,

Regional Director.

[FR Doc. 96–31473 Filed 12–10–96; 8:45 am]

BILLING CODE 4310–94–M

INTERNATIONAL TRADE COMMISSION

Investigation 332–375]

The Dynamic Effects of Trade Liberalization: An Empirical Analysis

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and request for written submissions.

EFFECTIVE DATE: December 2, 1996.

SUMMARY: Following receipt on November 1, 1996, of a request from the Office of the U. S. Trade Representative (USTR), the Commission instituted investigation No. 332–375, The Dynamic Effects of Trade Liberalization: An Empirical Analysis, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

FOR FURTHER INFORMATION CONTACT: Information on economic aspects of the investigation may be obtained from Michael Ferrantino, Office of Economics (202–205–3241), Arona Butcher, Office of Economics (202–205–3301), or William Donnelly, Office of Economics (202–205–3223), and on legal aspects, from William Gearhart, Office of the General Counsel (202–205–3091). The media should contact Margaret O'Laughlin, Office of External Relations (202–205– 1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

Background: This investigation follows a previous investigation requested by the United States Trade Representative on a similar topic (''The Dynamic Effects of Trade Liberalization: A Survey,'' Investigation No. 332–324, USITC publication 2608, February 1993). In its report the Commission will, as requested by USTR in its November 1, 1996 letter, review and summarize the existing literature on the dynamic effects from trade, both theoretical and empirical, both completed and in progress, with an emphasis on empirical literature. The Commission will include, as background, a general discussion of the relationship between trade and the underlying causes of economic growth, such as capital accumulation, technological change, and labor force growth.

The Commission will also provide a comprehensive and critical assessment of the results that this body of literature provides regarding the dynamic gains from trade. This assessment will explicitly identify the merits and shortcomings of the technical methods, data and results in the existing available literature. The Commission will also explore empirically the potential improvements that this assessment may suggest. USTR requested that the Commission provide its report by October 31, 1997, and that it make the report available to the public in its entirety.

Written Submissions: The Commission does not plan to hold a public hearing in connection with this investigation. However, interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. (Generally, submission of separate confidential and public versions of the submission would be appropriate.) All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested persons. To be assured of consideration, written submissions must be filed by August 13, 1997.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Issued: December 2, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–31455 Filed 12–10–96; 8:45 am]

BILLING CODE 7020–02–P

UNITED STATES INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–374]

General Agreement on Trade in Services: Examination of the Schedules of Commitments Submitted by Asia/Pacific Trading Partners

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: November 26, 1996.

SUMMARY: Following receipt on November 13, 1996, of a request from the Office of the United States Trade Representative (USTR), the Commission instituted Investigation No. 332–374, General Agreement on Trade in Services: Examination of the Schedules of Commitments Submitted by Asia/Pacific Trading Partners, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

FOR FURTHER INFORMATION CONTACT: ormation on service industries may be obtained from Mr. Richard Brown, Office of Industries (202–205–3438) and Mr. Christopher Melly, Office of Industries (202–205–3461); economic aspects, from Mr. William Donnelly, Office of Economics (202–205–3223); and legal aspects, from Mr. William Gearhart, Office of the General Counsel (202–205–3091). The media should contact Ms. Margaret O'Laughlin, Office of External Relations (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

Background: As requested by the USTR in a letter dated November 12, 1996, the Commission, pursuant to section 332(g) of the Tariff Act of 1930, has instituted an investigation and will prepare a report that (1) examines the content of schedules of commitments under the General Agreement on Trade in Services (GATS) for the countries specified below, explaining the commitments in non-technical language; and (2) seeks to identify the potential benefits and limitations of foreign commitments. The Commission will examine sector-specific commitments scheduled by Australia, Hong Kong, India, Indonesia, Korea, Malaysia, New Zealand, the Philippines, Singapore, and Thailand, with respect to the following industries:

- Distribution services (defined as wholesaling, retailing, and franchising services);
- Education services;
- Communication services (defined as enhanced telecommunication, courier, and audiovisual services);
- Health care services;
- Professional services (defined as accounting, advertising, and legal services);
- Architectural, engineering, and construction (AEC) services;
- Land-based transport services (defined as rail and trucking services); and
- Travel and tourism services.

In addition, the Commission will examine horizontal commitments relevant to the specified industries, such as those regarding investment and temporary entry and stay of foreign workers. As requested by the USTR, the Commission plans to deliver its report to the USTR by August 15, 1997. The investigation follows Commission Investigation No. 332–367, General Agreement on Trade in Services: Examination of South American Trading Partners' Schedules of Commitments, requested by the USTR on April 9, 1996, and Commission Investigation No. 332–358, General Agreement on Trade in Services: Examination of Major Trading Partners' Schedules of Commitments, requested by the USTR on December 28, 1994. In those reports, the Commission examined the commitments scheduled by selected trading partners with respect to the industries delineated above. The results of Investigation No. 332–367 will be published in December 1996. The results of Investigation No. 332–358 were published in December 1995 in USITC Publication 2940. This publication is available on the ITC Internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

Public Hearing: A public hearing in connection with the investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on March 27, 1997. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, no later than 5:15 p.m., March 13, 1997. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., March 13, 1997. The deadline for filing post-hearing briefs or statements is 5:15 p.m., April 10, 1997. In the event that, as of the close of business on March 13, 1997, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after March 13, 1997, to determine whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the

Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 C.F.R. 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested parties. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on April 10, 1997. All submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Issued: December 2, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–31454 Filed 12–10–96; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division; U.S. v. Oldcastle Northeast, Inc. et al.; Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (c)–(h), the United States publishes below the comment received on the proposed final judgment in *United States, et al.* v. *Oldcastle Northeast, Inc., et al.,* Civil Action No. 396CV01749 AWT, filed in the United States District Court for the District of Connecticut, together with the United States' response to that comment.

Copies of the comment and response to the comment are available for inspection and copying in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, N.W., Washington, DC 20530 (telephone: (202) 514–2481), and at the Office of the Clerk of the United States District Court for the District of Connecticut. Copies of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations.

December 2, 1996

James A. Dunbar, Esquire
Venable, Baetjer and Howard
1800 Mercantile Bank & Trust Building
Two Hopkins Plaza
Baltimore, Maryland 21201–2978

Re: *United States, et al.* v. *Oldcastle Northeast, Inc., et al.,* Civil Action No.: *396CV01749 AWT (District of Connecticut, September 3, 1996)*

Dear Mr. Dunbar: This letter responds to your letter of November 1, 1996 commenting on the proposed Final Judgment in the above-referenced civil antitrust case challenging the acquisition by CRH plc (CRH) through Oldcastle Northeast, Inc. (Oldcastle) of Tilcon, Inc. (Tilcon) from BTR plc (BTR). The Complaint alleges that the acquisition violated Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, because it is likely substantially to lessen competition in the manufacture and sale of asphalt concrete in the greater Hartford, Connecticut area. Under the proposed Final Judgment, the defendants are required to divest Tilcon's East Granby, Connecticut quarry; two, three-ton, hot-mix plants located at the East Granby Quarry; and all intangible assets located at the quarry to assure that competition is not substantially lessened in the greater Hartford area.

In your letter, you expressed concern that the proposed Final Judgment does not address competitive concerns in additional geographic areas (Vermont and the southwestern and central parts of New Hampshire). The analytical process used by the Antitrust Division to determine which areas the acquisition might raise substantial competitive concerns required us to assess a number of factors including market concentration, potential adverse competitive effects, and entry. These factors must be evaluated in an economically meaningful product and geographic market. This analysis is aimed at allowing the Division to answer the ultimate inquiry: whether the acquisition is likely to create or enhance market power or facilitate the exercise of market power in a relevant market. After a thorough investigation which included the geographic areas mentioned in your letter, the Division concluded that the asphalt concrete market in the greater Hartford area was the relevant market where Oldcastle's acquisition of Tilcon might create or enhance market power. It was determined that in Vermont and central New Hampshire, the same number of competitors would be present after the acquisition as were present before the acquisition. In southwestern New Hampshire, a sufficient number of competitors were found to be active in the region. The Division concluded that in these three areas, the acquisition did not raise significant competitive concerns.

Your letter also raises concerns about the transfer to Pike Industries (a subsidiary of Oldcastle) of Tilcon's right of first refusal to purchase the assets of your client, Frank W. Whitcomb Construction Corporation (Whitcomb). Until Oldcastle elects to exercise this option, Whitcomb will remain a competitor to Pike Industries in Vermont and New Hampshire. If Oldcastle elects to exercise the option, the Division has the ability to investigate the competitive impact of the potential acquisition at that time.

In carefully reviewing the concerns made in your letter about asphalt concrete competition in New Hampshire and Vermont, it is clear that your concerns are outside the scope of the Complaint filed by the Division. When evaluating a complaint and proposed final judgment under the Antitrust Procedures and Penalties Act, unless a strong showing of bad faith or improper behavior can be made, a court will not reach beyond the complaint to evaluate claims that the Division did not make and to inquire why they were not made (*See, United States v. Microsoft Corp.,* 56 F.3d 1448, 1459–60 (D.C. Cir 1995)). A court's authority to review a decree depends on how the Division exercises its prosecutorial discretion. In this instance, the Court's review is linked to whether the proposed Final Judgment assures that competition will not be substantially lessened as alleged in the Complaint brought by the Division.

The Division appreciates you bringing your concerns to our attention and hopes that this information will alleviate them. While the Division understands your position, we believe that the proposed Final Judgment will adequately alleviate the competitive concerns created by CRH's acquisition of Tilcon from BTR. Pursuant to the Antitrust Procedures and Penalties Act, a copy of your letter and this response will be published in the Federal Register and filed with the Court.

Thank you for your interest in the enforcement of the antitrust laws.

Sincerely yours,

Frederick H. Parmenter,

Senior Trial Attorney.

November 1, 1996

VIA HAND-DELIVERY

J. Robert Kramer, Esquire
Chief, Litigation II Section
Antitrust Division
United States Department of Justice
1401 H Street, N.W.—Suite 3000
Washington, D.C. 20530

Re. *United States of America, et al.* v. *Oldcastle Northeast, Inc., et al.,* Civil Action No. 396 CV 01749 AWT, *In the United States District Court for the District of Connecticut*

Dear Mr. Kramer: This letter will serve as the comments of my client, The Frank W. Whitcomb Construction Corporation (''Whitcomb''), on the proposed final judgment in the above-referenced matter. These comments concern an issue that has already been raised with the Department of Justice, but has not been acted upon.

We believe that the facts and circumstances set forth in this letter demonstrate that the acquisition of Tilcon, Inc. by Oldcastle Northeast, Inc. (''Oldcastle'') presents a substantial threat to competition in the aggregate and asphalt paving business in Vermont and the southwestern and central parts of New Hampshire, by elimination of a potential

competitor and the possible elimination of substantially *all* competition in those areas.

Whitcomb is in the aggregate and asphalt paving business, primarily in the states of New Hampshire and Vermont. Pike Industries is Whitcomb's primary competitor. Whitcomb and Pike are the only competitors in Vermont with the exception of occasional minimal competition in the southeast and northeast corners of the State. Pike is a subsidiary of Oldcastle Northeast, Inc., and an indirect subsidiary of CRH, Inc., defendants in the above-referenced matter.

Tilcon is a large regional aggregate and paving company that, Whitcomb believes, works primarily in New York, parts of New England, and the Middle Atlantic States. At present, it is not a direct competitor in most of Whitcomb's market area as described above, but it is a potential competitor.

Since 1993, Whitcomb has been considering the sale of portions or all of its business. In 1993, Whitcomb sold an asphalt plant located in Keene, New Hampshire (which is in the southwestern part of the State) to a subsidiary of Tilcon. As a part of that sale Tilcon also purchased a Right of First Refusal to purchase other plants and real estate owned by Whitcomb. (A copy of the portion of the sale contract relating to the Right of First Refusal is attached hereto.) We understand that as part of the purchase of Tilcon by Oldcastle, this Right of First Refusal has been assigned to Oldcastle.

The proposed acquisition of Tilcon by Oldcastle threatens competition in the aggregate and asphalt paving business in Vermont and south-central New Hampshire in two ways. First, it eliminates Tilcon as a potential competitor. Before the acquisition, the market consisted of two significant actual competitors, Pike and Whitcomb, and at least one potential competitor, Tilcon. After the acquisition, Tilcon will no longer offer potential competition.

Second, with the assignment of the Right of First Refusal to Oldcastle, the proposed acquisition threatens to eliminate competition in the Whitcomb market area almost completely. Whitcomb would like to sell all or part of its business to an entity that can provide viable competition in the market area. The existence of the Right of First Refusal in the hands of its principal competitor makes it difficult to find such a purchaser. Knowledge on the part of a potential purchaser that a competitor could prevent any purchase of Whitcomb or its assets will discourage most entities from attempting to buy Whitcomb or any part of it. If Oldcastle is permitted to exercise the Right of First Refusal, then competition in Vermont will be almost completely eliminated and competition in south-central New Hampshire will be significantly impaired.

As is set forth in the compliant and the competitive impact statement in this case, there are high entry barriers into the manufacture and sale of asphalt concrete. The paving business itself, with the extensive use of expensive heavy equipment, is also capital intensive.

There are no real substitutes for asphalt concrete products, and manufacturers and buyers of asphalt concrete recognize asphalt as the distinct product. Transportation costs and delivery time make it difficult for entities outside of a geographic market—in this case the Whitcomb market area of Vermont and south-central New Hampshire—to compete with competitors located in the market.

In this case, the United States decided to sue Tilcon and CRH/Oldcastle because the acquisition would reduce the number of competitors operating hot mix plants in the greater Hartford area from 3 to 2 and reduce the number of competitors supplying asphalt concrete construction projects in that area from 2 to 1. The proposed acquisition has a comparable competitive effect in the Whitcomb market area. It reduces by 1 the number of potential competitors, by eliminating Tilcon; and it threatens to reduce the number of competitors supplying asphalt concrete construction projects in the market area from 2 to 1, in the event that Oldcastle is able to exercise the Right of First Refusal to purchase all or a substantial part of Whitcomb. In such an event, Oldcastle would control the price of asphalt concrete in the State of Vermont.

The potential harm stemming from the acquisition is particularly substantial in this case because the main purchasers of asphalt concrete for paving projects are tax-supported government entities such as the State of Vermont.

Under the circumstances, we request that the Justice Department withdraw its consent to the proposed acquisition unless and until there is an agreement by both Tilcon and the acquiring companies that the Right of First Refusal is null and void, and that they will not exercise or attempt to exercise it. In the alternative, if the government declines to take any action relating to the Right of First Refusal, then the Court should modify the Consent Decree to add such a provision.

Thank you for your attention to this matter. Please do not hesitate to call me if you should have any questions.

Very truly yours,

James A. Dunbar

Attachment

16. *Right of First Refusal.* (a) As an additional inducement to enter into this Agreement, Seller agrees that Seller shall not, directly or indirectly, sell or transfer (whether by sale of stock, acquisitive merger, business combination or otherwise), or offer to sell, transfer or lease (other than a lease for a term of not more than three years) (any such sale, lease, transfer or offer therefor herein as ''Transfer'') any of its business real estate, now owned or hereafter acquired (except the real estate identified on *Schedule 16.1*), to any other person without first offering to Transfer such assets to the Buyer. If the Buyer and Seller are unable to agree on the price and the terms of any Transfer after full disclosure of information and negotiating in good faith for a period of sixty (60) days, then Seller shall be free to solicit offers on such property to or from any third parties, but only at a price and on terms no more favorable to the purchaser than the price and terms offered to the Buyer. In the event that the Seller receives a bona fide offer to purchase or lease any such property, directly or indirectly, Seller shall provide Buyer with notice of its intent to Transfer. Buyer shall have thirty (30) days to decide internally whether it wishes to purchase or lease the property at such price and on such terms, and, if so, Buyer shall have another thirty (30) days to obtain the approval of its parent corporation(s). Seller agrees to provide Buyer with notice of the acquisition of any after-acquired real estate used in connection with its aggregate and hot mix business, and Seller agrees to execute any such instruments for recordation on the appropriate land records as Buyer shall reasonably request. For purposes of this Section 16, the term ''Seller'' shall include not only the Frank W. Whitcomb Construction Corp. (''FWWCC''), but also any other company, corporation, trust, partnership, association or entity of any form in which either FWWCC, Claire R. Whitcomb, Frank L. Whitcomb or the Frank W. Whitcomb Trust shall have an interest whether direct or indirect.

(b) Frank L. Whitcomb and the Frank W. Whitcomb Trust, (the ''shareholders'') agree not to sell or transfer more than one-third of the outstanding shares of stock of Seller to any other person without in each and every case first offering to sell any such business assets or shares of stock at the same price and on the same terms as offered to any such person. As to any proposed sale exceeding one-third of the share, Buyer shall have sixty (60) days in which to exercise the right of first refusal granted hereunder. The sixty (60) day period shall commence after written notice to Buyer and the delivery of all information reasonably necessary to enable Buyer to make a decision. Notwithstanding the foregoing, the shareholders shall be free to transfer shares to any family member or any trust or other entity established for the benefit of any family member provided that the transferee agrees to be bound by the same terms and conditions hereof.

(c) Seller agrees that it shall not issue any shares of stock, or warrants, options or other rights to acquire shares of stock, to any persons other than Frank L. Whitcomb or the Frank W. Whitcomb Trust if the issuance of such shares of stock would result in the aggregate ownership of the Frank L. Whitcomb or the Frank W. Whitcomb Trust (or any transferees permitted under paragraph (b) above) to be less than two-thirds of the total stock issued and outstanding, computed on a fully diluted basis.

[FR Doc. 96–31468 Filed 12–10–96; 8:45 am]

BILLING CODE 4410–11–M

Antitrust Division

United States of America v. Westinghouse Electric Corporation and Infinity Broadcasting Corporation; Proposed Final Judgment and Competitive Impact Statement

The consent decree in *United States* v. *Westinghouse Electric Corporation and Infinity Broadcasting Corporation*

which was filed with the United States District Court for the District of Columbia, Civil Action No. 96–02563 was published in the Federal Register on December 2, 1996. Page two of the stipulation was not included.

In the Federal Register published December 2, 1996, on page 63861, in the third column, the following text should be set forth after the word ''record.'' in paragraph(a) and before the word ''available''.

Constance K. Robinson,

Director of Operations.

* * * * *

(3) The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on the parties and by filing that notice with the Court.

(4) The defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment, and shall, from the date of the signing of this Stipulation, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

(5) The parties recognize that there could be a delay in obtaining approval by or a ruling of a government agency related to the divestitures required by Section IV of the Final Judgment, notwithstanding the good faith efforts of the defendants and any prospective Acquirer, as defined in the Final Judgment. In this circumstance, plaintiff will, in the exercise of its sole discretion, acting in good faith, give special consideration to forebearing from applying for the appointment of a trustee pursuant to Section V of the Final Judgment, or from pursuing legal remedies.

* * * * *

[FR Doc. 96–31467 Filed 12–10–96; 8:45 am]

BILLING CODE 4410–11–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; The ATM Forum

Notice is hereby given that, on October 30, 1996, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the ATM Forum (''Forum'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: GIE COFiRA, Paris, FRANCE; IT Concept PTE Ltd., Singapore, SINGAPORE; LGIC Anyang, KOREA; Lockheed Martin Corporation, Sunnyvale, CA; Paradyne Corporation, Melbourne Beach FL; and Teltrend Inc., St. Charles, IL have been added to the venture. Company name changes include the following: Telecom Lab MOTC ROC to Telecommunications Labs, Chunghwa Telecom Co.; and Cray Communications to Case Technology. Agile Networks has withdrawn from the venture. National Communications has changed from an auditing member to a principal member.

No changes have been made in the planning activities of the Forum. Membership remains open, and the members intend to file additional written notifications disclosing all changes in membership.

On April 19, 1993, the ATM Forum filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to § 6(b) of the Act on June 2, 1993 (58 FR 31415). The last notification was filed on August 1, 1996 and the Department of Justice published a notice in the Federal Register on September 3, 1996 (61 FR 46488).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–31466 Filed 12–10–96; 8:45 am]

BILLING CODE 4410–11–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; PNGV Fuel Cell Technical Team

Notice is hereby given that, on October 30, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), General Motors Corporation filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to and (2) the nature and objectives of a research and development venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are General Motors Corporation, Detroit, MI; Chrysler Corporation, Auburn Hills, MI; and Ford Motor Company, Dearborn, MI.

The parties have established a Fuel Cell Technical Team to conduct joint research aimed at developing and demonstrating a viable fuel cell powertrain. The activity encompasses several related tasks including research and development efforts on fuel cells, stacks, modules and components as well as development of fuel processing technologies, fuel cell systems integration, and fuel cell/vehicle integration. The results of this effort will support the Partnership for a New Generation of Vehicles (PNGV) effort and allow each party to better service customers around the world. PNGV is the joint effort of the Federal Government and the U.S. auto industry to develop affordable, fuel-efficient, low-emission automobiles that meet today's performance standards. To meet these objectives, the parties will collect, exchange and analyze research information, interact with government, auto industry and other entities interested in this area and perform other acts allowed by the Act that would advance these goals.

Contact: Steven J. Cernak, General Motors Corporation Legal Staff, 3031 West Grand Boulevard, P.O. Box 33122, M.C. 482–207–700, Detroit, MI 48232, (313) 974–7735.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–31462 Filed 12–10–96; 8:45 am]

BILLING CODE 4410–11–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Intelligent Network Forum

Notice is hereby given that, on November 1, 1996, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the Intelligent Network Forum (''INF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to § 6(b) of the Act, the identities of the parties are: Acorn Communications,

Boston, MA; AG Communications Systems, Phoenix, AZ; Ameritech Corporation, Chicago, IL, AT&T Corporation, Basking Ridge, NJ; Axion, Irving, TX; Bellcore, Morristorn, NJ; Boston Technology, Inc., Wakefield, MA; Dialogic Corporation, Parsippany, NJ; Ericsson, Inc., Richardson, TX; GTE Southwest Incorporated, Irving, TX; Hewlett-Packard Company, Cupertino, CA; Illuminet, Overland Park, KS; Lucent Technologies, Inc., Naperville, IL; Metapath Corporation, Redmond, WA; Microcell Labs Inc., Montréal, Québec, CANADA; Motorola, Inc., Arlington Heights, IL; Natural MicroSystems Corporation, Natick, MA; Tandem Computers, Plano, TX; TeleCommunications Systems, Inc., Annapolis, MD; Technical Marketing Services, St. Petersburg, FL; Trillium Digital Systems, Inc., Los Angeles, CA; and Versant Object Technology, Menlo Park, CA.

INF's area of planned activity is to act as an open international industry forum to address interoperability and management issues relative to Intelligent Networks (IN). INF will facilitate the continued growth, acceptance and implementation of IN technology and applications, based on national and international standards.

Membership in INF remains open and information regarding participation may be obtained from Cathy Horn, INF, 11312 LBJ Freeway #600–1114, Dallas, TX 75238.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–31464 Filed 12–10–96; 8:45 am]

BILLING CODE 4410–11–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993; PNGV Electrochemical Energy Storage Technical Team

Notice is hereby given that, on October 30, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), General Motors Corporation filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to and (2) the nature and objectives of a research and development venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under the specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are General Motors Corporation, Detroit, MI; Chrysler Corporation, Auburn Hills, MI; and Ford Motor Company, Dearborn, MI.

The parties have established an Electrochemical Energy Storage Technical Team to conduct join research aimed at developing and demonstrating the viability of lightweight, compact, high power energy storage devices, capable of storing and releasing energy at high power levels at very high levels of efficiency in automotive applications. The research and development activities of this group involve efforts to reduce the weight and cost of high power electrochemical batteries while improving their power, performance, efficiency, durability and cycle life as well as pursuing material advancements which will be required to improve the specific energy and reduce the cost of ultra capacitors, while not adversely affecting their high power capability, efficiency or cycle life. The results of this effort will support the Partnership for a New Generation of Vehicles (PNGV) and allow each party to better serve its customers around the world. PNGV is the joint effort of the Federal Government and the U.S. auto industry to develop affordable, fuel-efficient, low-emission automobiles that meet today's performance standards. To meet these objectives, the parties will collect, exchange and analyze research information, interact with government, auto industry and other entities interested in this area and perform other acts allowed by the Act that would advance these goals.

Contact: Steven J. Cernak, General Motors Corporation Legal Staff, 3031 West Grand Boulevard, P.O. Box 33122, M.C. 482–207–700, Detroit, MI 48232, (313) 974–7735.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–31465 Filed 12–10–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Salutation Consortium

Notice is hereby given that, on October 15, 1996, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the Salutation Consortium has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: Iwatsu Electric Co., Ltd., Tokyo, JAPAN has been added to the venture.

No other changes have been made in the membership or the planned activity of the joint venture. Membership in the venture remains open and the Consortium intends to file additional written notifications disclosing all changes in membership.

On March 30, 1995, the Salutation Consortium, under the name SmartOffice Industry Consortium, filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to § 6(b) of the Act on June 27, 1995 (60 FR 33233). The last notification was filed on July 19, 1996. The Department of Justice published a notice in the Federal Register on September 17, 1996 (61 FR 48983).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–31463 Filed 12–10–96; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

December 5, 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 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, 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 BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, 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 and Training Administration.

Title: ETA Summaries of the Unemployment Insurance Trust Fund Activities.

OMB Number: 1205–0154.

Agency Number: ETA 2112, 8401, 8403, 8405, 8413, 8414.

Frequency: Monthly.

Affected Public: State, Local or Tribal Government.

Number of Respondents: ETA 2112, 8401, 8405, 8413, 8414=53 ETA 8403=18.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 1,698.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The ETA report 8403 monitors Reed Act funds. The ETA reports 2112, 8401, 8405, 8413 and 8414 are used to monitor Unemployment Trust Fund cash flow, disbursement, measure cash management performance and to regulate balances pertaining to unemployment benefits paid from Federal sources. These activities are coordinated from State government accounting systems.

Agency: Employment and Training Administration.

Title: Unemployment Compensation for Ex-Servicepersons (UCX) Handbook.

OMB Number: 1205–0176.

Agency Number: ETA 841, 842.

Frequency: One-time.

Affected Public: State, Local or Tribal Government.

Number of Respondents: ETA 841=138,573; EETA 843=6,929.

Estimated Time Per Respondent: ETA=1.5 minutes; ETA 843=1 minute.

Total Burden Hours: 3,579.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: Federal Law 5 U.S.C. 8521 *et seq.* Provides unemployment insurance protection, to former members of the Armed Forces (ex-servicepersons) and is referred to in abbreviated forms as ''UCX.'' The forms in Chapter V through VIII of the UCX Handbook are used in connection with the provisions of this benefit assistance.

Agency: Employment Standards Administration.

Title: Agreement and Undertaking.

OMB Number: 1215–0034.

Agency Number: OWCP–1.

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 300.

Estimated time Per Respondent: 15 minutes.

Total Burden Hours: 75.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $105.00.

Description: The OCWP–1 form is executed by the self-insurer who agrees to abide by the Department's rules and authorizes the Secretary, in the event of default, to file suit to secure payment from a bond underwriter or in the case of a Federal Reserve account, to sell the securities for the same purpose. A company cannot be authorized to self-insure until this requirement is met. Regulations establishing this requirement are at 20 CFR 726.110 for Coal Mine/Black Lung and 20 CFR 703.304 for Longshore.

Agency: Employment Standards Administration.

Title: Request to be Selected Payee.

OMB Number: 1215–0166.

Agency Number: CM–910.

Frequency: One-time.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 600.

Estimated time Per Respondent: 20 minutes.

Total Burden Hours: 200.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $210.00.

Description: The CM–910 form is completed by representative payee applicants, who are responsible for the care of Black Lung beneficiaries. The payee applicant completes the form and mails it for evaluation to the district office that has jurisdiction over the beneficiary's claim file. The collection of this information is required under 20 CFR 725.504–513.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 96–31475 Filed 12–10–96; 8:45 am]

BILLING CODE 4510–27–M; 4510–30–M

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: December 18, 1996, 10:00 a.m.–12:00 noon; U.S. Department of Labor, Room S–1011, 200 Constitution Ave., NW, Washington, D.C. 20210.

Purpose: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to section 9(B) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(9)(B) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

FOR FURTHER INFORMATION CONTACT: Jorge Perez-Lopez, Director, Office of International Economics Affairs. *Phone:* (202) 219–7597.

Signed at Washington, D.C. this 25th day of November.

Andrew J. Samet,

Acting Deputy Under Secretary, International Affairs.

[FR Doc. 96–31476 Filed 12–10–96; 8:45 am]

BILLING CODE 4510–28–M

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested

data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be assessed properly. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed new collection of ''COMP2000.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addressee section of this notices.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before February 10, 1997. BLS is particularly interested in comments which help the agency to:

- 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 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 submissions of responses.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, N.E., Washington, D.C. 20212. Ms. Kurz can be reached on (202) 606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

The COMP2000 survey, when fully in place, will allow the statistical series now generated by three separate BLS compensation programs to be jointly produced. These programs are the Occupational Compensation Survey Program (OCSP), Employment Cost Index (ECI), and Employee Benefits Survey (EBS). Data of these types are critical for setting Federal white-collar salaries, determining monetary policy (as a Principal Economic Indicator), and providing data for compensation administrators and researchers in the private sector. By uniting the collection of these surveys, BLS intends to decrease the cost of gathering and processing these statistics, improve the quality of the data, and reduce the burden on respondents.

II. Current Actions

The transition to a jointly collected and processed survey began in October of 1996 with the replacement of the current OCSP wage levels data with those from the COMP2000 program. BLS began collecting a new, area-based sample to collect wage levels. A new way of identifying and classifying occupations in establishments was also implemented. Area and national bulletins replacing the OCSP publications will be produced beginning in 1997.

Beginning in 1998, the COMP 2000 survey will include the collection of benefits. This collection will include information on the cost, provisions, and availability of the major types of employee benefits. This information will be integrated with the wage information to tabulate the total employer cost of compensation.

Data will be updated on either an annual or quarterly basis. The updates will allow for production of data on change in earnings and total compensation over time.

Type of Review: New collection.

Agency: Bureau of Labor Statistics.

Title: COMP2000.

Form	Total respondents	Frequency	Total responses	Average time per response (minutes)	Total burden hours (est.)
Government Establishment Form	4,677	Annual or Quarterly	6,393	9	1,029
Government Generic Level Form #1	4,677	Annual or Quarterly	6,393	9	1,029
Government Generic Level Form #2	4,677	Annual or Quarterly	6,393	9	1,029
Government Wage Form	4,677	Annual or Quarterly	6,393	9	1,029
Government Work Schedule Form	4,677	Annual or Quarterly	6,393	9	1,029
Government Benefits Collection Form (FYs 98 and 99 only)	1,715	Annual or Quarterly	4,193	49	2287 (3,430 avg. per year used)
Private Establishment Form	21,823	Annual or Quarterly	32,497	9	4,801
Private Generic Level Form #1	21,823	Annual or Quarterly	32,497	9	4,801
Private Establishment Generic Level Form #2	21,823	Annual or Quarterly	32,497	9	4,801
Private Establishment Wage Form	21,823	Annual or Quarterly	32,497	9	4,801
Private Establishment Work Schedule Form	21,823	Annual or Quarterly	32,497	9	4,801
Private Establishment Benefits Collection Form (FYs 98 and 99 only)	8,005	Annual or Quarterly	19,567	49	10,673 (16,009 Avg. per year used)
Government Benefit Tests Form (FY 97 only)	133	Annual	133	262	194 (583 Avg. per year used)
Private Establishment Benefit Tests Form (FY 97 only)	623	Annual	623	262	906 (2,718 Avg. per year used)
Employment Cost Index Collection Form (FYs 97 and 98 only)	158	Annual	158	220	518 (777 Avg. per year used)
Employment Cost Index Update Form	5,614	Quarterly	22,456	30	11,228
Employment Cost Index Quality Assurance Form (FYs 97 and 98 only)	8	Annual	8	15	2 (3 Avg. per year used)
Collection done solely on Computer	16,545	Annual	16,545	25	7,261
Total	32,578		82,293		62,221

Note: All figures are based on a three-year average. The total respondents and total responses columns do not equal the totals, because most respondents are asked to give data that will be used on several forms.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, D.C., this 5th day of December, 1996.

W. Stuart Rust, Jr.,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 96–31474 Filed 12–10–96; 8:45 am]

BILLING CODE 4510–24–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 96–4 CARP DPRA]

Digital Phonorecord Delivery Rate Adjustment Proceeding

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of precontroversy discovery schedule.

SUMMARY: The Library of Congress is announcing a new precontroversy discovery period for determining reasonable rates and terms for digital transmissions that constitute a digital phonorecord delivery. The Library is also establishing new dates for the filing of petitions to convene a Copyright Arbitration Royalty Panel (CARP) and Notices of Intent to Participate. This action is intended to give all interested parties additional time to negotiate voluntary agreements.

DATES: Petitions to convene a CARP to determine the terms and rates for digital phonorecord deliveries must be filed by March 3, 1997. Notices of Intent to Participate must be filed by March 17, 1997.

ADDRESSES: Petitions to convene a CARP and Notices of Intent to Participate, when sent by mail, should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, they should be brought to: Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room LM–407, First and Independence Avenues, SE, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Roberts, Senior Attorney for Compulsory Licenses, or Tanya Sandros, Attorney Advisor, Copyright Arbitration Royalty Panels, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 1995, Congress passed the Digital Performance Right in Sound Recordings Act of 1995 (''Digital Performance Act''). Public Law No. 104–39, 109 Stat. 336. Among other things, it confirms and clarifies that the scope of the compulsory license to make and distribute phonorecords of nondramatic musical compositions includes the right to distribute or authorize distribution by means of a digital transmission which constitutes a ''digital phonorecord delivery.'' 17 U.S.C. 115(c)(3)(A). A ''digital phonorecord delivery'' is defined as each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient * * *.'' 17 U.S.C. 115(d).

The Digital Performance Act established that the rate for all digital phonorecord deliveries made or authorized under a compulsory license on or before December 31, 1997, is the same rate in effect for the making and distribution of physical phonorecords. 17 U.S.C. 115(c)(3)(A)(i). For digital phonorecord deliveries made or authorized after December 31, 1997, the Digital Performance Act established a process that may take two-steps for determining the terms and rates. 17 U.S.C. 115(c)(3)(A)(ii). The first step in the process is a voluntary negotiation period initiated by the Librarian of Congress to enable copyright owners and users of the section 115 digital phonorecord delivery license to negotiate the terms and rates of the license. The Librarian initiated this period on July 17, 1996, and directed it to end on December 31, 1996. 61 FR 37213 (July 17, 1996).

The second step of the process is the convening of a CARP to determine reasonable terms and rates for digital phonorecord deliveries for parties not subject to a negotiated agreement. In the July 17, 1996, Federal Register notice, the Library stated that CARP proceedings would begin, in accordance with the rules of 37 CFR part 251, on January 31, 1997. 61 FR 37214. The Library also directed those parties not subject to a negotiated agreement to file their petitions to convene a CARP, as required by 17 U.S.C. 115(c)(3)(D), by January 10, 1997, and their Notices of Intent to Participate in CARP proceedings by January 17, 1997. *Id*. In addition, the Library directed interested parties to comment by November 8, 1996, on the possibility of consolidating the CARP proceeding to determine terms and rates for digital phonorecord deliveries with the proceeding to adjust the mechanical royalty rate for the making and distributing of physical phonorecords. 61 FR 37215.

Petition To Vacate

On November 8, 1996, the Library received a joint motion from the Recording Industry Association of America, the National Music Publishers' Association, Inc., and The Harry Fox Agency, Inc. (collectively, ''the Parties'') to vacate the scheduled dates appearing in the July 17, 1996, Federal Register notice for convening a CARP. The Parties submit that they are in continuous negotiations to reach a private agreement as to the terms and rates for digital phonorecord deliveries, and that the Library's announced schedule for CARP proceedings will prematurely terminate these negotiations and eliminate the likelihood that a private agreement will be reached. The Parties request an extension of the negotiation period until April 1, 1997, at which point they will inform the Library if they need additional time.

In support of their request, the Parties submit that a CARP proceeding to set terms and rates for digital phonorecord deliveries, if required, need not be completed in calendar year 1997. Despite the fact that the current rates for digital phonorecord deliveries expire on December 31, 1997, the Parties submit that any rates and terms established through a CARP proceeding, no matter when it is completed, will be effective beginning January 1, 1998. 17 U.S.C. 115(c)(3)(D). As a result, the Parties assert that no party will be prejudiced by vacating the current schedule and allowing the current negotiations to continue until completed.

In addition to their request to vacate the CARP schedule, the Parties oppose at this time the consolidation of the digital phonorecord delivery CARP proceeding with the CARP proceeding for adjusting the mechanical royalty rate for physical phonorecords. Should negotiations for a digital phonorecord delivery agreement fail, the Parties will notify the Library at that time as to their views on consolidation.

New Precontroversy Discovery Schedule

The Library is announcing a new and complete precontroversy discovery schedule for a CARP proceeding to establish the terms and rates for the section 115 license for digital phonorecord deliveries for parties not

subject to a negotiated agreement. The Library is creating a new schedule to provide all interested parties with additional time to negotiate, subject to the following comments.

As the Parties correctly observed in their joint motion, the Library set the original schedule for CARP proceedings based on the termination of the current rates for digital phonorecord deliveries on December 31, 1997. 61 FR 37214 (''Should negotiations fail and the Librarian be petitioned to convene a CARP, written direct cases would have to be filed by January 31, 1997, if the precontroversy period (three months), the arbitration proceeding (six months) and the Librarian's review of the CARP's decision (two months) is to conclude by December 31, 1997. Otherwise, there will be a lapse in time when no rates apply to digital phonorecord deliveries.''). The Parties submit that there will not be any lapse because 17 U.S.C. 115(c)(3)(D) provides that terms and rates determined through a CARP proceeding are effective on January 1, 1998, no matter when adopted. As a result, the Parties view a CARP proceeding as an open-ended process, in that it could take place in 1998, 1999, or any subsequent year with a retroactive application to January 1, 1998.

The Library does not share the Parties' view that the first CARP proceeding to set terms and rates for digital phonorecord deliveries is so open-ended. Congress did intend that the parties have a sufficient period of time to negotiate voluntary agreements, 141 Cong. Rec. S11,945, S11,958 (daily ed. August 8, 1995), but there is no indication that the period was to be indefinite. The statute is clear that subsequent CARP proceedings to adjust terms and rates for digital phonorecord deliveries must be ''repeated and concluded * * * in each fifth calendar year after 1997''. 17 U.S.C. 115(c)(3)(F). The statute is silent as to how long the 1997 CARP proceeding is to take, but it is reasonable to conclude from the language of section 115(c)(3)(F) that Congress did not intend the initiation and conclusion of the CARP proceeding to take place much after the current rates expire on December 31, 1997, notwithstanding that new terms and rates are effective on January 1, 1998.

The Library has balanced its interpretation of what Congress desired for the first CARP proceeding for digital phonorecord deliveries with the interest of promoting voluntary agreements and, is therefore, announcing a new schedule. The Library is doing this in no small part because of the representation of the Parties that a voluntary agreement is in the offing. However, the Parties, and any others who file a Notice of Intent to Participate in the CARP proceeding, are put on notice that this is the last time the Library will be able to alter the schedule for this proceeding. The schedule described below gives all parties almost one year to negotiate voluntary agreements, a decidedly longer period of time than Congress has established for future digital phonorecord delivery proceedings.

The following is the procedural schedule for the digital phonorecord delivery CARP proceeding, including the filing deadlines for Notices of Intent to Participate, additional comments on the advisability of consolidating the digital phonorecord delivery proceeding with the proceeding for adjustment of the mechanical royalty rate for physical phonorecords, and the deadline for filing petitions to initiate a CARP proceeding for digital phonorecord delivery transmissions.

Action	Deadline
Petitions to Initiate CARP Proceeding to Establish Terms and Rates for Digital Phonorecord Deliveries.	March 3, 1997.
Notices of Intent to Participate.	March 17, 1997.
Comments on Consolidation of Digital Phonorecord Delivery CARP Proceeding With CARP Proceeding for Physical Phonorecords.	March 17, 1997.
Filing of Written Direct Cases.	April 1, 1997.
Requests for Underlying Documents to Written Direct Cases.	April 8, 1997.
Responses to Requests for Underlying Documents.	April 14, 1997.
Completion of Document Production.	April 18, 1997.
Follow-Up Request for Underlying Documents.	April 23, 1997.
Responses to Follow-up Requests.	April 30, 1997.
Motions Related to Document Production.	May 5, 1997.
Production of Documents in Response to Follow-Up Requests.	May 12, 1997.
All Other Motions, Petitions and Objections.	May 15, 1997.
Initiate CARP	June 23, 1997.

The precontroversy discovery period, as specified by 37 CFR 251.45(b), begins on April 1, 1997, with the filing of written direct cases by each party. Each party in this proceeding who has filed a Notice of Intent to Participate *must* file a written direct case on the date prescribed above. Failure to submit a timely filed written direct case will result in dismissal of that party's case. Parties must comply with the form and content of written direct cases as prescribed in § 251.43. Each party to the proceeding must deliver a complete copy of its written direct case to each of the other parties to the proceeding, as well as file a complete copy with the Copyright Office by close of business on April 1, 1997, the first day of the 45-day period.

After the filing of the written direct cases, document production will proceed according to the above-described schedule. Each party may request underlying documents related to each of the other parties' written direct cases by April 8, 1997, and responses to those requests are due by April 14, 1997. Documents which are produced as a result of the requests must be exchanged by April 18, 1996. It is important to note that all initial document requests must be made by the April 8, 1997, deadline. Thus, for example, if one party asserts facts that expressly rely on the results of a particular study that was not included in the written direct case, another party desiring production of that study must make its request by April 8; otherwise, the party is not entitled to production of the study.

The precontroversy discovery schedule also establishes deadlines for follow-up discovery requests. Follow-up requests are due by April 23, 1997, and responses to those requests are due by April 30, 1997. Any documentation produced as a result of a follow-up request must be exchanged by May 12, 1997. An example of a follow-up request would be as follows. In the above example, one party expressly relies on the results of a particular study which is not included in its written direct case. As noted above, a party desiring production of that study or survey must make its request by April 8, 1997. If, after receiving a copy of the study, the reviewing party determines that the study heavily relies on the results of a statistical survey, it would be appropriate for that party to make a follow-up request for production of the statistical survey by the April 23, 1997, deadline. Again, failure to make a timely follow-up request would waive that party's right to request production of the survey.

In addition to the deadlines for document requests and production, there are two deadlines for the filing of precontroversy motions. Motions related to document production must be filed

by May 5, 1997. Typically, these motions are motions to compel production of requested documents for failure to produce them, but they may also be motions for protective orders. Finally, all other motions, petitions and objections must be filed by May 15, 1997, the final day of the 45-day precontroversy discovery period. These motions, petitions, and objections include, but are not limited to, objections to arbitrators appearing on the arbitrator list under 37 CFR 251.4, and petitions to dispense with formal hearings under § 251.41(b).

Due to the strict time limitations between the procedural steps of the precontroversy discovery schedule, we are requiring that all discovery requests and responses to such requests be served by hand or fax on the party to whom such response or request is directed. Filing of requests and responses with the Copyright Office is not required.

Filing and service of all precontroversy motions, petitions, objections, oppositions and replies shall be as follows. In order to be considered properly filed with the Librarian and/or Copyright Office, all pleadings must be brought to the Copyright Office at the following address no later than 5 p.m. of the filing deadline date: Office of the Register of Copyrights, Room LM–403, James Madison Memorial Building, 101 Independence Avenue, S.E., Washington, DC 20540. The form and content of all motions, petitions, objections, oppositions and replies filed with the Office must be in compliance with §§ 251.44(b)–(e). As provided in § 251.45(b), oppositions to any motions or petitions must be filed with the Office no later than seven business days from the date of filing of such motion or petition. Replies are due five business days from the date of filing of such oppositions. Service of all motions, petitions, objections, oppositions and replies must be made on counsel or the parties by means no slower than overnight express mail on the same day the pleading is filed.

Dated: December 6, 1996.

Marilyn J. Kretsinger,

Acting General Counsel.

[FR Doc. 96–31425 Filed 12–10–96; 8:45 am]

BILLING CODE 1410–33–P

INTERNATIONAL BOUNDARY AND WATER COMMISSION NOTICE

Publication of Revised Project Certification Criteria

AGENCY: Border Environment Cooperation Commission (BECC).

ACTION: Publication of revised project certification criteria.

SUMMARY: This notice announces publication of the revised Project Certification Criteria document approved by the BECC Board of Directors on November 9, 1996.

FOR FURTHER INFORMATION CONTACT:

M.R. Ybarra, Secretary, United States Section, International Boundary and Water Commission, telephone: (915) 534–6698; or April Lander, Program Manager—Environment, Border Environment Cooperation Commission, P.O. Box 221648, El Paso, Texas 79913, telephone: (011–52–16) 29–23–95; fax: (011–52–16) 29–23–97; e-mail: alander@cocef.interjuarez.com.

SUPPLEMENTARY INFORMATION: The U.S. Section, International Boundary and Water Commission, on behalf of the Border Environment Cooperation Commission (BECC), announces that the revised Project Certification Criteria were approved by the BECC Board of Directors during their November 9, 1996 Public Meeting in Laredo, Texas, following an extensive public review and comment process. The changes in this document from its original community-tested version reflect the knowledge gained from a year's operating experience. The Criteria are utilized by the BECC to evaluate and certify environmental infrastructure projects along the U.S./Mexico border. Projects that are certified by the BECC qualify for financing consideration from the North American Development Bank (NADBank), BECC's sister institution, and other funding sources. The Criteria were first adopted by the BECC Board in August 1995. A matrix summarizing public comments received during the public review process and the BECC responses will be available to the public. Furthermore, the revised Criteria and the matrix will be available on BECC's Home Page: http://cocef.interjuarez.com. Electronic and/or hard copies of the document are available by request.

Dated: December 5, 1996.

M.R. Ybarra,

Secretary, U.S. IBWC.

[FR Doc. 96–31414 Filed 12–10–96; 8:45 am]

BILLING CODE 4710–03–M

NATIONAL LABOR RELATIONS BOARD

Revision of Statement of Organization and Functions

AGENCY: National Labor Relations Board.

ACTION: Notice of restructuring of El Paso Resident Office.

SUMMARY: The National Labor Relations Board gives notice of its intent to restructure the El Paso Resident office, which services the three counties in the State of Texas of Culberson, El Paso and Hudspeth, on January 31, 1997. On this date, the public office space in El Paso will be eliminated, but the Agency will continue to maintain a resident agent, a post office box and a telephone number in El Paso. This restructuring is being effectuated in order to meet the objective of reducing governmental costs, improving administrative efficiency and streamlining the operations of the Agency. The resident agent located in El Paso will continue to handle the investigation of unfair labor practice charges and representation petitions arising in that area. Combined with a post office box for filing charges and petitions and related correspondence and a local telephone number to handle calls from the public seeking assistance, it is anticipated that the restructuring of the El Paso Resident Office should not adversely affect our service to the public in that area.

FOR FURTHER INFORMATION CONTACT: John J. Toner, 202–273–1940.

Dated, December 6, 1996, Washington, DC.

By Direction of the Board:

National Labor Relations Board

John J. Toner,

Executive Secretary.

[FR Doc. 96–31459 Filed 12–10–96; 8:45 am]

BILLING CODE 7545–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the

Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection: 10 CFR Part 62—''Criteria and Procedures for Emergency Access to Non-federal and Regional Low-level Waste Disposal Facilities.''

2. Current OMB approval number: 3150–0143.

3. How often the collection is required: Requests are made only when access to a non-federal low-level waste disposal facility is denied, which results in a threat to public health and safety and/or common defense and security.

4. Who is required or asked to report: Generators of low-level waste who are denied access to a non-federal low-level waste facility.

5. The number of annual respondents: No requests for emergency access have been received to date. It is estimated that up to one request would be made every three years.

6. The number of hours needed annually to complete the requirement or request: It is estimated that 680 hours would be required to review the request, or approximately 227 hours per year.

7. Abstract: 10 CFR Part 62 sets out the information which will have to be provided to the NRC by any low-level waste generator seeking emergency access to an operating low-level waste disposal facility. The information is required to allow NRC to determine if denial of disposal constitutes a serious and immediate threat to public health and safety or common defense and security.

Submit, by February 10, 1997, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW, (lower level), Washington, DC. Members of the public who are in the Washington, DC, area can access this document via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 3rd day of December, 1996.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 96–31440 Filed 12–10–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 72–18–ISFSI, ASLBP No. 97–720–01–ISFSI]

Atomic Safety and Licensing Board; Northern States Power Company (Independent Spent Fuel Storage Installation); Cancellation of Prehearing Conference

December 5, 1996.

Notice is hereby given that, as a result of the suspension of the proceeding granted by the Atomic Safety and Licensing Board's Memorandum and Order (Motion to Suspend Proceeding), LBP–96–26, December 3, 1996, the prehearing conference announced by our Notice of Prehearing Conference, dated November 1, 1996, 61 FR 57721 (November 7, 1996), has been cancelled. The conference will be rescheduled at a later date following resumption of the proceeding.

Dated: December 5, 1996, Rockville, Maryland.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 96–31441 Filed 12–10–96; 8:45 am]

BILLING CODE 7590–01–P

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 89th meeting on January 28, 29 and 30, 1997, Room T–2B3, at 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552b(c)(6).

The schedule for this meeting is as follows:

Tuesday, January 28, 1997—8:30 A.M. until 6:00 P.M.

Wednesday, January 29, 1997—8:30 A.M. until 6:00 P.M.

Thursday, January 30, 1997—8:30 A.M. until 4:00 P.M.

During this meeting, the Committee plans to consider the following:

A. Key Technical Issue Status—The Committee will review the status of NRC staff key technical issue efforts relating to high-level waste and the staff integration task force work.

B. Meeting with the Director, Division of Waste Management—The Committee will meet with the Director of NRC's Division of Waste Management, Office of Nuclear Materials Safety and Safeguards to discuss items of current interest, such as progress at the Yucca Mountain project.

C. Defense In-Depth—The Committee will discuss with an NMSS representative the history of the defense in depth philosophy and subsystem requirements in 10 CFR 60.

D. Planning for Commission Meeting—The Committee will prepare for their February 1997 meeting with the Commission. Selection of topics and the preparation of background material will be discussed.

E. Preparation of ACNW Reports—The Committee will discuss proposed reports, including: (1) radionuclide transport at Yucca Mountain, (2) specification of a critical group and reference biosphere to be used in the performance assessment for a nuclear waste disposal facility, (3) time of compliance in low-level waste disposal, and (4) comments on selected NRC Strategic Assessment and Rebaselining Decision Setting Issue papers.

F. Committee Activities/Future Agenda/Appointment of New Members—The Committee will consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will discuss ACNW-related activities of individual members. The Committee will also

consider the qualifications of potential new ACNW members. A portion of this session may be closed to public attendance to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552b(c)(6).

G. Miscellaneous—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the Federal Register on October 8, 1996 (61 FR 52814). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Chief, Nuclear Waste Branch, Mr. Richard K. Major, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief, Nuclear Waste Branch, prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Major as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Richard K. Major, Chief, Nuclear Waste Branch (telephone 301/415–7366), between 8:00 A.M. and 5:00 P.M. EST.

ACNW meeting notices, meeting transcripts, and letter reports are now available on FedWorld from the ''NRC MAIN MENU.'' Direct Dial Access number to FedWorld is (800) 303–9672; the local direct dial number is 703–321–3339.

The ACNW meeting dates for Calendar Year 1997 are provided below:

ACNW meeting No.	1997 ACNW meeting dates
90th	February 25–27, 1997
91st	April 22–24, 1997
92nd	May 20–22, 1997
93rd	July 22–24, 1997
94th	September 23–25, 1997
95th	October 21–23, 1997
96th	November 18–20, 1997
97th	December 16–18, 1997

Dated: December 5, 1996.

Andrew L. Bates,

Advisory Committee Management Office.

[FR Doc. 96–31442 Filed 12–10–96; 8:45 am]

BILLING CODE 7590–01–P

Sunshine Act Meeting

DATE: Weeks of December 9, 16, 23, and 30, 1966.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of December 9

Thursday, December 12

3:30 p.m., Affirmation Session (Public Meeting) (if needed)

Week of December 16—Tentative

Monday, December 16

2:00 p.m., Briefing on Inspection Criteria, Evolution of Assessment, and SALP System (Public Meeting)

Tuesday, December 17

2:00 p.m., Meeting with Chairman of Nuclear Safety Research Review Committee (NSRRC) (Public Meeting) (Contact: Jose Cortez, 301–415–6596)

3:00 p.m., Affirmation Session (Public Meeting)

Week of December 23—Tentative

There are no meetings scheduled for the Week of December 23.

Week of December 30—Tentative

There are no meetings scheduled for the Week of December 30.

* * * * *

By a vote of 5–0 on December 6, the Commission determined pursuant to U.S.C. 552b(e) and 10 CFR Sec. 9.107(a) of the Commission's rules that ''Affirmation of Cleveland Electric Illuminating Co.—Commission Review of LBP–95–17'' be held on December 6, and on less than one week's notice to the public.

The Schedule for Commission Meetings Is Subject to Change on Short Notice. To Verify the Status of Meetings Call (Recording)—(301) 415–1292. Contact Person For More Information: Bill Hill (301) 415–1661.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: December 6, 1996.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 96–31535 Filed 12–9–96; 10:20 am]

BILLING CODE 7590–01–M

Draft NUREG/CR Report; Availability

The Nuclear Regulatory Commission has made available, a draft NUREG/CR–6412, ''Aging and Loss-of-Coolant Accident (LOCA) Testing of Electrical Connections.'' About 12 different types of connections commonly used in nuclear power plants were tested by the Sandia National Laboratories and the test results are reported in the draft of NUREG/CR–6412. The connections were aged for 6 months under simultaneous thermal (99 degrees C) and radiation (45 GY/hr) conditions to simulate 60 years in a nuclear power plant environment. The objective of this program was to investigate the performance of connections aged to a 60-year life to determine their suitability for life extension beyond the current nominal 40-year qualified life. The results show that 50% of the connection types were unable to successfully pass the submerged dielectric test following a simulated life of 60-year and LOCA exposure. The problems were not limited to any one family of electrical connections.

The preliminary review of this draft NUREG/CR by the NRC staff indicates that the test results are inconclusive and that the additional investigation is warranted. However, the NRC staff believes that this draft report will be of interest to the nuclear industry. Comments, if submitted by February 28, 1997, would be considered by the NRC staff. Written comments may be submitted 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. Copies of comments received may be examined in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

A copy of the draft NUREG/CR–6412 is available for inspection at the Commission's Public Document Room. Requests for a single copy of the draft NUREG/CR should be made in writing to Mr. Satish K. Aggarwal, Senior Program Manager, U.S. Nuclear Regulatory Commission, Washington, DC 20555; or by fax at (301) 415–5074. Telephone requests cannot be accommodated.

Dated at Rockville, Maryland, this 5th day of December, 1996.

For the Nuclear Regulatory Commission.

Andrew J. Murphy,

Acting Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 96–31438 Filed 12–10–96; 8:45 am]

BILLING CODE 7590–01–P

Individual Plant Examination Program: Perspectives on Reactor Safety and Plant Performance, Volume 2, Parts 2–5, Draft

AGENCY: Nuclear Regulatory Commission.

ACTION: Availability of NUREG, Draft for public comment; Notice of Public workshop meeting.

SUMMARY: The Nuclear Regulatory Commission has published a draft of ''Individual Plant Examination Program: Perspectives on Reactor Safety and Plant Performance, Summary Report,'' NUREG–1560, Volume 2, Parts 2–5. This volume provides an in-depth discussion of the insights and findings (summarized in Volume 1, Part 1, Summary Report) from a review of the Individual Plant Examinations (IPE) submitted to the agency in response to Generic Letter 88–20. In addition, the NRC staff will conduct a public workshop to discuss the contents of the draft NUREG and to solicit comments.

SUPPLEMENTARY INFORMATION: Draft NUREG–1560 (Volume 2, Parts 2–5) is available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street N.W. (Lower Level), Washington D.C. 20555–0001. A free single copy of Draft NUREG–1560 (Volume 2, Parts 2–5), to the extent of supply, may be requested by writing to Distribution Series, Printing and Mail Services Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Draft NUREG–1560 provides perspectives gained from the review of the IPEs submitted in response to Generic Letter 88–20. Five major objectives were pursued in documenting perspectives from the reviews:

(1) The impact of the IPE program on reactor safety—

- The number and type of vulnerabilities or other safety issues that have been identified, and the related safety enhancements that have been implemented,
- The impact that the improvements have had on plant safety, and
- Whether any of these improvements have ''generic'' implications for all or a class of plants.

(2) Plant-specific features and assumptions that play a significant role in the estimation of core damage frequency (CDF) and the analysis of containment performance—

- Important design and operational features that affect CDF and containment performance, with regard to the different reactor and containment types,
- The influence of the IPE methodology and assumptions on the results, with regard to the different reactor and containment types, and
- Significant plant improvements to reduce CDF and increase containment performance, with regard to the different reactor and containment types.

(3) The importance of the operator's role in CDF estimation and containment performance analysis—

- Operator actions that are consistently important in the IPEs,
- Operator actions that are important because of plant-specific characteristics, and
- Influence of modeling assumptions and different methodologies on the results.

(4) IPEs with respect to risk-informed regulation—

- Quality of the IPEs, given the limited scope of the staff's review, compared to a quality probabilistic risk assessment, and therefore, the potential role of the IPEs in risk-informed regulation.

(5) General Perspectives—

- The implication of the IPE results relative to the current risk level of U.S. plants compared with the Commission's Safety Goals,
- The improvements that have been identified as a result of the Station Blackout Rule and analyzed as part of the IPE, and the impact of these improvements on reducing the likelihood of station blackout,
- The results of the IPEs compared with the perspectives gained from NUREG–1150.

Draft NUREG–1560 also documents the staff's preliminary overall conclusions and observations gained from the perspectives of each of the above noted areas. These conclusions and observations address the following:

- Generic Letter 88–20 objective (including improvement of plant safety)
- Regulatory follow-up activities

—Plant safety enhancements
—Containment performance improvements
—Additional review of IPE/PRA
—Plants with relatively high CDF or conditional containment failure probability

- Safety issues

—Unresolved safety issue (USI) A–45
—Other USIs and generic safety issues (GSIs)
—Potential GSIs

- Plant inspection activities
- Areas for research
- Commission's Safety Goals
- Use of NUREG–1560

—Accident management
—Maintenance rule
—Risk-informed regulation
—Miscellaneous issues

- Probabilistic risk analysis (PRA)

Draft NUREG–1560 is comprised of two volumes. Volume 1 (Part 1) provides an overall summary of the key perspectives (published October 1996). Volume 2 (Parts 2 through 5) provides a more in-depth discussion of the perspectives summarized in Part 1.

The staff recognizes that licensees have updated their IPEs/PRAs which may have an impact on the perspectives discussed in the draft NUREG, and therefore, the preliminary conclusions and observations noted by the staff. Accuracy of the reported results in the IPEs and the appropriateness of the interpretation of these results will also have a potential impact on the staff's perspectives, conclusions and observations. Consequently, this NUREG is published as a draft for comment. All interested parties are encouraged to submit comments.

Mail comments on Draft NUREG–1560 (Volumes 1 and 2) by February 14, 1997 to Mary Drouin, Office of Nuclear Regulatory Research, Mail Stop T–10 E50, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Workshop Meeting Information: A 3-day workshop will be held to address comments and answer questions. Persons other than NRC staff and NRC contractors interested in making a presentation at the workshop should

notify Mary Drouin, US Nuclear Regulatory Commission, MS T10E50, Washington DC 20555, phone (301) 415–6675, fax (301) 415–5062, e-mail mxd@nrc.gov or Edward Chow, US Nuclear Regulatory Commission, MS T10E50, Washington DC 20555, phone (301) 415–6571, fax (301) 415–5062, e-mail etc@nrc.gov.

Dates: April 7, 8, 9, 1997.

Location: Austin, Texas.

Hotel: Hyatt Regency, 208 Barton Springs Rd., Austin, Texas, 78704. Please make your reservations directly with the Hyatt Regency Hotel, phone (512) 477–1234 (or 1 800 233–1234). Mention that you will be attending the NRC–IPE Workshop to receive the meeting group rate of $113/night plus tax (single/double). Hotel reservations by March 7, 1997 are required in order to receive the group rate (subject to availability).

Registration: The workshop registration fee is $75 USD ($100 for late registration); registration fee is payable by check or money orders drawn on US banks payable to Sandia National Laboratories; no credit cards accepted. Mail registration fees to Martha Lucero, Sandia National Laboratories, PO Box 5800, MS 0129, Albuquerque, New Mexico 87185–0129. Please include name, organization, address and phone number with your registration fee. Registration fee includes reception, daily continental breakfast, and one lunch. Pre-registration fee ($75) is due by February 15, 1997. Late registration fee ($100) is due at time of workshop/meeting (cash is accepted for late registration payment at workshop). Notification of attendance (e.g., pre-registration) is requested so that adequate space, etc. for the workshop can be arranged. Notification of attendance or questions regarding meeting registration or fees should be directed to Martha Lucero, Sandia National Laboratories, Phone (505) 845–9787, fax (505) 844–1392, e- mail mlucero@sandia.gov

Agenda: Preliminary agenda is as follows. A final agenda will be available at workshop.

Sunday, April 6, 1997

3:00 pm to 7:00 pm—Registration
6:00 pm to 9:00 pm—Reception

Monday, April 7, 1997

7:00 am to 4:00 am
registration
8:00 am to 5:00 pm
- Opening remarks
- Introduction (Roadmap for meeting)
- Conclusions and observations **
- Reactor and containment design perspectives *
- Operational perspectives **
- Perspectives on impact of IPE program on reactor safety **
- Perspectives on IPEs with respect to risk-informed regulation **
- Perspectives on IPEs and implication to Commission's Safety Goals **
- Perspectives on IPEs and impact of Station Blackout rule on CDFs **
- IPEs perspectives compared to NUREG–1150 perspectives **

IPE database demonstration
5:30 pm to 6:30 pm

** Each ''presentation'' is comprised of three discussions:

(1) Presentation by NRC of overview of perspectives.

(2) Presentation by NRC of staff's interpretation of comments received and staff's response.

(3) Brief open time for questions on clarification.

Tuesday, April 8, 1997

7:30 am to 4:00 pm
registration
8:00 am to 5:00 pm
Presentations/comments by public
5:30 pm to 6:30 pm
IPE database demonstration

Wednesday, April 9, 1997

7:30 am to 4:00 pm
registration
8:00 am to 3:00 pm
Presentations/comments by public
- Wrap-up discussion by public
- Wrap-up discussion by NRC

FOR FURTHER INFORMATION CONTACT: Edward Chow, Office of Nuclear Regulatory Research, MS T10E50, US Nuclear Regulatory Commission, Washington DC 20555, (301) 415–6571.

Dated at Rockville, Maryland this 12th day of November, 1996.

For the Nuclear Regulatory Commission.

Mark Cunningham,

Chief, Probabilistic Risk Analysis Branch, Division of Systems Technology, Office of Nuclear Regulatory Research.

[FR Doc. 96–31439 Filed 12–10–96; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Patricia Paige, (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on November 1, 1996 (61 FR 56575). Individual authorities established or revoked under Schedules A and B and established under Schedule C between October 1, 1996, and October 31, 1996, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule A

The following Schedule A authorities were established in October 1996:

Department of Defense

Two positions above GS–15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect for six months after termination of the Commission. Effective October 1, 1996.

Department of Transportation

Two positions above GS–15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect for six months after termination of the Commission. Effective October 1, 1996.

Federal Emergency Management Agency

One position above GS–15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect for six months after termination of the Commission. Effective October 1, 1996.

Department of Justice

Two positions above GS–15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect for six months after termination of the Commission. Effective October 1, 1996.

The following Schedule A authorities were revoked in October 1996:

Department of the Army

Not to exceed 30 positions on the faculty and staff which are classified in the GS–1700 occupational group and the GS–1410 Librarian series, located at the U.S. Army Russian Institute, Garmisch, Germany, and the U.S. Army Training Center Europe, Munich Germany. Effective October 8, 1996.

Aviation Systems Command. One scientific and professional research position in the U.S. Army Research and

Technology Laboratories, the duties of which require specific knowledge of aviation technology in non-allied nations. Effective October 8, 1996.

U.S. Army School of the Americas, Fort Benning, Georgia. Positions of Translator (Typing), GS–1040–5/9, and Supervisory Translator, GS–1040–11. No new appointments were permitted under this authority after December 31, 1985. Effective October 8, 1996.

Army War College, Carlisle Barracks, PA. Nine senior policy analyst positions, GS–14/15, at the Strategic Studies Institute, Army War College, with appointments to be made initially for up to 3 years and thereafter extended annually if needed. Effective October 8, 1996.

Central Identification Laboratory. One position of Scientific Director, GM–0190–15, and four positions of Forensic Scientist, GS–0190–14. Initial appointment to these positions is NTE 3–5 years, with Provision for indefinite numbers of renewals in 1-, 2-, or 3-year increments. Effective October 8, 1996.

Department of Housing and Urban Development

Office of Federal Housing Enterprise Oversight. All positions of the Staff. No new appointments were permitted under this authority after September 30, 1996. Effective October 21, 1996.

Schedule B

No Schedule B authorities were established or revoked in October 1996.

Schedule C

The following Schedule C authorities were established in October 1996:

Department of Agriculture

Staff Assistant to the Director, Office of Communications. Effective October 4, 1996.

Confidential Assistant to the Director, Empowerment Zone Enterprise Community, Rural Business-Cooperative Service. Effective October 11, 1996.

Deputy Press Secretary to the Director, Office of Communications. Effective October 17, 1996.

Confidential Assistant to the Director, Office of Civil Rights, Policy, Analysis and Coordination Center. Effective October 17, 1996.

Director, Native American Programs, to the Administrator, Rural Housing Service. Effective October 25, 1996.

Special Assistant to the Administrator, Rural Development/Rural Housing Service. Effective October 25, 1996.

Department of the Air Force (DOD)

Staff Assistant (Typing) to the Assistant to the Vice President for National Security Affairs. Effective October 25, 1996.

Department of Commerce

Confidential Assistant to the Deputy Chief of Staff for External Affairs. Effective October 11, 1996.

Special Assistant to the Deputy Assistant Secretary for Agreements Compliance. Effective October 11, 1996.

Department of Education

Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education. Effective October 4, 1996.

Secretary's Regional Representative, Region I, Boston, Massachusetts, to the Director, Regional Services Team. Effective October 25, 1996.

Department of Health and Human Services

Confidential Assistant to the Assistant Secretary for Public Affairs. Effective October 4, 1996.

Special Assistant to the Assistant Secretary for Children and Families. Effective October 11, 1996.

Department of Housing and Urban Development

Deputy Assistant Secretary for Operations to the Assistant Secretary for Housing—Federal Housing Commission. Effective October 17, 1996.

Department of Justice

Staff Assistant to the Director, Office of Public Affairs. Effective October 11, 1996.

Department of Labor

Special Assistant to the Wage Hour Administrator. Effective October 11, 1996.

Chief of Staff to the Deputy Secretary of Labor. Effective October 11, 1996.

Special Assistant to the Assistant Secretary for Policy. Effective October 15, 1996.

Department of Transportation

Senior Congressional Liaison Officer to the Director, Office of Congressional Affairs. Effective October 18, 1996.

Environmental Protection Agency

Special Assistant to the Associate Administrator, Office of Regional Operations and State/Local Relations. Effective October 21, 1996.

Special Assistant to the Chief of Staff. Effective October 25, 1996.

Federal Emergency Management Agency

Director, Office of Emergency Information and Media Affairs to the Director, Federal Emergency Management Agency. Effective October 8, 1996.

U.S. International Trade Commission

Staff Assistant (Legal) to the Commissioner. Effective October 17, 1996.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

Office of Personnel Management

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–31395 Filed 12–10–96; 8:45 am]

BILLING CODE 6325–01–M

RAILROAD RETIREMENT BOARD

Sunshine Act Meeting

Sunshine Act

Notice is hereby given that the Railroad Retirement Board will hold a meeting on December 18, 1996, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Letter to Mr. Ken Apfel, Office of Management and Budget, requesting an exemption from OMB Bulletin 96–02, Consolidation of Agency Data Centers.

(2) Options on Closing Phase III and IV Field Offices.

(3) Co-Location of Westbury, NY Branch Office.

(4) Publication of Monthly Benefit Statistics.

(5) General Speech for Use by Field Personnel.

(6) Proposed Elimination of Forms RL–5a and RL–5b.

(7) Railroad Unemployment and Sickness Benefits Booklet.

(8) FY 1997 Management Development Center Courses.

(9) 1996 Federal Managers' Financial Integrity Act Report.

(10) Consultative Medical Examinations Contract.

(11) Proposed Buyout Offers.

(12) Letter to Sally Katzen, Office of Management and Budget, re Parts 209, 216, and 295 of Board's Regulations.

(13) Regulations: Parts 211, 230, 255 and 261.

(14) Occupational Disability Standards.

A. Recommendations.

B. Regulations.

(15) Labor Member Truth in Budgeting Status Report.

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312–751–4920.

Dated: December 6, 1996.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 96–31529 Filed 12–9–96; 9:39 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Request for Public Comment

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension

Rule 15c1–7; SEC File No. 270–146; OMB Control No. 3235–0134.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is publishing the following summaries of collections for public comment.

Rule 15c1–7 requires broker-dealers to make a record of each transaction it effects for customer accounts over which the broker-dealer has discretion. The Commission estimates that 500 respondents collect information annually under Rule 15c1–7 and that approximately 33,333 hours would be required annually for these collections. The total annual burden hours have been increased from 16,667 hours as a result of the growth in the securities market.

Written 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: December 2, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–31400 Filed 12–10–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 22373; 811–7328]

The Hanover Investment Funds, Inc.; Notice of Application

December 5, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (''Act'').

APPLICANT: The Hanover Investment Funds, Inc.

RELEVANT ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on September 12, 1996, and amended on November 26, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 30, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 237 Part Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 942–0583, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Maryland corporation, is an open-end management investment company consisting of ten investment portfolios, eight of which are diversified and two of which are non-diversified. On October 30, 1992, applicant filed a notification of registration on Form N–8A under section 8(a) of the Act, and registered under section 8(b) of the Act and the Securities Act of 1933 on Form N–1A. The registration statement was declared effective on December 29, 1992, and an initial public offering was commenced for each of the following portfolios on the date indicated: The Hanover Blue Chip Growth Fund (''Blue Chip Fund'' (February 19, 1993); The Hanover American Value Fund (''Value Fund'') (February 3, 1995); the Hanover U.S. Government Securities Fund (''Government Securities Fund'') (February 19, 1993); The Hanover Short Term U.S. Government Fund (''Short Term Government Fund'') (February 25, 1993); and The Hanover Small Capitalization Growth Fund (''Small Cap Fund'')[1] (April 1, 1993) (collectively, the ''Merger Portfolios''). Applicant has never made a public offering with respect to the following five portfolios: The Hanover Tax Free Income Fund, The Hanover New York Tax Free Income Fund, The Hanover New Jersey Tax Free Income Fund, The Hanover International Equity Fund, and The Hanover International Bond Fund (collectively, the ''Non-Merger Portfolios'').

2. At a special meeting held on December 13, 1995, applicant's board of directors (the ''Board'') approved a plan of reorganization (the ''Plan'') between applicant and Mutual Fund Group (''MFG''), a Massachusetts business trust registered as an investment company under the Act. In approving the Plan, the Board considered the benefits to shareholders of pursuing their investment goals in larger funds and/or a larger combined fund group, receiving the combined investment advisory services of The Chase Manhattan Bank, N.A. (including Chemical Banking) Corporation (''Chemical'') as its successor, renamed The Chase Manhattan Corporation (''Chase'')), and Chase Asset Management or Van Deventer & Hoch (as the case may be), and a more focused marketing and distribution effort.

3. Applicant and MFG may be deemed affiliated persons of each other

[1] The Small Cap Fund offered two classes of shares: CBC Benefit Shares, which were offered only through an investment program made available to Chemical Banking Corporation employees (and employees of its affiliates), and Investor Shares, which were offered to the public. Unlike Investor Shares, CBC Benefit Shares were not subject to a rule 12b–1 distribution plan and did not bear shareholder servicing fees.

within the meaning of the Act because their respective investment advisers came under common control as a result of the merger of Chase into Chemical on March 31, 1996. Applicant and MFG therefore relied on the exemption provided in rule 17a–8 to effect the Plan.[2] The Board and the board of trustees of MFG each determined, in accordance with rule 17a–8, that participation in the Plan was in the best interests of applicant or MFG, as applicable, and that the interests of existing shareholders of applicant or MFG, as applicable, would not be diluted as a result of participation in the Plan.

4. A proxy statement dated February 8, 1996 describing the Plan, a management letter, and proxy cards soliciting shareholder approval of the Plan were distributed to applicant's shareholders. Preliminary copies of these proxy materials were filed with the SEC by MFG as part of a registration statement on Form N–14 on December 29, 1995 and amended on February 8, 1996; definitive copies of these proxy materials were filed with the SEC on February 15, 1996.

5. On April 2, 1996, at a special meeting of the shareholders of the Merger Portfolios, shareholders of the Short Term Government Fund, the Government Securities Fund, the Blue Chip Fund, the Investor Shares of the Small Cap Fund, and the Value Fund considered and approved the Plan. The special meeting with respect to the CBC Benefit Shares of the Small Cap Fund was adjourned to solicit additional proxies. At a special meeting on April 16, 1996, holders of CBC Benefit Shares of the Small Cap Fund considered and approved the Plan.

6. As of May 3, 1996 (the ''Closing Date''), applicant had an aggregate NAV of $209,505,473. On the Closing Date, all of the assets and liabilities of each of the Merger Portfolios were exchanged for corresponding shares of a corresponding portfolio of MFG.[3] This exchange was based on a ratio determined by dividing the NAV per share of the relevant Merger Portfolio by the NAV per share of the corresponding MFG portfolio. Applicant's shareholders then received a *pro rata* distribution of the shares of the corresponding MFG portfolio received by the relevant Merger Portfolio. The merger Portfolio shares held by such shareholders then were cancelled. The Non-Merger Portfolios did not participate in the Plan, as they have never issued any shares and have no shareholders, assets, or liabilities.

7. All expenses incurred in connection with the Plan, including legal, printing, audit, and proxy solicitation expenses, were borne by Chase (including its affiliates), as the ultimate parent of the investment advisers to applicant and MFG. These expenses amounted to approximately $2,330,335.

8. At the time of the application, applicant had no shareholders, assets, or liabilities, nor was applicant a party to any litigation or administrative proceeding. Applicant is not engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

9. Applicant filed Articles of Transfer with respect to the merger transaction in the State of Maryland on May 6, 1996, and intends to file Articles of Dissolution in the state following the grant of an order pursuant to this application.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–31397 Filed 12–10–96; 8:45 am]

BILLING CODE 8010–01–M

[2] Rule 17a–8 provides relief from the affiliated transaction prohibition of section 17(a) of the Act for a merger of investment companies that may be affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers. The staff of the Division of Investment Management has stated that it would not recommend that the Commission take enforcement action under section 17(a) of the Act if investment companies that are affiliated persons solely by reason of having investment advisers that are under common control rely on rule 17a–8. *See* Capitol Mutual Funds and Nations Fund Trust (pub. avail. Feb. 24, 1994).

[3] Holders of CBC Benefit Shares and Investor Shares received Institutional and Class A shares, respectively, of the Vista Small cap Equity Fund.

[Rel. No. IC–22372; 812–10374]

Sirrom Capital Corporation; Notice of Application

December 5, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (''Act'').

APPLICANT: Sirrom Capital Corporation.

RELEVANT ACT SECTIONS: Exemption requested under sections 6(c) from sections 12(d)(1) 18(a), 19(b), and 61(a) of the Act.

SUMMARY OF APPLICATION: Applicant requests an order to permit it to form a wholly-owned subsidiary that would operate as a special purpose bankruptcy remote subsidiary and borrow funds under a new credit facility.

FILING DATE: The application was filed on October 1, 1996, and amended on December 5, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 30, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, 500 Church Street, Suite 200, Nashville, Tennessee 37219.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 942–0583, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a closed-end, internally managed investment company that has elected to be treated as a business development company (''BDC'') pursuant to section 54 of the Act. As a BDC, applicant furnishes capital to small businesses through loans to, and investments in, small companies.[1] Applicant typically makes its loans in the form of secured debt with a relatively high fixed interest rate and with warrants to purchase equity securities of the borrower. In the past, applicant has funded its loan originations with financing from the SBA and a syndicate of commercial banks. Applicants already has borrowed a significant portion of the debt

[1] applicant also makes loans to small, privately-owned companies through Sirrom Investments, Inc. (''Investments''), a wholly-owned, closed-end investment company that is licensed as a small business investment company (''SBIC'') by the Small Business Administration (''SBA''). Applicant previously obtained an order with respect to the establishment of Investments and certain of its activities (the ''SBIC Order''). Investment Company Act Release Nos. 22016 (June 13, 1996) (notice) and 22057 (July 9, 1996) (order).

financing available to it from these sources, however, and needs to establish an alternative source of financing.

2. Applicant has signed a commitment letter with ING Capital Markets (''ING'') to establish a credit facility in the amount of $100 million. To provide ING with collateral that would be clearly and legally separate from that pledged to other lenders, applicant intends to form a special purpose, bankruptcy remote subsidiary (''Newco''). Newco will be a Delaware corporation and a registered closed-end investment company. Applicant will transfer to Newco at least $20 million in loans as a capital contribution. In consideration of such transfer, Newco will issue to applicant 1,000 shares of its common stock, comprising all of its issued and outstanding shares. Newco's activities will be limited to: (a) Purchasing secured loans to small businesses and related warrants from applicant; (b) owning and holding such loans and warrants; (c) funding the purchases of such loans and warrants by borrowing from financial institutions; and (d) activities ancillary to such activities. The directors and officers of Newco will be identical to those of applicant, except that Newco will have no more than two directors who are not directors or affiliated persons of applicant. Applicant states that this arrangement is necessary to permit Newco to obtain the opinions required to secure an investment grade rating from one or more nationally recognized rating agencies for the commercial paper to be issued by ING.

3. Newco would borrow funds under the ING credit facility, and would use such funds to purchase new loans and related warrants from applicant. Newco would pledge these loans and warrants to an indenture trustee as collateral to secure the funds loaned by ING. ING in turn would fund borrowings under the credit facility by issuing commercial paper secured by the pool of loans and warrants owned by Newco. Newco would pay a spread to ING over the rate paid on the commercial paper issued, along with other fees to originate and administer the credit facility.

4. The following kinds of inter-company transactions may arise in the future between applicant and Newco: (a) Applicant may make additional investments in Newco either as contributions to capital, purchases of additional stock, or loans; (b) from time to time Newco will pay dividends and make other distributions to applicant with respect to its investment in the stock of Newco, including capital gains dividends; (c) applicant and Newco may from time to time hold loans made to the same borrower; (d) Newco will purchase portions of applicant's portfolio investments in accordance with the terms of the credit facility; and (e) applicant may repurchase all or a portion of portfolio investments held by Newco at such time as they are released from the pool of collateral established under the credit facility.

Applicant's Legal Analysis

1. *Section 12(d)(1).* Section 12(d)(1)(A) of the Act prohibits any registered investment company from purchasing or otherwise acquiring the securities of another investment company, except as permitted by that section. In addition, section 12(d)(1)(C) prohibits any investment company from purchasing or otherwise acquiring any security issued by a registered closed-end investment company if the acquiring company (and any affiliated investment companies) would own more than 10% of the voting stock of the closed-end investment company.

2. Because applicant will acquire all of the capital stock of Newco, may make loans or advances to it, and may guarantee its indebtedness (which also could be considered as the acquisition of its debt securities), applicant requests an exemption from section 12(d)(1). Applicant asserts that its acquisition of Newco's securities will not compromise the objectives of section 12 or harm the public interest because it has agreed that it will exercise its rights as the shareholder of Newco on matters requiring shareholder approval only as directed by its shareholders. Accordingly, applicant believes that the relationship of its shareholders to Newco's activities will be no different than if it were to carry out such activities directly.

3. *Sections 18(a) and 61(a).* Section 18(a) of the Act prohibits a closed-end investment company from issuing any class of senior security unless the company complies with the asset coverage requirements set forth in the section. ''Asset coverage'' is defined in section 18(h) as the ratio that the value of the total assets of an issuer, less all liabilities not represented by senior securities, bears to the aggregate amount of senior securities of such issuer. Section 61 applies section 18, with certain modifications, to a BDC.

4. Applicant is a BDC, and Newco is a closed-end investment company. Both will be subject to the asset coverage requirements of section 18(a) on an individual basis, although these requirements are modified by section 61(a) with respect to applicant as a BDC. Applicant also is subject to the asset coverage requirements of section 18(a) on a consolidated basis because it may be an indirect issuer of senior securities with respect to any indebtedness of Newco. Accordingly, applicant would be required to treat as its own all assets held directly by itself and Newco (with the value of its investment in Newco eliminated). Applicant also would be required to treat as its own any liabilities of Newco (with intercompany receivables and liabilities eliminated), including liabilities of Newco in respect of senior securities.

5. Applicant seeks an exemption from sections 18(a) and 61(a) to permit the issuance of senior securities as described in the application. Applicant submits that, absent an exemption from the consolidated asset coverage requirements of sections 18(a) as modified by section 61(a), its ability to obtain financing would be restricted. Applicant believes that such an exemption is in the public interest because Newco's activities will in all material respects have the same economic effect with respect to applicant's shareholders as if applicant had engaged in them directly.

6. *Section 19(b).* Section 19(b) of the Act prohibits any investment company from distributing long-term capital gains more than once every 12 months. Because the warrants held as collateral for funds borrowed under the credit facility may be released from the collateral pool upon repayment of the small business loan related thereto, Newco would be free to transfer any such warrant to applicant or sell it to a third party, thereby potentially realizing a long-term capital gain. Applicant asserts that it and Newco effectively will be one company, and that no purpose would be served by limiting distributions from Newco to one per year. Applicant also submits that more frequent distributions would permit it to more efficiently manage its internal cash flow, resulting in administrative cost savings and, thus, a benefit to its shareholders. Accordingly, applicant seeks an exemption from section 19(b).

7. *Section 6(c).* Section 6(c) permits the SEC to exempt any person or transaction from any provision of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy of the Act. The relationship of applicant's shareholders to the activities to be carried out by Newco will be no different than if such activities were carried out by applicant because (a) Newco will be a wholly-owned subsidiary of applicant, and (b) applicant has agreed that it will exercise its rights as the shareholder of Newco

on matters required by the Act to be approved by shareholders only as directed by its shareholders. Accordingly, applicant believes that the requested exemptions meet the section 6(c) standards.

Applicant's Conditions

Applicant agrees that any exemptive relief granted will be subject to the following conditions:

1. Applicant at all times will own and hold, beneficially and of record, all of the outstanding voting capital stock of Newco.

2. Applicant will not cause or permit Newco to change any of its fundamental investment policies, or take any other action referred to in section 13(a) of the Act, unless such action shall have been authorized by applicant after approval of such action by a vote of a majority of applicant's outstanding voting securities.

3. No person shall serve or act as investment adviser to Newco under circumstances subject to section 15 of the Act unless applicant's directors and shareholders shall have taken the action with respect thereto also required to be taken by Newco's directors and shareholders.

4. Newco shall have two directors who are not directors of applicant as long as a majority of its board of directors consists of directors who are also directors of applicant. Notwithstanding the foregoing, the board of directors of Newco will be elected by applicant as the sole shareholder of Newco, and such board will be composed of the same persons that serve as directors of applicant except to the extent noted above.

5. Applicant will not itself issue, and will not cause or permit Newco to issue, any senior security or sell any senior security of which applicant or Newco is the issuer except as hereinafter set forth: (a) applicant and Newco may issue and sell to banks, insurance companies, and other financial institutions their secured or unsecured promissory notes or other evidences of indebtedness in consideration of any loan, or any extension or renewal thereof made by private arrangement, provided the following conditions are met: (i) such notes or evidences of indebtedness are not intended to be publicly distributed, (ii) such notes or evidences of indebtedness are not convertible into, exchangeable for, or accompanied by any options to acquire any equity security (except that, with respect to applicant, the restrictions in this clause (ii) shall not be applicable except to the extent they are applicable generally to BDCs), and (iii) immediately after the issuance or sale of any such notes or evidence of indebtedness by either applicant or Newco, applicant and Newco, on a consolidated basis, and applicant individually, shall have the asset coverage that would be required by section 18(a) if applicant and Newco each had elected to become a BDC pursuant to section 54 of the Act; and (b) in addition, Newco may borrow from applicant. None of the borrowings set forth in clause (b) above shall be deemed senior securities for purposes of any order issued pursuant to the application.

6. Applicant will file with the SEC the financial statements required by the federal securities laws on a consolidated basis as to applicant and Newco. Applicant will provide to its shareholders financial statements on a consolidated basis as to applicant and Newco, except when unconsolidated financial statements are required under generally accepted accounting principles.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–31396 Filed 12–10–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38017; File No. SR–PHLX–96–44]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Philadelphia Stock Exchange, Inc. Relating to Modifying the Formula Which Calculates the Settlement Value for Dollar Denominated Delivery Options (''3D Options'')

December 4, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 30, 1996, the Philadelphia Stock Exchange, Inc. (''PHLX'' 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. The Exchange also filed Amendments Nos. 1, 2, and 3 on November 19, 1996, December 2, 1996 and December 3, 1996, respectively, the substance of which are incorporated into this notice.

I. Self-Regulatory Organization's Statement of the Terms and Substance of the Proposed Rule Change

The Exchange proposes to change PHLX Rule 1057, in order to modify the formula which calculates the settlement value for Dollar Denominated Delivery currency options (''3D Options''). PHLX proposes to modify the existing formula to reflect the fact that there may be a variation in the appropriate number of bids and offers that are available for each currency. The Exchange would randomly select at least five (5) such bids and offers from a pool of twenty-five (25) active interbank foreign exchange participants, and set the number for each individual currency prior to commencing trading 3D Options on that currency.[1] Due to the variation in the number of bids and offers, the Exchange also proposes to amend the rule to state that it will discard one third of the highest offers and one third of the lowest bids and offers to arrive at the closing settlement value.

The text of the proposed rule change follows. (New language is in italics and deletions are in brackets.)

Rule 1057. 3D (Dollar Denominated Delivery) foreign currency options are cash settled options. The Exchange shall contract with a market information vendor(s) which shall act as the Exchange's designated agent(s) to generate the closing settlement value utilizing the following methodology sanctioned by the Exchange described below.

The closing settlement price shall be determined by the Exchange's designated agent(s) as follows: On every expiration date for 3D contracts, at 10:30 A.M. (EST or EDT), the Exchange designated agent(s) shall collect a bid and offer quotation for the current foreign exchange spot/price [from at least fifteen (15) interbank foreign exchange participants randomly selected from a list of twenty-five (25) active interbank foreign exchange market participants.] *from an appropriate number of interbank foreign exchange participants determined by the Exchange selected at random from a pool of twenty-five (25) active interbank foreign exchange participants. A minimum number of five (5) interbank foreign exchange participants must be selected from the group of 25 interbank foreign exchange participants.* After discarding [the five] *one-third of the* highest offers and [five] *one-third of the* lowest bids, the Exchange's designated agent will arithmetically average the remaining [ten (10) bids and ten (10) offers] *bids and offers* to arrive at a closing settlement value.

In the event of the Exchange's designated agent(s) inability to generate a closing settlement value, the Exchange will poll the interbank market participants directly (by

[1] The Exchange would have the ability to obtain bids and offers from more than five interbank foreign exchange participants as determined by the Foreign Currency Option Committee.

phone or facsimile transmission) to determine the fair and accurate closing settlement value using the above methodology.

The Exchange shall disseminate the closing settlement value after its calculation officially through the Options Price Reporting Authority.

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 Commission approved trading for 3D Foreign Currency Options on the Deutsche Mark (''3D Mark'') on March 8, 1994.[2] In November 1995, the Commission approved trading for 3D Foreign Currency Options on the Japanese Yen (''3D Yen'')[3]; however, they have not begun trading on the Exchange to date. Presently, bid and offer quotations for the current foreign exchange spot price from at least fifteen (15) interbank foreign exchange participants randomly selected from a list of twenty-five (25) active interbank foreign exchange participants are collected. After discarding the five (5) highest offers and the five (5) lowest bids, the remaining ten (10) bids and offers are arithmetically averaged to arrive at a closing settlement value.[4]

The Exchange has found that the number of banks that are able to provide bid and offer quotations for different currencies varies according to the currency. For some of the more widely traded currencies such as the Deutsche mark and the Japanese yen, updated bids and offers among interbank participants are much more prevalent than for the less popular currencies, where the pool of potential contributors of the spot value for the individual currency is much smaller.

The Exchange proposes to make the current settlement value formula more flexible in order to permit the Exchange to determine the appropriate number of bids and offers to collect and average on a currency-by-currency basis. As noted above, the Exchange would randomly select at least five (5) interbank participants from a pool of twenty-five (25) active interbank participants. Additionally, as the number of bids and offers may vary across currencies, the existing rule language that requires the five (5) highest offers and the five (5) lowest bids be discarded would also be modified. The Exchange proposes to discard one third of the highest offers and one third of the lowest bids and average the remaining bids and offers to arrive at the closing settlement value.

The Exchange contends that the revised settlement value formula will ensure that the settlement value for 3D Options contracts accurately reflects the spot price for foreign currencies because it will use bid and offer quotations from the appropriate number of banks that represent the spot value for the currency in question. In addition, the Exchange will employ the same back up procedures that are outlined for the 3D Mark and the 3D Yen that guard against unreliable or manipulated quotes.

The Exchange's Foreign Currency Option Committee will determine what the appropriate number of bid and offer quotations should be for each currency. The Committee will not have the discretion to select less than five (5) interbank foreign exchange participants from which to obtain these bid and offer quotations. The Committee will have the ability to increase or decrease the number, although the Exchange does not anticipate this occurring very frequently. The Committee will not have the ability to decrease the number of interbank participants to less than five (5) participants. The Exchange will periodically review the contributing interbanks to assure that the number has not materially increased or decreased. The Committee will then have the discretion to act upon this information.

The Committee has determined to continue to collect fifteen (15) bid and offer quotations from a pool of twenty-five (25) for the 3D Mark. For the 3D Yen, however, there are fewer banks that diligently provide updated quotes. Therefore, the Committee has determined that a more accurate representation of the Japanese Yen Market would be derived from collecting ten (10) bid and ask quotations from a group of twenty-five (25) active interbank participants and discarding the three (3) highest offers and the three (3) lowest bids prior to averaging them.

The Exchange maintains that in proposing any new 3D Foreign Currency Option contracts for listing and trading on the Exchange, the Exchange will identify the appropriate number of bank quotations that will be collected to arrive at the settlement value in the rule filing submitted pursuant to Rule 19b–4 of the Act. The number of interbank participants from which the quotations are collected cannot be less than five (5). Any changes in that number will require approval of the Exchange's Foreign Currency Options Committee.

The Exchange will provide notice, at least one week prior to settlement of the 3D currency option, to its membership and the public of any change in the number of contributor bank quotations used to calculate the settlement value for that 3D currency option. In the event the Exchange lists and trades 3D options on a new currency, the Exchange will provide at least one week notice of the number of contributor bank quotations used to derive the settlement value prior to listing and trading the 3D options on the new currency.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act[5] in that it promotes just and equitable principles of trade, prevents fraudulent and manipulative acts and practices, and protects investors and the public interest because it provides the Exchange with the ability to list a wider variety of currencies and therefore, provide investors with a greater opportunity to hedge their currency risk and facilitate transactions in foreign currency options.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

[2] *See* Securities Exchange Act Release No. 33732 (March 8, 1994), 59 FR 12023 (order approving the listing and trading of cash/spot dollar denominated delivery foreign currency option contracts.)

[3] *See* Securities Exchange Act Release No. 36505, (November 22, 1995), 60 FR 61277 (order approving listing and trading of 3D foreign currency options on the Japanese yen.)

[4] *See* Exchange Rule 1057. Exchange filing SR–PHLX 96–11, pending at the Commission, would allow PHLX to elect to calculate the settlement value in house instead of requiring an agent/vendor to do it and would limit the liability of the Exchange regarding the accuracy of the settlement value. However, liability for intentional misconduct and/or any violations of the federal securities laws would not be limited. *See* Securities Exchange Act Release No. 37323 (June 18, 1996), 61 FR 32880 (June 25, 1996) (notice).

[5] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-PHLX–96–44 and should be submitted by January 2, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–31398 Filed 12–10–96; 8:45 am]

BILLING CODE 8010–01–M

[6] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice No. 2485]

Advisory Committee on International Economic Policy of Working Group on Economic Sanctions; Closed Meeting

The Department of State announces a meeting of the U.S. State Department Advisory Committee on International Economic Policy Working Group on Economic Sanctions on Monday, December 18, 1996 at the U.S. Department of State, Washington, D.C. Pursuant to Section 10(d) of the Federal Advisory Committee Act (FACA) and 5 U.S.C. 552b(c)(1), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(9)(B), 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.

For more information contact Joanne Balzano, Working Group on Economic Sanctions, Department of State, Washington, DC 20522–1003, phone: 202–647–1498.

Dated: December 6, 1996.

Alan P. Larson,

Assistant Secretary for Economic and Business Affairs.

[FR Doc. 96–31494 Filed 12–6–96; 4:11 pm]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements, Agency Information Collection Activity Under OMB Review

AGENCY: Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for reinstatement, review and comment. The ICR describes the nature of the information collection and its expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information were published on July 3, 1996 (FR 61, page 34921–34922).

DATES: Comments must be submitted on or before January 10, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Street, Federal Aviation Administration, Corporate Information Division, ABC–100, 800 Independence Ave., SW., (202) 267–9895, Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Pilots Convicted of Alcohol or Drug Related Motor Vehicle Offenses or Subject to State Motor Vehicle Administrative Procedures.

Type of Request: Reinstatement, without change, of a previously approved information collection.

OMB Control Number: 2120–0543.

Form Number: 8500–8.

Affected Public: 2184 pilots who have been/will be convicted of a drug- or alcohol-related traffic violation.

Abstract: The requested information (1) is needed to mitigate potential hazards presented by airmen using alcohol or drugs in flight, (2) is used to identify persons possibly unsuitable for pilot certification, and (3) affects those pilots who will be convicted of a drug- or alcohol-related traffic violation.

Estimated Annual Burden: The estimated total annual burden is 364 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention DOT Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on December 5, 1996.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 96–31411 Filed 12–10–96; 8:45 am]

BILLING CODE 4910–62–P

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C.

3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collections of information was published on September 26, 1996 (FR 61, page 50528–50529).

DATES: Comments must be submitted on or before January 10, 1997.

FOR FURTHER INFORMATION CONTACT: Bernie Stankus, Office of Airline Information, K–25, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–4387.

SUPPLEMENTARY INFORMATION:

Bureau of Transportation Statistics (BTS)

1. *Title:* Submission of Audit Reports, 14 CFR part 248.

Type of Request: Extension of a currently approved information collection.

OMB Control Number: 2138–0004.

Form Number: N/A.

Affected Public: Large certificated air carriers.

Abstract: The audit reports are used as follows: a means of monitoring an air carrier's continuing fitness, reference material by analysts in examining foreign route cases, reference material by analysts in examining proposed acquisitions, mergers, and consolidations, a means whereby the Department sends a copy of the report to the International Civil Aviation Organization (ICAO) in fulfillment of a U.S. treaty obligation, and corroboration of carriers' Form 41 filings.

Estimated Annual Burden: The total estimated annual burden is 22.5 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention DOT Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on December 5, 1996.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 96–31412 Filed 12–10–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review; San Antonio International Airport San Antonio, TX

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed revision to the previously approved noise compatibility program that was submitted for the City of San Antonio, Texas, for San Antonio International Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150 and that this program revision will be approved or disapproved on or before May 26, 1997.

EFFECTIVE DATES: The effective date of the FAA's start of its review of the noise compatibility program revision is November 27, 1996. The public comment period ends January 26, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. William A. Perkins, Federal Aviation Administration, Southwest Region, Airports Division, Texas Airport Development Office, ASW–652, Forth Worth, Texas, 76193–0650.

Comments on the proposed noise compatibility program revision should also be submitted to the above address.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program revision for San Antonio International Airport which will be approved or disapproved on or before May 26, 1997. This notice also announces the availability of this program revision for public review and comment.

An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Aviation Safety and Noise Abatement Act of 1979, may submit a noise compatibility program and subsequent revisions for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The city of San Antonio, Texas submitted to the FAA on January 28, 1991 noise exposure maps, descriptions and other documentation which were produced during development of the San Antonio International Airport FAR Part 150 Noise Compatibility Study. These maps were reviewed and determined in compliance with applicable requirements on April 12, 1991.

The FAA formally received the noise compatibility program for San Antonio International Airport on April 12, 1991. The program was subsequently approved on October 9, 1991.

The FAA has now formally received a revision to the noise compatibility program for San Antonio International Airport, effective November 27, 1996. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of revisions to noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program revision. The formal review period, limited by law to a maximum of 180 days, will be completed on or before May 26, 1997.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, section 150.33. The primary considerations in the evaluation process are whether the proposed revision may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program revision with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, the previously approved noise compatibility program, and the proposed revision are available for examination at the following locations:

Federal Aviation Administration, Airports Division, ASW–600, Fort Worth, Texas 76193–0600.

City of San Antonio, Department of Aviation, 9800 Airport Boulevard, San Antonio, Texas 78216–9990.

Questions may be directed to the individual named above under the

heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Fort Worth, Texas, November 27, 1996.

Naomi L. Saunders,

Manager, Airport Division.

[FR Doc. 96–31385 Filed 12–10–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Southwest Florida International Airport, Ft. Myers, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Southwest Florida International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before January 10, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando, Florida 32822.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Debra Lemke, Division Manager, Governmental Affairs of the Lee County Port Authority at the following address: Lee County Port Authority, 16000 Chamberlin Parkway, Suite 8671, Fort Myers, FL 33913–8899.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Lee County Port Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Miguel A. Martinez, Project Manager, Orlando Airports District Office, 5950 Hazeltine National Dr., Suite 400, Orlando, Florida 32822, 407–812–6331. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Southwest Florida International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On November 27, 1996, the FAA determined that the application to use the revenue from a PFC submitted by Lee County Port Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 27, 1997.

The following is a brief overview of PFC Application No. 97–04–U–00–RSW.

Level of the proposed PFC: $3.00.

Proposed charge effective date: November 1, 1992.

Proposed charge expiration date: February 28, 2017.

Total estimated PFC revenue: $7,012,500.

Brief description of proposed project(s): Concourse with three to five gates; Facility for commuter traffic; Entrance road improvements; Departure lounge.

Class or classes of air carrier which the FAA previously approved to be exempt from the requirement to collect PFCs: Air Taxi/Commercial Operators (ATCO) filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Lee County Port Authority.

Issued in Orlando, Florida on November 27, 1996.

W. Dean Stringer,

Acting Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 96–31382 Filed 12–10–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Capital City Airport, Lansing, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Capital City Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990). (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before January 10, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Thomas W. Schmidt, Executive Director of the Capital Region Airport Authority at the following address: Capital Region Airport Authority, Capital City Airport, Lansing, MI 48906.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Capital Region Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Jagiello, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111 (313–487–7296). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Capital City Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On November 22, 1996, the FAA determined that the application to use the revenue from a PFC submitted by Capital Region Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 29, 1997.

The following is a brief overview of the application.

PFC Application No.: 96–02–U–00–LAN.

Level of the PFC: $3.00.

Actual charge effective date: October 1, 1993.

Estimated charge expiration date: May 31, 2002.

Total approved net PFC revenue: $8,489,276.00.

Brief description of proposed project(s): Airport Rescue Fire Fighting (ARFF) Access Road, Rehabilitate Access Roads, Obstruction Removal Runway 6–24, Freight Ramp Construction, Construction of Taxiway.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 air taxi/commercial operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application in person at the Capital Region Airport Authority.

Issued in Des Plaines, Illinois, on December 3, 1996.

Melissa S. Wishy,

Acting Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 96–31384 Filed 12–10–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Grand Forks International Airport, Grand Forks, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Grand Forks International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before January 10, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the AA at the following address: Federal Aviation Administration, Bismarck Airports District Office, 2000 University Drive, Bismarck, North Dakota 58504. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Mary Jo Crystal, Director of Finance and Administration, of the Grand Forks Regional Airport Authority at the following address: Grand Forks International Airport, 2787 Airport Drive, Grand Forks, North Dakota 58203.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Grand Forks Regional Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Irene R. Porter, Manager, Bismarck Airports District Office, 2000 University Drive, Bismarck, North Dakota 58504, (701) 250–4385. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Grand Forks International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On November 15, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Grand Forks Regional Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than February 15, 1997.

The following is a brief overview of the application.

PFC application number: 97–04–C–00–GFK.

Level of the proposed PFC: $3.00.

Proposed charge effective date: April 1, 1997.

Proposed charge expiration date: December 1, 1997.

Total estimated PFC revenue: $331,110.00.

Brief description of proposed project(s): Reconstruct and Widen Taxiway A; Update Airport Master Plan and Airport Layout Plan; Acquire Land for Runway Protection Zone (RPZ) and Obstruction Removal in RPZ; Reconstruct April ''B'' and Install Apron Lights; Purchase Snow Removal Equipment (SRE)/Snowplow; Purchase SRE/Loader; Rehabilitate Airline (Terminal) Apron.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO) filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Grand Forks Regional Airport Authority offices at the Grand Forks International Airport.

Issued in Des Plaines, Illinois on December 3, 1996

Melissa S. Wishy,

Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 96–31383 Filed 12–10–96; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–96–57]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 30, 1996.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Fred Haynes (202) 267–3939 or Angela Anderson (202) 267–9681 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on December 4, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 13199
Petitioner: American Airlines, Inc.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c)(1) and (d); 61.63(c)(2), and (d) (2) and (3); 61.65(c), (e) (2) and (3), and (g); 61.67(d)(2); 61.157(d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit American Airlines, Inc., to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of part 61. *Grant, October 17, 1996, Exemption No. 4652F*

Docket No.: 15903
Petitioner: Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms.
Sections of the FAR Affected: 14 CFR 91.111(b); 91.119(c); 91.127(b); 91.159(a) (1) and (2); and 91.209(a)
Description of Relief Sought: To permit the petitioner to conduct surveillance operations using aircraft to enforce Federal laws pertaining to firearms, liquor, explosives, and wagering. *Grant, October 18, 1996, Exemption No. 2327A*

Docket No.: 23336
Petitioner: Simulator Training, Inc.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58(c)(1) and (d); 61.63(c)(2), and (d) 2 and (3); 61.65(c), (e) (2) and (3), and (g); 61.67(d)(2); 61.157(d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit Simulator Training Inc. to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of Part 61. *Grant, October 17, 1996, Exemption No. 5232E*

Docket No.: 23713
Petitioner: Simuflite Training International
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c)(1) and (d); 61.63(c) (2), and (d) 2 and (3); 61.65(c), (e) (2) and (3), and (g); 61.67(d)(2); 61.157(d) 1 and 2, and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit SimuFlite Training International to use Federal Aviation Administraion (FAA)-approved simulators to meet certain flight experience requirements of Part 61. *Grant, October 17, 1996, Exemption No. 3931K*

Docket No.: 23921
Petitioner: FlightSafety International
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c)(1) and (d); 61.63 (c)(2), and (d)(2) and (3); 61.65(c), (e)(2) and (3), and (g); 61.67(d)(2); 61.157(d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit FlightSafety International to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of Part 61. *Grant, October 17, 1996, Exemption No. 5317F*

Docket No.: 24256
Petitioner: Dalfort Training, L.P.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c)(1) and (d); 61.63 (c)(2), and (d) (2) and (3); 61.65(c), (e) (2) and (3), and (g); 61.67(d)(2); 61.157(d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit Dalfort Training, L.P. to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of part 61. *Grant, October 12, 1996, Exemption No. 4955F*

Docket No.: 24413
Petitioner: Tiger
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c)(1) and (d); 61.63 (c)(2), and (d) (2) and (3); 61.65(c), (e) (2) and (3), and (g); 61.67(d)(2); 61.157(d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit Tiger to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of part 61. *Grant, October 17, 1996, Exemption No. 6073A*

Docket No.: 25892
Petitioner: Reflectone Training Center—Dulles
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c)(1) and (d); 61.63 (c)(2), and (d) (2) and (3); 61.65(c), (e) (2) and (3), and (g); 61.67(d)(2); 61.157(d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit Reflectone Training Center—Dulles to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of part 61. *Grant, October 17, 1996, Exemption No. 5110D*

Docket No.: 26056
Petitioner: AVIA Training
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c)(1) and (d); 61.63 (c)(2), and (d) (2) and (3); 61.65 (c), (e) (2) and (3), and (g); 61.67(d)(2); 61.157(d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit AVIA Training to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of Part 61. *Grant, October 17, 1996, Exemption No. 516D*

Docket No.: 26163
Petitioner: USAir, Inc.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c)(1) and (d); 61.63 (c)(2), and (d) (2) and (3); 61.65 (c), (e) (2) and (3), and (g); 61.67(d)(2); 61.157 (d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit USAir, Inc. to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of Part 61. *Grant, October 17, 1996, Exemption No. 5158E*

Docket No.: 26223
Petitioner: Airbus Service Company, Inc.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57(c) and (d); 61.58(c) (1) and (d); 61.63(c)(2), and (d) (2) and (3); 61.65(c), (e) (2) and (3), and (g); 61.67(d)(2); 61.157(d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit Airbus Service Company, Inc. to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of Part 61. *Grant, October 17, 1996, Exemption No. 6032B*

Docket No.: 26577
Petitioner: Jet Tech, Inc.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c) (1) and (d); 61.63(c)(2), and (d)(2) and (3); 61.65(c), (e) (2) and (3), and (g); 61.67(d)(2); 61.157 (d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit Jet Tech, Inc. to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of Part 61. Grant, October 17, 1996, Exemption *No. 5377D*

Docket No.: 26945

Petitioner: Seven Stars International, Inc.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58(c) (1) and (d); 61.63(c)(2), and (d) (2) and (3); 61.67(d)(2); 61.157 (d) (1) and (2), and (e) (1) and (2); and Appendix A to part 61
Description of Relief Sought: To permit Seven Stars International, Inc. to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of Part 61. *Grant, October 17, 1996, Exemption No. 5544B*

Docket No.: 26992
Petitioner: Continental Airlines, Inc.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c)(1) and (d); 61.63(c)(2), and (d)(2) and (3); 61.65(c), (e) (2) and (3), and (g); 61.67(d) (2); 61.157 (d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit Continental Airlines, Inc. to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of Part 61. *Grant, October 17, 1996, Exemption No. 5557B*

Docket No.: 27120
Petitioner: Flight Training International, Inc.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58(c)(1) and (d); 61.63(c)(2), and (d) (2) and (3); 61.65(c), (e) (2) and (3), and (g); 61.67(d)(2); 61.157 (d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit Flight Training International, Inc. to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of Part 61. *Grant, October 17, 1996, Exemption No. 5629B*

Docket No.: 27223
Petitioner: Ralph J. Diana
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57(c) and (d); 61.58 (c)(1) and (d); 61.63(c)(2), and (d) (2) and (3); 61.65(c), (e) (2) and (3), and (g); 61.76(d)(2); 61.157 (d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit Ralph J. Diana to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of Part 61. *Grant, October 21, 1996, Exemption No. 6191A*

Docket No.: 27310
Petitioner: Purdue University
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c)(1) and (d); 61.63(c)(2), and (d) (2) and (3); 61.65(c), (e) (2) and (3), and (g); 61.67(d) (2); 61.157(d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit Purdue University to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of Part 61. *Grant, October 17, 1996, Exemption No. 5706B*

Docket No.: 27978
Petitioner: Delta Airlines, Inc.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c)(1) and (d); 61.63 (c)(2), and (d) (2) and (3); 61.65 (c), (e) (2) and (3), and (g); 61.67(d)(2); 61.157 (d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit Delta Airlines, Inc. to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of part 61. *Grant, October 17, 1996, Exemption No. 5995A*

Docket No.: 28310
Petitioner: Waypoint Aeronautical Corporation
Sections of the FAR Affected: 14 CFR 61.55 (b) (2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c)(1) and (d); 61.63(c) (2), and (d) (2) and (3); 61.65(c), (e) (2) and (3), and (g); 61.67(d)(2); 61.157 (d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit Waypoint Aeronautical Corporation to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of part 61. *Grant, October 17, 1996, Exemption No. 6155A*

Docket No.: 28237
Petitioner: Premair, Inc.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c)(1) and (d); 61.63(c) (2), and (d) (2) and (3); 61.65(c), (e) (2) and (3), and (g); 61.67(d)(2); 61.157 (d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit PremAir, Inc. to use Federal Aviation Administration (FAA)-approved simulators to meet certain flight experience requirements of part 61. *Grant, October 17, 1996, Exemption No. 6190A*

Docket No.: 28423
Petitioner: American Trans Air Training Corporation
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c)(1) and (d); 61.63 (c)(2), and (d) (2) and (3); 61.65 (c), (e) (2) and (3), and (g); 61.67 (d) (2); 61.157 (d) (1) and (2), and (e) (1) and (2); 61.191(c); and Appendix A to part 61
Description of Relief Sought: To permit American Trans Air Training Corporation to use Federal Aviation Administration (FAA)-approved simulator to meet certain flight experience requirements of part 61. *Grant, October 17, 1996, Exemption No. 6411A*

Docket No.: 28485
Petitioner: Polar Air Cargo
Sections of the FAR Affected: 14 CFR 121.583(a)(8)
Description of Relief Sought: To allow Polar Air Cargo to provide transportation for the dependents of its employees to any destination without meeting certain passenger-carrying requirements of part 121 and without the dependents traveling with the employees, and without regard as to whether the employees are traveling on company business. *Grant, October 18, 1996, Exemption No. 6530*

Docket No.: 28517
Petitioner: Samuel D. James
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3)
Description of Relief Sought: To permit Samuel D. James to conduct certain flight instruction and simulated instrument flights to meet recent instrument experience requirements, in certain Beechcraft airplanes equipped with a functioning throw-over control wheel in place of functioning dual controls. *Grant, October 17, 1996, Exemption No. 6532*

Docket No.: 28536
Petitoner: Kenneth W. Brown
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3)
Description of Relief Sought: To permit Kenneth W. Brown to conduct certain flight instruction and simulated instrument flights to meet recent instrument experience requirements, in certain Beechcraft airplanes equipped with a functioning throw-over control wheel in place of functioning dual controls. *Grant, October 17, 1996, Exemption No. 6531*

Docket No.: 28538
Petitioner: John M. Hirsch
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3)
Description of Relief Sought: To permit John M. Hirsch to conduct certain flight instruction and simulated instrument flights to meet recent instrument experience requirements, in certain Beechcraft airplanes equipped with a functioning throw-

over control wheel in place of functioning dual controls. *Grant, October 17, 1996, Exemption No. 6533*

Docket No.: 28619
Petitoner: Law Offices of Birch, Horton, Bittner and Cherot
Sections of the FAR Affected: 14 CFR 135.267 (b)(2) and (c), and 135.269 (b)(2) (3) and (4)
Description of Relief Sought: To permit F.S. Air Service Inc., to assign its flight crewmembers and allow its flight crewmembers to accept a flight assignment of up 16 hours of flight time during 20-hour duty day, for the purpose of conducting international emergency medical evacuation operations. *Denial, October 17, 1996, Exemption No. 6534*

Docket No.: 28694
Petitioner: North American Airlines
Sections of the FAR Affected: 14 CFR 121.358(a)
Description of Relief Sought: To permit North American Airlines to operate a foreign-registered B757–200 aircraft (G–MONE) on an interchange agreement between December 2, 1996, and March 31, 1997, without being equipped with a low-altitude windshear system.

[FR Doc. 96–31379 Filed 12–10–96; 8:45 am]
BILLING CODE 4910–13–M

Federal Aviation Administration

[Summary Notice No. PE–96–56]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 30, 1996.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Fred Haynes (202) 267–3939 or Angela Anderson (202) 267–9681 Office of rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on December 4, 1996.

Donald P. Byrne,
Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 23647
Petitioner: Embry-Riddle Aeronautical University
Sections of the FAR Affected: 14 CFR 141.65
Description of Relief Sought/ Disposition: To permit the petitioner to recommend graduates of its certified flight instructor courses for certification without taking the FAA written or flight tests. *Grant, September 30, 1996, Exemption No. 3859I*

Docket No.: 24283
Petitioner: American Flyers Incorporated
Sections of the FAR Affected: 14 CFR 141.65
Description of Relief Sought/ Disposition: To permit American Flyers Incorporated to hold examining authority for flight instructor and airline transport pilot (ATP) written tests. *Grant, September 30, 1996, Exemption No. 4287F*

Docket No.: 25080
Petitioner: Aeroservice Aviation Center, Inc.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58 (c)(1) and (d); 61.63 (c)(2), and (d) (2) and (3); 61.65 (c), (e) (2) and (3), and (g); 61.67(d)(2); 61.157(d) (1) and (2), and (e)(1) and (e)(2); and Appendix A to part 61
Description of Relief Sought/ Disposition: To permit the petitioner to use FAA-approved simulators to meet certain flight experience requirements of Part 61. *Grant, September 30, 1996, Exemption No. 4745E*

Docket No.: 25550
Petitioner: Department of The Army
Sections of the FAR Affected: 14 CFR 91.1699a) (2) and (c)
Description of Relief Sought/ Disposition: To allow Army flightcrews to file Instrument Flight Rules (IFR) flight plans in accordance with regulations prescribed by the Army. *Grant, October 16, 1996, Exemption No. 6528*

Docket No.: 25863
Petitioner: Office of the Secretary of Defense
Sections of the FAR Affected: 14 CFR 91.117(a) and (b), 91.159(a), and 91.209(a)
Description of Relief Sought/ Disposition: To permit the petitioner to continue to conduct air operations in support of drug law enforcement and traffic interdiction without meeting certain FAA regulations governing aircraft speed, cruising altitudes for flights conducted under visual flight rules and use of aircraft lights. *Grant, September 25, 1996, Exemption No. 5100D*

Docket No.: 26743
Petitioner: The Goodyear Tire & Rubber Company
Sections of the FAR Affected: 14 CFR 145.45(f)
Description of Relief Sought/ Disposition: To permit Air Treads Incorporated (ATI) to established and maintain a number of fixed locations for the distribution of its repair station inspection procedures manual at each facility rather than providing a copy of the manual to each of its supervisory and inspection employees, as required by the Federal Aviation Regulations. *Grant, September 30, 1996, Exemption No. 5543B*

Docket No.: 26846
Petitioner: University of North Dakota
Sections of the FAR Affected: 14 CFR 141.65
Description of Relief Sought Disposition: To permit the University of North Dakota to recommend graduates of its approved certification course for flight instructor certificates and ratings without those graduates taking

the Federal Aviation Administration (FAA) written test. *Grant, September 30, 1996, Exemption No. 5512B*

Docket No.: 27548
Petitioner: Las Vegas Metropolitan Police Department
Sections of the FAR Affected: 14 CFR 61.113(a)(2)
Description of Relief Sought/ Disposition: To permit the petitioner to train new pilots with instructor pilots on board, rather than have the pilots meet the 15 hours of solo flight time required by the regulation. *Denial, September 30, 1996, Exemption No. 6508*

Docket No.: 27769
Petitioner: Ballistic Recovery Systems, Inc.
Sections of the FAR Affected: 14 CFR 91.307(c)
Description of Relief Sought/ Disposition: To permit operators of certain civil aircraft equipped with a General Aviation Recovery Device (GARD) to use it as an alternate to wearing an approved parachute during certain international maneuvers. *Denial, October 10, 1996, Exemption No. 6519.*

Docket No.: 28296
Petitioner: Flight Safety International
Sections of the FAR Affected: 14 CFR 61.57 (c) and (d), 61.58(b), and 61.157 (a) and (f)(1)
Description of Relief Sought/ Disposition: To permit Flight Safety International to conduct pilot qualification training and certification, and recurrent pilot proficiency training and checking, for the Gulfstream V (G–V) aircraft, based on an alternative pilot training program for part 91 operators that is appropriate for part 61 and is similar to the Advanced Qualification Program (AQP) codified in Special Federal Aviation Regulation (SFAR) No. 58. *Grant, October 17, 1996, Exemption No. 6529.*

Docket No.: 28502
Petitioner: Cap Smythe Service, Inc.
Sections of the FAR Affected: 14 CFR 121.1 and 135.1
Description of Relief Sought/ Disposition: To permit the petitioner to continue its Beechcraft 99 (B–99) aircraft with up to 15 passenger seats during scheduled passenger service under the requirements of part 135 rather than the requirements of part 121. *Denial, October 7, 1996, Exemption No. 6516.*

Docket No.: 28503
Petitioner: Kenneth R. Pearce
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3)
Description of Relief Sought/ Disposition: To permit Kenneth R. Pearce to conduct certain flight instruction and simulated instrument flights to meet recent instrument experience requirements, in certain Beechcraft airplanes equipped with a functioning throw-over control wheel in place of functioning dual controls. *Grant, October 16, 1996, Exemption No. 6527.*

Docket No.: 28512
Petitioner: Robert P. Lavery
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3)
Description of Relief Sought/ Disposition: To permit Robert P. Lavery to conduct certain flight instruction and simulated instrument flights to meet recent instrument experience requirements, in certain Beechcraft airplanes equipped with a functioning throw-over control wheel in place of functioning dual controls. *Grant, October 15, 1996, Exemption No. 6525.*

Docket No.: 28514
Petitioner: Henry D. Canterbury
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3)
Description of Relief Sought/ Disposition: To permit Henry D. Canterbury to conduct certain flight instruction and simulated instrument flights to meet recent instrument experience requirements, in certain Beechcraft airplanes equipped with a functioning throw-over control wheel in place of functioning dual controls. *Grant, October 15, 1996, Exemption No. 6520.*

Docket No.: 28515
Petitioner: Kenneth L. Fossler
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3)
Description of Relief Sought: To permit Kenneth L. Fossler to conduct certain flight instruction and simulated instrument flights to meet recent instrument experience requirements, in certain Beechcraft airplanes equipped with a functioning throw-over control wheel in place of functioning dual controls. *Grant, October 15, 1996, Exemption No. 6524*

Docket No.: 28530
Petitioner: John A. Porter
Sections of the FAR Affected: 14 CFR 91.109(a) and (b) (3)
Description of Relief Sought: To permit John A. Porter to conduct certain flight instruction and simulated instrument flights to meet recent instrument experience requirements, in certain Beechcraft airplanes equipped with a functioning throw-over control wheel in place of functioning dual controls. *Grant, October 15, 1996, Exemption No. 6521*

Docket No.: 28541
Petitioner: Isaac B. Weathers
Sections of the FAR Affected: 14 CFR 91.109 (a) and (b)(3)
Description of Relief Sought: To permit Isaac B. Weathers to conduct certain flight instruction and simulated instrument flights to meet recent instrument experience requirements, in certain Beechcraft airplanes equipped with a functioning throw-over control wheel in place of functioning dual controls. *Grant, October 15, 1996, Exemption No. 6526*

Docket No.: 28557
Petitioner: Chromalloy Gas Turbine Corporation
Sections of the FAR Affected: 14 CFR 43.9(a) (4), 43.11(a)(3), and 145.57(a)
Description of Relief Sought: To permit Chromalloy and other persons holding return-to-service authority under the relevant, respective Inspection Procedures Manuals (IPMs) to use electronic signatures in lieu of physical signatures to satisfy the signature requirements of FAA Form 8130–3, ''Airworthiness Approval Tag.'' *Grant, September 30, 1996, Exemption No. 6513*

Docket No.: 28588
Petitioner: Air Wisconsin Airlines Corporation
Sections of the FAR Affected: 14 CFR 61.57(e), 121.433(c)(1)(iii), 121.441 (a)(1) and (b)(1), and Appendix F to Part 121
Description of Relief Sought: To permit Air Wisconsin Airlines Corporation to conduct an annual single-visit training program (SVTP) for flight crewmembers and eventually transition into the Advanced Qualification Program (AQP) codified in Special Federal Aviation Regulation (SFAR) No. 58. *Grant, October 15, 1996, Exemption No. 6522*

Docket No.: 28639
Petitioner: Peninsula Airways, Inc.
Sections of the FAR Affected: 14 CFR 121.574(a) (1) and (3)
Description of Relief Sought: To permit Peninsula Airways, Inc. to carry and operate oxygen storage and dispensing equipment for medical use by passengers requiring emergency or continuing medical attention when the equipment is furnished and maintained by a hospital, located in Alaska, that is treating the passenger. *Grant, October 31, 1996, Exemption No. 6523*

Docket No.: 28640
Petitioner: Peninsula Airways, Inc.
Sections of the FAR Affected: 14 CFR 121.356(b)

Description of Relief Sought: To permit Peninsula Airways, Inc. to operate its 10- to 19-passenger seat Metroliner aircraft in Alaska without an approved traffic alert and collision avoidance system (TCAS). *Denial, September 30, 1996, Exemption No. 6510*

Docket No.: 28655
Petitioner: United West Airlines, Inc.
Sections of the FAR Affected: 14 CFR 135.143(c) (2)
Description of Relief Sought: To permit United West Airlines, Inc. to operate its Falcon 20 (Registration No. N500BG, Serial No. 121) and Learjet 25 (Registration No. N500DL, Serial No. 27) aircraft under part 135 without a TSO–C112 (Mode S) transponder installed. *Grant, September 30, 1996, Exemption No. 6512*

Docket No.: 28651
Petitioner: R.L. Olsonoski
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To permit R.L. Olsonoski to act as a pilot in operations conducted under part 121 after reaching his 60th birthday. *Denial, September 30, 1996, Exemption No. 6511*

[FR Doc. 96–31380 Filed 12–10–96; 8:45 am]

BILLING CODE 4910–13–M

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 104X)]

Union Pacific Railroad Company—Abandonment Exemption—in Oconto County, WI

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights* to abandon and discontinue service over an approximately 8.3-mile line of railroad known as the Oconto Falls Industrial Lead from milepost 54.4, near Oconto, to the end of the line at milepost 46.1, near Stiles Junction, in Oconto County, WI.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic moving over the line and any overhead traffic could be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 10, 1997, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by December 23, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 31, 1996, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Joseph D. Anthofer, General Attorney, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

UP has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by December 16, 1996. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: December 3, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–31477 Filed 12–10–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Board will accept late-filed trail use requests as long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

DEPARTMENT OF VETERANS AFFAIRS

Rehabilitation Research and Development Service Scientific Merit Review Board, Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) as amended, by section 5(c) of Public Law 94–409 that a meeting of the Rehabilitation Research and Development Service Scientific Merit Review Board will be held at the Vista International Hotel, 1400 ''M'' Street, NW, Washington, DC on January 14 through January 16, 1997.

The session on January 14, 1997 is scheduled to begin at 6:30 p.m. and end at 9:30 p.m. The sessions on January 15 and January 16, 1997, are scheduled to begin at 8 a.m. and end at 5 p.m. The purpose of the meeting is to review rehabilitation research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation Research and Development Service, regarding their funding.

The meeting will be open to the public up to the seating capacity of the room for the January 14 session for the discussion of administrative matters, the general status of the program, and the administrative details of the review process. On January 15–16, 1997 the meeting is closed during which the Board will be reviewing research and development applications.

This review involves oral comments, discussion of site visits, staff and consultant critiques of proposed research protocols, and similar analytical documents that necessitate the consideration of the personal qualifications, performance and competence of individual research investigators. Disclosure of such

information would constitute a clearly unwarranted invasion of personal privacy. Disclosure would also reveal research proposals and research underway which could lead to the loss of these projects to third parties and thereby frustrate future agency research efforts.

Thus, the closing is in accordance with 5 U.S.C. 552b(c)(6), and (c)(9)(B) and the determination of the Secretary of the Department of Veterans Affairs under Sections 10(d) of Pub. L. 92–463 as amended by Section 5(c)of Pub. L. 94–409.

Due to the limited seating capacity of the room, those who plan to attend the open session should write to Ms. Victoria Mongiardo, Program Analyst, Rehabilitation Research and Development Service, Department of Veterans Affairs, 103 South Gay Street, Baltimore, Maryland 21202 (Phone: 410–962–2563) at least five days before the meeting.

Dated: December 4, 1996.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 96–31401 Filed 12–10–96; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 61, No. 239
Wednesday, December 11, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Part 3550

RIN 0575—AB99

Reengineering and Reinvention of the Direct Section 502 and 504 Single Family Housing (SFH) Programs

Correction

In interim rule document 96–29777, beginning on page 59762, in the issue of Friday, November 22, 1996, make the following corrections:

1. On page 59762, in the first column, in the ADDRESSES section, in the ninth line, ''comments'rus.usda.gov'' should read ''comments@rus.usda.gov''.

§3550.9 [Corrected]

2. On page 59780, in the second column, in §3550.9(a), in the first line, ''*Objective*'' should read ''*(a) Objective*''.

§3550.10 [Corrected]

3. On page 59780, in the third column, in §3550.10, in the first full paragraph, in the sixth line, ''4'' should read ''§3550.54''.

4. On page 59781, in the third column, in §3550.10, in the second line ''Legal alien.'' should denote a new paragraph and read ''*Legal alien*.''

§3550.63 [Corrected]

5. On page 59787, in the third column, in §3550.63(a), in the fifth line, ''7(a)'' should read ''§3550.57(a)''.

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 57-96]

Foreign-Trade Zone 189—Muskegon, Michigan; Application for Subzone Status, ESCO Company Limited Partnership (Colorformer Chemicals); Extension of Public Comment Period

Correction

In notice document 96–29937 appearing on page 59401 in the issue of Friday, November 22, 1996 make the following correction:

In the third column, two paragraphs from the bottom, in the tenth line ''January 21, 1996'' should read ''January 21, 1997''.

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Earl G. Rozeboom, M.D.; Revocation of Registration

Correction

In notice document 96–30377 appearing on page 60730 in the issue of Friday, November 29, 1996, in the third column, the signature was inadvertently omitted and should appear as follows before the FR Doc. line.

James S. Milford,

Acting Deputy Administrator.

BILLING CODE 1505–01–D

federal register

Wednesday
December 11, 1996

Part II

Environmental Protection Agency

40 CFR Part 22, et al.

Amendments to Streamline the National Pollutant Discharge Elimination System Program Regulations: Round Two; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 22, 117, 122, 123, 124, 125, 144, 270, and 271

[FRL–5656–5]

Amendments to Streamline the National Pollutant Discharge Elimination System Program Regulations: Round Two

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is today proposing revisions to the National Pollutant Discharge Elimination System (NPDES) regulations (40 CFR parts 122, 123, 124, and 125). This proposal is part of an agency-wide effort to respond to a directive issued by the President on February 21, 1995, which directed Federal agencies to review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. In response to that directive, EPA initiated a detailed review of its regulations to determine which provisions were obsolete, duplicative, or unduly burdensome. On June 29, 1995, EPA issued a rule (60 FR 33926) which removed some regulatory provisions in the Office of Water program regulations (including certain NPDES provisions) that were clearly obsolete. Today's proposal is intended to further streamline NPDES and RCRA permitting procedures by revising requirements in parts 122, 124, and 125 to eliminate redundant regulatory language, provide clarification, and remove or streamline unnecessary procedures which do not provide any environmental benefits. Conforming changes to 40 CFR parts 22, 117, 144, 270, and 271 are also proposed in today's notice. These proposed revisions are identified and discussed in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Written comments on this proposed rule must be received by or postmarked by February 10, 1997 to be considered timely.

ADDRESSES: Commenters are requested to submit written comments to: The NPDES Round II Streamlining Rule, Comment Clerk, Water Docket MC–4101; U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Commenters are requested to submit any references cited in their comments. Commenters are also requested to submit an original and three copies of their comments. Commenters who would like acknowledgment of receipt of their comments should include a self-addressed, stamped envelope. All comments must be postmarked or delivered by hand by the comment deadline. No facsimiles (faxes) will be accepted.

EPA will also accept comments electronically. Comments should be addressed to the following Internet address: ow-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Electronic comments will be transferred onto a paper version for the official record. EPA will attempt to clarify electronic comments if there is an apparent error in transmission. Comments provided electronically will be considered timely if they are submitted electronically by 11:59 P.M. (Eastern time) February 10, 1997. As EPA is experimenting with electronic commenting, commenters may want to submit both electronic comments and duplicate paper comments. This document has also been placed on the Internet for public review and downloading at the following location: gopher.epa.gov.

The public may inspect the administrative record for this rulemaking at EPA's Water Docket, Room M2616, 401 M Street, S.W., Washington, D.C. 20460, between the hours of 9 a.m. and 3:30 p.m. on business days. For access to docket materials, please call (202) 260–3027 for an appointment during the aforementioned hours. A reasonable fee will be charged for copying.

FOR FURTHER INFORMATION CONTACT: Thomas Charlton, Permits Division (4203), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 260–6960.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are EPA, authorized State programs, and the Regulated Community.

Category	Examples of regulated entities
Federal Government	Federal NPDES Program.
State Government	State NPDES Program.
Private	NPDES Regulated Community.
Private	RCRA Regulated Community.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your organization is likely to be regulated by this action, you should carefully read the applicability language of today's rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Organization

Information in this preamble is organized as follows:

I. Background

II. Proposed Revisions

A. Proposed Revisions to Part 122
1. Purpose and Scope (40 CFR 122.1)
2. NPDES Program Definitions (40 CFR 122.2, 124.2)
3. New Sources/New Dischargers (40 CFR 122.4, 124.56)
4. EPA Application Forms (40 CFR 122.1(d)(1), 122.21(a), 122.21(d), 122.26(c)(1))
5. Effluent Characteristics (40 CFR 122.21(g)(7))
6. Signatories (40 CFR 122.22)
7. Group Permit Applications (40 CFR 122.26(c)(2))
8. General Permits (40 CFR 122.28)
9. Monitoring (40 CFR 122.41(j), 122.41(l)(4), 122.44(i)(1)(iv), 122.48)
10. Effluent Guideline Limits in Permits (40 CFR 122.44(a))
11. Reopener Clauses (40 CFR 122.44(c))
12. Best Management Practices (40 CFR 122.44(k))
13. Termination of Permits (40 CFR 122.64)

B. Proposed Revisions to Part 123
1. Requirements for Permitting (40 CFR 123.25)
2. Transmission of Information to EPA (40 CFR 123.44)

C. Proposed Revisions to Public Hearing Requirements for NPDES Permit Actions and RCRA Permit Terminations
1. Background of the Current Rule
2. Proposed Elimination
a. Legal Basis
(1) The Language of Section 402(a)
(2) Reasonableness of interpretation
b. Proposed New System
(1) Permit issuance
(2) Termination of NPDES and RCRA Permits
(3) Stays of Contested Permit Conditions
(4) Procedures for Variances and New Source Determinations
(5) Transition to New Procedural Requirements
(6) Miscellaneous Changes

(7) Effect on State Programs
D. Proposed Reservation of Part 125, Subpart K—Criteria and Standards for Best Management Practices Authorized under Section 304(e) of the Act
1. 40 CFR Part 125, Subpart K
2. 40 CFR 122.44(k)
E. Miscellaneous Corrections

III. Administrative Requirements

A. Executive Order 12866
B. The Regulatory Flexibility Act
C. The Paperwork Reduction Act
D. The Unfunded Mandates Reform Act

I. Background

On February 21, 1995, the President directed all Federal agencies and departments to conduct a comprehensive review of the regulations they administer and by June 1, 1995, identify those rules that are obsolete or unduly burdensome. EPA conducted a review of all of its rules, including those issued under the Federal Water Pollution Control Act, as amended (''FWPCA'') (33 U.S.C. 1158 and 1251 *et seq.*) (also cited below, as the Clean Water Act or ''CWA''), the Safe Drinking Water Act (''SDWA'') (42 U.S.C. 300f *et seq.*), and the Marine Protection, Research, and Sanctuaries Act (also known as the Ocean Dumping Act) (33 U.S.C. 1401 *et seq.*). In March and April of 1995, EPA solicited informal comments from the public, regulated entities, States, and municipalities on ways to identify rules that are obsolete, redundant, or unduly burdensome. Towards that end, a number of meetings were held in the Regions. On April 3, 1995, the Office of Water issued a preliminary report which identified those regulatory provisions that were amenable to streamlining.

As a result of this review, EPA issued a final rule on June 29, 1995 (60 FR 33926) which removed a number of regulatory provisions that were obsolete or redundant with other regulatory requirements. Today's proposal is a continuation of this effort by EPA to revise the NPDES program regulations in parts 122, 123, 124 and 125 to eliminate redundant requirements, remove superfluous language, provide clarification, and remove or streamline unnecessary procedures which do not provide any environmental benefits. Included in today's notice are proposed revisions which would revise the permit appeals process for EPA-issued NPDES permits by replacing the evidentiary hearing procedures found at part 124, subpart E with a direct appeal to the Environmental Appeals Board. This is not intended to affect the permit appeal procedures for State-authorized NPDES programs. Also contained in today's proposal are conforming changes to parts 22, 117, 144, 270, and 271. Today's proposal contains many of the revisions contained in EPA's June 1, 1995 report to the President. EPA also proposes in today's notice, amendments to its regulations that would correct typographical errors, drafting errors, and misplaced or obsolete references.

Today's proposal may, at times, print extensive portions of existing regulatory text without change. This is done to better describe the proposed revisions. For example, § 122.21(g)(7) is reprinted in its entirety to indicate where new paragraph headings are proposed to be inserted. However, EPA does not solicit, and will not respond to, comments on existing regulatory provisions not proposed to be amended, nor will such provisions be subject to judicial review upon promulgation of the final rule. EPA is soliciting comment only on the revisions described in this preamble.

II. Proposed Revisions

A. Revisions to Part 122

1. Purpose and Scope (40 CFR 122.1)

Section 122.1 provides a general description of the purpose and scope of the NPDES program regulations. Today, EPA proposes to amend this section to remove superfluous language and to provide better clarification. Paragraph (b)(2) states that concentrated animal feeding operations, concentrated aquatic animal production facilities, discharges into aquaculture projects, discharges of storm water, and silvicultural point sources are all point sources requiring NPDES permits for discharges. This information is already provided at §§ 122.23, 122.24, 122.25, 122.26, and 122.27. EPA proposes to remove paragraph (b)(2). Existing paragraphs (b)(3) and (b)(4) are proposed to be redesignated as (b)(2) and (b)(3) respectively. References to existing § 122.1(b)(3) are found at § 122.2 and § 124.1. Today's notice would insert a reference to 122.1(b)(2) in their place.

To provide better clarification, EPA is proposing to remove and revise language found at paragraphs (c), (d), (e), and (f) and place it in three new paragraphs (a)(3), (4), (5). Paragraphs (c), (d), (e), and (f) would be removed. By these revisions to § 122.1, EPA does not intend to change any existing substantive requirements of the NPDES program. EPA also proposes to provide a note at the end of this section to assist readers in contacting EPA if they have questions regarding the NPDES program or its rules. EPA may also provide for the electronic submission of queries concerning the NPDES program and solicits comment on that practice.

2. NPDES Program Definitions (40 CFR 122.2, 124.2)

In this proposed rule, EPA seeks to streamline the NPDES program definitions found at parts 122 and 124 by removing redundant or superfluous language found in its regulatory definitions.

a. EPA intends to amend § 122.2 to add references to definitions that are found elsewhere in parts 122 and 123. The inclusion of such references in a single location is intended to assist readers in finding specific provisions in the NPDES regulations. However, this action is not intended to expand the application of those definitions if they are restricted to a particular section. This proposed rule would provide references to the following terms.

Animal feeding operation
Aquaculture project
Bypass
Concentrated animal feeding operation
Concentrated aquatic animal feeding operation
Individual control strategy
Municipal separate storm sewer system
Silvicultural point source
Sludge only facility
Storm water
Storm water discharge associated with industrial activity
Upset

b. In 40 CFR 124.2, EPA intends to remove definitions that are already found in 122.2. This includes the terms, ''applicable standards and limitations'', ''variances'', and ''NPDES''. EPA believes such multiple definitions to be redundant because § 124.2(a) already provides that the definitions of § 122.2 (as well as definitions for the sludge management, UIC, PSD, 404, and RCRA programs) apply to part 124.

3. New Sources/New Dischargers (40 CFR 122.4, 124.56)

Section 122.4(i) prohibits the issuance of a permit to a new source or new discharger if the discharge would cause or contribute to a violation of water quality standards. A new source or new discharger may, however, obtain a permit for discharge into a water segment which does not meet applicable water quality standards by submitting information demonstrating that there is sufficient loading capacity remaining in waste load allocations (WLAs) for the stream segment to accommodate the new discharge and that existing dischargers to that segment are subject to compliance schedules designed to bring the segment into compliance with the applicable water quality standards.

EPA is proposing to revise these information submission requirements to

allow the Director to waive the present submittal of information requirements under § 122.4(i) where the permitting authority determines that it already has the required information. In many instances the information required to be submitted by the applicant (such as waste load allocations available or compliance schedules for existing discharges) may already be in the Director's files. Where the information is not available or current, the Director may not waive the requirement for the applicant to generate all supporting documentation. EPA notes that this information (as with any information which details how permit limits are derived) should be included in the fact sheet or statement of basis for the permit. See 40 CFR 124.7, 124.8, and 124.56. To underscore the importance of such information and to clarify an existing requirement, EPA also proposes to include an express requirement in §§ 122.4(i) and 122.56(b)(1) that information which demonstrates how the criteria for permit issuance in § 122.4(i) are met is included in the fact sheet for the permit. EPA notes that this revision merely clarifies existing requirements found at §§ 124.7, 124.8, and 124.56 and does not result in an increased burden to the regulated community or permit issuing authorities.

4. EPA Application Forms (40 CFR 122.1(d)(1), 122.21(a), 122.21(d), 122.26(c)(1))

EPA's regulations contain two provisions, §§ 122.1(d)(1) and 122.22(d) which require the use of EPA application forms for EPA-issued permits. In today's notice EPA proposes to consolidate these provisions and move them to a new location, § 122.21(a). Section 122.1(d)(1) requires that applicants for EPA-issued permits must submit applications on EPA application forms when available and indicates that most of the information requested on these application forms is required by EPA's regulations. The provision also indicates that the basic information required in the general form (Form 1) and the additional information required for NPDES applications (Forms 2A through 2D) are listed in § 122.21. Applicants for State-issued permits must use State forms which must require at a minimum the information listed in EPA's application regulations.

Similarly, § 122.21(d)(3)(i) requires that all applicants for EPA-issued permits, other than POTWs, new sources, and ''sludge-only facilities,'' must complete Forms 1 and either 2B or 2C of the consolidated permit application forms to apply under § 122.21. Section 122.21(d)(3)(ii) requires that in addition to any other applicable requirements in this part, all POTWs and other ''treatment works treating domestic sewage,'' including ''sludge-only facilities,'' must submit with their applications the information listed at 40 CFR 501.15 (a)(2) within the time frames established in paragraph § 122.21(c)(2) of this section. Finally, § 122.26(c)(1) requires storm water discharges associated with industrial activity to submit Form 1 and Form 2F.

Most of the requirements in these two paragraphs are duplicative. Consequently, EPA proposes to consolidate the requirements of §§ 122.1(d) and 122.1(d)(3) and place them in a new paragraph designated as § 122.21(a)(2). EPA believes paragraph (a) is a more appropriate location because it pertains to all permit applicants, whereas, paragraph (d) concerns situations involving permit reapplications. Section 122.1 is also not a particularly suitable location because it concerns the scope of the NPDES program and not application requirements. The requirements currently found at § 122.21(a) would be retained in new paragraph (a)(1). Section 122.21(d)(3) would be removed and reserved for future use. In § 122.21(c)(2)(i), EPA proposes to revise a reference to paragraph (d)(3)(ii) found in § 122.21(c)(2) (i) and (ii) to reflect those provisions' new location, paragraph (a)(2). EPA is also in the process of revising some of its application forms (60 FR 62546, Dec. 6, 1995). Those proposed revisions, once finalized, will be coordinated with the revisions proposed in today's notice. EPA also proposes to add language in proposed § 122.21(a)(2) to clarify which EPA forms may be required for a particular discharger. This new language will also allow for the possibility of electronic submittal of application information in the event that the Agency approves the electronic application submittal process. At that time, authorized-States would have the option of using electronic submission of application information. EPA notes that there are other ongoing efforts to update the EPA's forms which may result in nonsubstantive revisions to paragraph (a)(2).

5. Effluent Characteristics (40 CFR 122.21(g)(7))

Section 122.21(g)(7) requires that applicants for permits for existing manufacturing, commercial, mining, and silvicultural discharges must submit information on effluent characteristics. On November 16, 1990 (55 FR 48062), EPA revised § 122.21(g)(7) to add language which specifically addresses storm water application requirements. However, the addition of this language has made paragraph (g)(7) more difficult to read because there is a large amount of uninterrupted text and it is difficult to separate out requirements that are specific to storm water discharges. Today's proposal seeks to better clarify paragraph (g)(7) through the insertion of additional paragraph headings. No substantive changes to 40 CFR 122.21(g)(7) are intended by this revision. EPA also proposes to revise references to provisions in paragraph (g)(7) that are found elsewhere in the NPDES regulations (§§ 122.21(g)(8); 122.21 notes 1, 2, and 3; 122.26(c)(1)(i); and 122.26(d)(2)(iv)(C)(2)) to ensure those references reflect § 122.21(g)(7)'s new structure.

6. Signatories (40 CFR 122.22)

Section 122.22 requires that all permit applications for corporations shall be signed by a responsible corporate officer as defined in paragraphs (a)(1)(i) or (a)(1)(ii) of that section. Responsible corporate officer is defined at § 122.22(a)(1)(i) as a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation. Paragraph (a)(1)(ii) provides that a responsible corporate officer may be the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

These numeric criteria (250 individuals, 25 million in second quarter 1980 dollars) were added in 1983 (See 48 FR 39612 (Sept. 1, 1983)) to ensure that facility managers who sign permit applications have high level corporate knowledge of a corporation's pollution control operations and are authorized to make management decisions which govern the operation of the regulated facility. EPA did not intend signatories to include field supervisors or facility operators because at the time that rule was established, we believed such individuals might not have the ability to direct the activities of the corporation so as to ensure that necessary procedures are established or actions taken to gather complete and accurate information. EPA now believes these criteria to be obsolete because they do not apply well to current corporate

structures and facility operations in light of emerging trends in automation and decentralization. The use of such rigid indicators may operate to disqualify individuals who are best able to undertake the responsibility of ensuring that permit applications are accurate and complete. Today's proposal seeks to revise § 122.22(a)(1)(ii) to remove numerical criteria, and provide instead language which ensures that facility managers who sign permit applications have high level corporate knowledge of a corporation's pollution control operations and are authorized to make management decisions which govern the operation of the regulated facility including the ability to allocate resources, make major capital investments, and initiate and direct the development of other comprehensive measures to assure long term compliance with environmental laws and regulations.

Instead of numeric criteria, today's proposal provides that signatories to permit applications may include the manager of one or more manufacturing, production, or operating facilities, provided, (1) the manager is authorized to make management decisions which govern the operation of the regulated facility including the ability to allocate resources, make major capital investments, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; (2) the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and (3) the manager has been assigned or delegated authority to sign documents in accordance with corporate procedures.

EPA believes that today's proposed rule remains consistent with the intent of the September 1, 1983 rulemaking to ensure that permit application signatories are those who are best able to ensure that accurate, complete, and truthful permit applications are submitted, while allowing for greater flexibility in the use of signatories. However, EPA invites comment on whether other criteria would prove more appropriate in light of modern corporate management structures for determining signatories for permit applications under § 122.22(a)(1)(ii).

7. Group Permit Applications (40 CFR 122.26(c)(2))

The 1987 amendments to the Clean Water Act (CWA) added section 402(p) which established a two phase approach for addressing point source discharges of storm water. Under Section 402(p), Congress identified five classes of point source storm water discharges that would be included in Phase I of the Storm water program and required to obtain NPDES permits. These are:

- A discharge for which a permit has already been issued under this section prior to February 4, 1987;
- A discharge associated with industrial activity;
- A discharge from a municipal separate storm sewer system serving a population of 250,000 or more;
- A discharge from a municipal separate storm sewer system serving a population of 100,000 or more but less than 250,000; and
- A discharge for which the Administrator or the State determines that the storm water discharge contributes to a violation of a water quality standard or is a significant contributor of pollutants to waters of the U.S.

To implement the phase I provisions of Section 402(p) (1) through (5), EPA published final storm water permit application regulations on November 16, 1990 (55 FR 48063), as revised. For storm water discharges associated with industrial activity, EPA defined eleven categories comprising major groupings of industrial sectors that are identified either by standard industrial classification (SIC) code or through narrative descriptions. Industrial activities that fall within these eleven industrial categories and which have a point source discharge of storm water are required to seek a NPDES permit.

EPA anticipated that the implementation of the Phase I industrial program would cover over 100,000 facilities. To ensure the timely issuance of NPDES permits, EPA sought in the final rule to offer several NPDES administrative approaches to facilitate extended permit coverage as cost effectively and as efficiently as possible to large numbers of permittees. In the November 16, 1990 final rule, EPA provided that storm water discharges associated with industrial activity could pursue one of three permit application options including the submission of:

- An individual permit application;
- A notice of intent to be covered under a general permit; or
- A group permit application.

Today's revision focuses on group applications. This option allowed facilities with very similar activities to form groups to submit a joint application of which only ten percent of the group would have to submit monitoring information. EPA developed this option to accomplish the following goals:

- To establish a procedure where adequate information would be collected for developing permits for certain classes of storm water discharges;
- to reduce costs and administrative burdens on permit applicants;
- to reduce the amount of quantitative data by requiring such data from only selected facilities within a group; and
- to ease the burden on the permit issuing authority by consolidating information.

In response to the group application option, EPA received over 1200 group applications encompassing 65,000 industrial activities. Using the information provided by group applicants, EPA developed a multi-sector storm water general permit (MSGP) which was published on September 29, 1995 (and revised on February 9, 1996). The MSGP includes baseline conditions applicable to all industrial activities within 29 industrial sectors and conditions that are specific to each sector. The MSGP is available in States where EPA is the permitting authority. Industrial facilities seeking coverage under the MSGP must submit a single page notice of intent (NOI) to receive coverage. Where States have NPDES authority, the MSGP is available as a model to assist those States in providing permit coverage for storm water discharges in their jurisdictions. While the MSGP was initially developed through the group application process, it has evolved into a general permit whose coverage is available to all facilities that meet its eligibility requirements. It has also led to the development of a substantial body of information regarding the permitting and control of storm water discharges from industrial activity.

The group application process was designed to accommodate the initial influx of first-time permit applications from Phase I industrial activities and was based, in part, on the limited availability of storm water general permits in States. However, the deadlines for submitting group applications for Phase I facilities expired on October 1, 1992, and coverage under storm water general permits is now widely available. Forty States are authorized to issue storm water general permits. EPA issues storm water general permits for those States and jurisdictions that are without EPA authorization. Industrial facilities may readily obtain permit coverage by submitting a NOI to the appropriate permitting authority or through applying for an individual permit. Consequently, EPA believes the group

application option is no longer needed. General permits provide a more flexible approach to storm water coverage and can accomplish the goals of the group permit application process (i.e., more efficient monitoring, reduced application burdens) without requiring that applicants form into groups prior to applying for permit coverage.[1] EPA also believes that storm water pollution prevention plans (a principal requirement of most storm water general permits) will ensure that permit conditions are appropriate and applicable for the industrial activities covered. Consequently, today's notice proposes to eliminate the group application option at § 122.26(c)(2), and proposes conforming changes to paragraph (c)(1). The removal of the group application provisions will not impact EPA's ability to reissue the MSGP because it is a general permit.

8. General Permits (40 CFR 122.28)

EPA's NPDES general permit program arose out of the broad grant of authority in section 402(a) of the CWA and the decision of *NRDC* v. *Train*, 396 F.Supp. 1393, 1402 (D.D.C. 1975), *aff'd*, *NRDC* v. *Costle*, 568 F.2d 1369 (D.C. Cir. 1977) which recognized EPA's authority to employ administrative mechanisms, such as area (general) permits, to assist the Agency in the practical administration of the NPDES permit program. In 1979, EPA promulgated revisions to the NPDES regulations creating a class of permits referred to as ''general permits.'' 44 FR 32873 (June 7, 1979). Under the general permit program, the permitting authority may issue a permit to cover a class of similar dischargers or treatment works treating domestic sewage in a defined geographic area with the same effluent limitations.[2] General permits have proven to be a valuable tool by which to regulate classes of similar discharges. To improve administration and operation of the general permit program and to encourage more widespread use of general permits, the Agency is proposing to amend the general permit regulations to allow general permits to cover multiple categories of dischargers.

The current regulatory requirements for general permits are set out at 40 CFR 122.28, and allow the Director to issue a single permit covering more than one discharger (or treatment works treating domestic sewage) within a specific geographic area. Historically, certain regulatory restrictions have been applied to general permits. General permits have been limited to specific areas corresponding to certain geographic or political boundaries. 40 CFR 122.28(a)(1). Current regulations also provide that general permits may regulate storm water point sources, or a category of point sources other than storm water that involve substantially similar types of operations, discharge the same types of wastes or engage in the same types of sludge use or disposal practice, require the same effluent limitations, require the same or similar monitoring, and in the opinion of the permitting authority, are more appropriately controlled under a general permit than under individual permits. 40 CFR 122.28(a)(2). This provision has been generally interpreted as limiting coverage of non-storm water general permits to only a single category of point sources, such as a single industrial category covered under an effluent guideline. (EPA's regulations do allow general permits for storm water to regulate multiple categories of point sources.)

In today's notice, EPA seeks to revise § 122.28(a) (1) and (2) to clarify that a general permit for non-storm water dischargers may cover more than one category or subcategory of sources or treatment works treating domestic sewage. This revision will enable greater permit drafting flexibility and would allow the Director to write a general permit covering (as separate categories) permittees whose discharges or sludge use or disposal practices differ substantially, for example, regarding flow or pollutant load, as well as for those permittees with similar discharges or sludge use or disposal practices (a single category). In another case, the Director might designate different monitoring requirements for different categories based on discharge flow or frequency and provide for this without having to promulgate separate general permits for each group of dischargers or treatment works treating domestic sewage in the general category.

The types of operations conducted or wastes discharged within each category or subcategory authorized by the general permit (except for general permits for storm water discharges) would still have to be substantially the same. Within each identified category or subcategory, limitations would have to be identical for all covered dischargers or treatment works treating domestic sewage. In today's notice, EPA proposes to revise § 122.28 by adding a new paragraph, (a)(4), to require that general permits must clearly identify the applicable conditions for each category of dischargers or treatment works treating domestic sewage and provide that general permits may exclude specified sources or areas from coverage.

Today's proposal would also revise § 122.28 by adding a new paragraph, (a)(3), to provide that where dischargers (or treatment works treating domestic sewage) are subject to water quality-based limitations, the sources in that specific category or subcategory shall be subject to the same water quality-based effluent limitations. While this provision would appear at first to be redundant with existing provisions at § 122.28(a)(2)(i)(C) which require that non-storm water sources covered under a general permit must require the same effluent limitations, operating conditions, or standards for sewage sludge or disposal, the restrictions contained in proposed paragraph (a)(3) apply to storm water and non-storm water sources where water quality-based limits are involved. EPA is proposing to add this paragraph in part to clarify that general permit categories can be used to impose water quality-based limitations as well as technology-based limitations. However, paragraph (a)(3)'s requirement that sources in categories or subcategories be subject to the same water quality-based limits reflects EPA's position that general permits should not be used to provide permit coverage to loosely grouped categories of dissimilar discharges. While EPA has decided not to require that each category or subcategory covered under a general permit discharge to waters that are subject to the same water quality standards, permit writers may wish to consider such a categorization particularly when calculating general permit discharges as part of a waste load allocation.

Because the proposal would allow issuance of a single general permit to cover multiple categories of facilities, it would facilitate the use of general permits in areas with differing water quality requirements or standards. It may allow the permitting authority to issue general permits on a watershed or geographic basis to facilities with the same water quality requirements. The proposal would allow a permit drafted to cover a single category of dischargers or treatment works treating domestic sewage to cover different subcategories subject to different effluent limitations, standards, or conditions. This should reduce the burden on the permitting agency by decreasing the number of general permits issued. The proposal intends to provide flexibility to deal

[1] However, permittees may still be classified as belonging to specific sectors or categories for the purpose of coverage under a general permit. This may result in the imposition of sector or category-specific conditions.

[2] The provision allowing general permits to address treatment works treating domestic sewage was added by EPA's sewage sludge permit regulations issued on May 2, 1989 (54 FR 18716).

with the variations between the different dischargers or treatment works treating domestic sewage (or water quality based stream segments) covered under a single general permit. General permits are still subject to the same reporting and monitoring requirements, limitations, enforcement provisions, penalties, and other substantive requirements as individual permits.

9. Monitoring (40 CFR 122.41(j), 122.41(l)(4), 122.44(i)(1)(iv), 122.48)

Monitoring requirements for NPDES permits are currently found in different locations in EPA's regulations. Section 122.41(j)(1) requires that monitoring be representative of the monitored activity. Paragraph (j)(2) imposes requirements relating to the retention of monitoring records. Paragraph (j)(3) places requirements on what information will be provided in monitoring records. Paragraph (j)(4) requires that monitoring be conducted according to part 136 testing procedures unless otherwise specified. Paragraph (j)(5) imposes penalties for any person who falsifies, tampers with, or knowingly renders inaccurate monitoring devices or methods. Section 122.41(l)(4) addresses the reporting of monitoring results and provides specific requirements relating to Discharge Monitoring Reports (DMRs). Section 122.44(i) imposes requirements on monitoring methodologies. Finally, § 122.48 imposes requirements for recording and reporting of monitoring results.

EPA believes this arrangement to be confusing. To provide better clarification, EPA proposes to consolidate the monitoring provisions found at §§ 122.41 (j), (l)(4), and 122.44(i) and place them at § 122.48. In addition, a cross reference to the new consolidated monitoring requirements will be placed at 122.41(j) to ensure monitoring remains a standard condition for all NPDES permits. This revision is not intended to result in any substantive changes to monitoring requirements. EPA notes that the penalty provisions of 40 CFR 122.41(j)(5) (providing for penalties for falsifying, tampering or knowingly rendering inaccurate monitoring devices or methods) remain a standard condition of all EPA-issued NPDES permits. As described in more detail below, 40 CFR 122.41(j)(5) (proposed § 122.48(d) in today's notice) is not required for authorized State programs. However, 40 CFR 123.27 contains a similar prohibition against falsifying, tampering, or knowingly rendering inaccurate monitoring devices or methods which must be included in authorized State programs.

As part of this consolidation, EPA is combining the provisions currently found at §§ 122.41(j)(4) and 122.44(i)(1)(iv) at proposed § 122.48(a)(3). Both of these provisions require that monitoring be conducted in accordance with test procedures approved under 40 CFR part 136 unless an alternative test procedure has been approved under part 136. For sludge use or disposal, monitoring must be conducted in accordance with test procedures approved under part 136 unless otherwise specified in 40 CFR part 503. Both §§ 122.41(j)(4) and 122.44(i)(1)(iv) were once promulgated as single provision (See 44 FR 32910 (June 7, 1979) (codified then as 40 CFR 122.20 (a)–(c))) and were only broken out to conform to the organization of the consolidated permit regulations. See 45 FR 33340–4, 33355, 33357, 33448, and 33450 (May 19, 1980). EPA is also clarifying that where no test procedure has been approved under 40 CFR part 136, the Director shall specify a test method in the permit. This reflects the current requirements found at § 122.44(i)(1)(iv) and as also expressed in EPA's June 7, 1979 rulemaking. EPA believes this revision does not result in any substantive changes to the monitoring requirements but only clarifies its existing interpretation of them.

10. Effluent Guideline Limits in Permits (40 CFR 122.44(a))

Currently, § 122.44(a) is interpreted to require that where a facility is covered by a particular effluent guideline, any permit issued to that facility must contain effluent limitations for every pollutant or parameter listed in the guideline (also known as ''guideline-listed pollutants''). These limits would be required regardless of whether the facility would actually be discharging those parameters. Because permittees must also monitor for all parameters limited in a permit (see 40 CFR 122.44(i)(1)(i)), there are concerns that this requirement may subject many facilities to the unnecessary expense of monitoring for pollutants that they are not and will not be discharging.

To provide permit writers with more flexibility in reducing the burdens associated with unnecessary monitoring, EPA is proposing to revise § 122.44(a) so that it does not require limits for all guideline-listed pollutants under certain circumstances. Existing paragraph (a) would be redesignated as (a)(1). A new paragraph, (a)(2), would allow permit writers on a case-by-case basis not to include limits for guideline listed pollutants where a permit applicant certifies and provides supporting information that the facility does not discharge and will not discharge certain guideline-listed pollutants. In such cases, permit writers may decide not to include a limit for those parameters in the permit. However, it should be clearly understood that in such instances, the permit would not authorize any discharges of those excluded parameters in any amounts. For the exclusion to be valid, the permit would have to contain an express condition which notes that the permit does not authorize the discharge of those excluded pollutants. This exclusion is good only for the term of the permit. To receive an exclusion under proposed paragraph (a)(2), Permittees must submit certifications (along with supporting information) each time a permit is applied for (including permit reissuances). For such an exclusion to be valid, it must be included as an express condition each time a permit is issued.

EPA believes that this approach provides permittees and permit writers with needed flexibility in reducing the burdens associated with conducting unnecessary monitoring while ensuring that permits are not interpreted as an authorization to discharge excluded pollutants in unlimited amounts. This revision is not intended to allow the exclusion of any pollutants that should be limited on the basis of water quality standards.

Applicants should not pursue this approach if there is any possibility those excluded parameters might be discharged. Applicants may instead utilize the existing process of having limits placed on all guideline-listed pollutants and seek minimum monitoring for those parameters whose presence in the discharge is not expected. EPA solicits comments on this proposal and also invites public comment on other ways this process can be streamlined to remove any unnecessary burdens with respect to limiting and monitoring for pollutants.

11. Reopener Clauses (40 CFR 122.44(c))

Section 122.44(c) provides for reopener clauses in permits. Section 122.44(c)(1)(i) requires that any permit issued to a discharger in a primary industry category (listed in Appendix A of part 122) on or before June 30, 1981, must contain an reopener clause to allow for permit modification, revocation, or reissuance if an applicable standard or limitation is promulgated under sections 301(b)(2)(C) and (D), 304(b)(2), and 307(a)(2) of the CWA after such a permit was issued and the standard or limitation is more stringent than what is found in the

permit or controls a pollutant not limited in the permit. Where applicable standards and limitations have already been promulgated, § 122.44(c)(1)(ii) requires that subsequent permits include those limitations. Section 122.44(c)(3) imposes a duty on permitting authorities to promptly modify, revoke, and reissue permits to which § 122.44(c)(1)(i) applies.

These provisions were established to implement the requirements of a settlement agreement approved by the United States District Court for the District of Columbia issued on June 8, 1976 in *Natural Resources Defense Council et al.* v. *Train,* 8 E.R.C. 2120 (D.D.C. 1976). See 43 FR 22161 (May 23, 1978). This settlement agreement resulted in a new program for the establishment of effluent limitations guidelines, new source performance standards, and pretreatment standards for 21 major categories of industries as well as the incorporation of those limits in permits issued to dischargers from those categories. To meet that goal, the agreement resulted in the imposition of a number of deadlines. On May 19, 1980 (45 FR 33449), those deadlines were replaced with a single deadline, June 30, 1981, which is found at § 122.44(c)(1).

In today's notice, EPA proposes to remove paragraphs (c)(1), (c)(2), and (c)(3) of § 122.44. Paragraphs (c)(1) and (c)(3) apply only to permits issued on or before June 30, 1981. These provisions are obsolete as more than 14 years have passed since that deadline and any permits issued on or before that date are either no longer in existence or in administrative continuance. EPA also proposes to remove paragraph (c)(2) and consolidate its requirements with those found at § 122.44(a). Paragraph (c)(2) provides that any permit issued after the deadline provided by section 301(b)(2)(A), (C), and (E) (established as March 31 1989 by the 1987 amendments to the Clean Water Act), must meet BAT and BCT standards whether or not applicable effluent limits have been promulgated or approved. Paragraph (c)(2) further states that such permits need not incorporate the reopener clause found in section paragraph (c)(1). Paragraph (c)(2) largely reiterates requirements found at Section 122.44(a) because paragraph (a) already requires that permits must meet all technology-based effluent limitations and standards promulgated under section 301, all new source performance standards under section 306 of the CWA, and case-by-case effluent limitations determined under section 402(a)(1) of the CWA. EPA proposes in today's notice to consolidate the requirements of 40 CFR 122.44(a) and (c)(2) into a new paragraph, (a)(1). (As noted in greater detail above, EPA is also creating a new paragraph, (a)(2), which contains language concerning guideline listed pollutants.) Proposed paragraph (a)(1) requires that permits shall include technology-based effluent limitations and standards based on: Effluent limitations and standards promulgated under section 301(b)(1) or 301(b)(2), as appropriate, new source performance standards promulgated under section 306 of CWA, case-by-case effluent limitations determined under section 402(a)(1) of CWA, or on a combination of the three, in accordance with § 125.3. For new sources or new dischargers, paragraph (a)(2) also notes that these technology based limitations and standards are subject to the provisions of § 122.29(d) (protection period).

Paragraph (c)(4) covers reopeners of sludge conditions in NPDES permits. EPA is proposing to retain that provision and redesignate it as paragraph (c).

By removing these provisions, EPA does not intend to limit the ability of permitting authorities to place reopener clauses in permits on a case-by-case basis particularly where reopeners may result in more environmentally protective permit limits, standards, or conditions.

12. Best Management Practices (40 CFR 122.44(k))

As described in more detail below, EPA is proposing in today's notice a non-substantive revision to § 122.44(k) which would provide a reference to available agency guidance on best management practices. The addition of this language is merely intended to assist readers in developing and implementing best management practices. It is not intended in anyway to change the requirements of § 122.44(k).

13. Termination of Permits (40 CFR 122.64)

Section 122.64 lists the causes for EPA termination of an NPDES permit during its term, or for denial of an application for permit renewal. If the Director decides to terminate a permit, he or she currently must follow the procedures at § 124.5, or approved State procedures, which require preparation of a notice of intent to terminate (a type of draft permit) and public notice and comment. (As discussed in more detail in Section II.B below, EPA is proposing to substitute part 22 procedures for termination of permits other than at the request of the permittee, also known as ''termination for cause''.) These procedures are intended primarily to assure that the rights of the permittee are adequately considered. This is because permit termination has been considered as essentially an enforcement mechanism. See 45 FR 33316 (May 19, 1980); 44 FR 34249 (June 14, 1979). However, there may be situations outside of enforcement where termination is desirable because the permittee has discontinued operation or connected the discharge to a POTW. In those situations, EPA sees little benefit in requiring the procedures of § 124.5 as currently written (or part 22 as proposed).

EPA is proposing to revise § 122.64 to allow the Director to terminate a permit by giving notice to the permittee and without following part 22 or 124 procedures where the permittee has permanently terminated its entire discharge (by elimination of its process flow or other discharge components) or has redirected that discharge into a POTW. However, where a permittee objects to the termination, this revision would require the Director to follow the existing part 124 procedures to terminate the permit. (But as noted in more detail below at Section II.B, formal hearings under part 22 would not be necessary since the termination would not be one for cause and today's proposal would remove formal hearing requirements for permit terminations that are not for cause. EPA notes that these expedited permit termination procedures would not be allowed where a permittee is subject to pending State and/or Federal enforcement actions including citizen suits brought under State or Federal law. In such situations, the public has a strong interest in participating in any permit termination proceedings and permittees should not use expedited permit termination procedures as a way to avoid enforcement liability. Therefore, EPA is adding language in proposed § 122.64 to state that expedited permit termination procedures are not available to permittees that are subject to pending State and/or Federal enforcement actions including citizen suits brought under State or Federal law. EPA will also require that permittees who request expedited permit termination procedures must certify that they are not subject to any pending State and/or Federal enforcement actions including citizen suits brought under State or Federal law. EPA specifically invites comment on how EPA and permitees may determine if there are pending State and/or Federal enforcement actions. One possible approach may be to deny the availability of expedited permit terminations where EPA, the

State, or any person has commenced an action against a permittee under State and/or Federal Law, or where a permittee, the Administrator, or the State has received notice of an intent to sue pursuant to 40 CFR § 135 or State law. EPA invites comment on that approach.

Also, EPA is not proposing to eliminate the requirement to follow part 124 termination procedures if the pollutants will be disposed of either in wells or by land application of effluent, even if the permittee requests termination. In such cases, it is important that the public be notified and able to pursue any concerns about such disposal methods under other appropriate Federal, State or local regulatory programs. EPA also notes that there are situations where permits are appropriate for no discharge facilities, particularly where there is the possibility of an inadvertent discharge into waters of the United States.

This proposal would enable the Director to terminate permits when the discharger has eliminated its discharge without waiting for permit expiration. EPA notes that a permittee terminating its discharge due to connection to a POTW would be subject to applicable pretreatment requirements, including those in parts 403 and 405–471, along with any local requirements. An existing categorical industrial user initiating a discharge to a POTW must notify the POTW in accord with § 403.12. EPA also notes that permittees should be very sure that they have, in fact, eliminated their discharge when requesting expedited permit termination procedures. This is because any pollutants discharged by the facility subsequent to permit termination could violate section 301 of the CWA (prohibition against unpermitted discharges).

This proposal would streamline the permit termination process without sacrificing any procedural safeguards. EPA specifically invites comment on whether members of the public, other than the permittee, would have a significant interest in such terminations such that public notice should continue to be required.

EPA is also proposing conforming changes to § 124.5 procedures to reflect abbreviated termination procedures proposed for the cases discussed in proposed § 122.64(b). One pre-notice commenter has recommended that these expedited permit termination procedures be employed where an existing discharger seeks to terminate its individual permit coverage and obtain coverage under a general permit for the same discharge. EPA invites comment on whether expedited permit termination procedures should be employed for this and other situations.

B. Proposed Revisions to Part 123

1. Requirements for Permitting (40 CFR 123.25)

EPA is today proposing revisions to 40 CFR 123.25(a) to clarify that certain provisions which detail penalty amounts in § 122.41 (a)(2), (a)(3), and (j)(5) are not required of State NPDES programs. Instead, the applicable penalty provisions for State NPDES programs are found at 40 CFR 123.27. This is consistent with EPA's long standing interpretation of the Clean Water Act and its regulations. See OGC Opinion dated May 31, 1973. However, EPA notes that while the penalty provisions of 122.41 (a)(2) and (a)(3) need not be included in State NPDES programs, § 122.41(a)'s condition, ''a duty to comply'' does. With respect to existing § 122.41(j) (proposed in today's notice as § 122.48(d)), EPA notes that it does not have to be included in NPDES State Programs. However, EPA wishes it to be clear that it interprets § 123.27(a)(3) to contain the same prohibitions as those found in paragraph § 122.41(j). That is, a person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required under a permit is subject to criminal fines and penalties as determined under § 123.27. Finally, EPA notes that States are not prohibited from adopting penalty amounts that are the same as those found at § 122.41 if they wish to do so.

2. Transmission of Information to EPA (40 CFR 123.44)

EPA is today proposing revisions to 40 CFR 123.44 to remove references to the Office of Water Enforcement and Permits (OWEP) and its role in commenting on and objecting to State-issued general permits. At one time, OWEP (now known as the Office of Wastewater Management) was expected to play an active role in reviewing, commenting, and objecting to State-issued general permits. Under provisions once found at 40 CFR 123.43(b) and 124.58, authorized States were required to provide copies of draft general permits (other than those for separate storm sewers) to the Director of OWEP for review. Section 123.44(a)(2) of EPA's current regulations further provides that the Director of OWEP may comment upon, object to, or make recommendations with respect to proposed State-issued general permits (other than those for separate storm sewers) on EPA's behalf. The introductory text of § 123.43(b)(2) also expressly provides OWEP with a role in objecting to State-issued general permits. Finally, § 123.44(i) makes the role of the Director of OWEP coextensive with that of the Regional Administrator for the purposes of objecting to proposed State-issued general permits (other than those for separate storm sewers).

The Office of Wastewater Management no longer plays an active role in reviewing State-issued general permits. The number of State general permit programs have increased with a corresponding increase in the number of State-issued general permits. This has resulted in the Regions assuming the primary role in reviewing State-issued general permits. Moreover, as States have gained more experience in running general permit programs, EPA believes that an extra level of EPA review is no longer warranted. On June 29, 1995, EPA removed §§ 123.44(b) and 124.58 from the Code of Federal regulations as unnecessary in light of the Regions' primary role in reviewing State permits. See 60 FR 33931. To conform to those earlier changes and to continue EPA's effort to streamline Federal oversight of State NPDES permit programs, EPA proposes in today's notice to revise § 123.44 (a)(2) and (b)(2) to remove those references to OWEP and its role in reviewing State-issued general permits. EPA would also remove and reserve 40 CFR 123.44(i).

C. Proposed Revisions to Public Hearing Requirements for NPDES Permit Actions and RCRA Permit Terminations

EPA is today proposing substantial revisions to its existing procedural requirements for issuing NPDES permits in those States and territories (and in Indian Country) where EPA retains the authority to issue NPDES permits. EPA is proposing to eliminate as unnecessary the existing procedures for conducting formal evidentiary hearings on NPDES permit conditions contained in 40 CFR part 124, subpart E, and is further proposing to eliminate the alternative ''Non-Adversary Panel Procedures'' in part 124, subpart F. EPA is also proposing to eliminate Appendix A to part 124 (Guide to Decisionmaking under part 124) because its role in explaining subpart E and subpart F procedures would no longer be relevant in the absence of those subparts. EPA is also proposing to modify the procedures for terminating NPDES and RCRA permits. These revisions do not apply to authorized State NPDES Programs.

1. Background of the Current Rule

Section 402(a) of the CWA authorizes the Administrator to issue an NPDES permit ''after opportunity for a hearing.'' In the late 1970's, three United States Circuit Courts of Appeals concluded that section 402(a) of the CWA requires that NPDES permit adjudications be conducted according to formal adjudicatory procedures that meet the standards set forth in sections 554, 556 and 557 of the Administrative Procedure Act (''APA''). 5 U.S.C. 554, 556 & 557. These courts reasoned that the reference to a ''hearing'' in section 402(a), in light of the ''quasi-judicial'' nature of the fact finding involved in NPDES permit proceedings, indicated Congressional intent to require formal adjudicatory procedures, notwithstanding the absence of an explicit requirement in the Act that such procedures be followed. *Seacoast Anti-Pollution League* v. *Costle,* 572 F.2d 872, 877 (1st Cir. 1978); *Marathon Oil Co.* v. *EPA,* 564 F.2d 1253, 1264 (9th Cir. 1977); *United States Steel Corp.* v. *Train,* 556 F.2d 822, 833 (7th Cir. 1977).

Largely because of the holdings in these cases, EPA promulgated the current part 124 regulations in 1979, which require formal evidentiary hearings of the type contemplated by section 554 of the APA. 44 FR 32854, 32855 (June 7, 1979). These procedures apply to any NPDES permit decision (i.e., a decision to grant a permit, to deny a permit, or to terminate a permit for cause under 40 CFR 122.64), and to a decision to terminate a permit for a hazardous waste treatment, storage, or disposal facility issued under Section 3005 of RCRA. 40 CFR 124.71, 270.43.

Under part 124, when issuing, denying, or terminating an NPDES permit (or terminating a RCRA permit), EPA undergoes a complicated 3-step administrative process. Step 1 begins when a discharger submits an application for a new or revised NPDES permit. Based on the application, the appropriate EPA Regional Office prepares a draft permit (or draft decision to deny) detailing the proposed conditions on the discharger. The EPA Region provides notice and an opportunity for public comment on draft permits (40 CFR 124.10) and provides a public hearing when there is a significant degree of public interest. 40 CFR 124.12(c). Step 1 ends when the Regional Administrator (or his or her designee) issues a final permit decision, incorporating any changes in the draft permit occasioned by the public comments received.

The permit takes effect 30 days after issuance unless the permittee or any other member of the public who commented on the draft permit initiates Step 2 (or if one of the other two exceptions at 40 CFR 124.15(b) are met i.e., a later effective date is specified in the permit decision, or if no comments have requested a change in the draft permit, it becomes effective immediately upon issuance). In Step 2, a party appeals the permit decision by requesting an evidentiary hearing. 40 CFR 124.15(b). To exhaust administrative remedies, the permittee (or the public) must request an evidentiary hearing on all contested issues (legal and factual). The EPA Regional Administrator must then decide whether to grant or deny the request for a hearing. The Regional Administrator shall grant a hearing on any issue for which there is a genuine dispute of material fact, and on any legal issue which is intertwined with such material factual issues. The Regional Administrator will deny a hearing on any other legal issues, or on any factual issues for which there is no material dispute. If a hearing is granted on any issue, an Administrative Law Judge presides over a formal evidentiary hearing following the procedures of 40 CFR part 124 subpart E.

As an alternative to the full adjudicatory proceeding, EPA regulations also provide that Steps 1 and 2 may be combined in a single semi-formal hearing process before a non-adversary panel of EPA experts (called a ''Non-Adversary Panel Procedure'' or ''NAPP''). 40 CFR part 124 subpart F. These procedures apply only to NPDES permits which constitute an ''initial licensing'' proceeding under the Administrative Procedure Act, or if a party to the proceeding requests such a hearing. 40 CFR 124.74(c)(8), 124.111(a)(1).

For issues decided in an evidentiary hearing or Non-Adversary Panel Procedure (and for issues arising when a request for an evidentiary hearing is denied), a party may initiate Step 3 by appealing the Regional Administrator's decision to EPA's Environmental Appeals Board. 40 CFR 124.91, 124.127. The appeal provides an opportunity to review any factual conclusions (under a ''clear error'' standard), policy decisions, or legal conclusions. The appeal is the final prerequisite to judicial review. The entire administrative process (that is, to comment at Step 1, to appeal at Step 2, and to further appeal at Step 3) must be exhausted in order to obtain judicial review.

By contrast, permits issued or denied under RCRA Subtitle C, the UIC program of the Safe Drinking Water Act, or the PSD program of the Clean Air Act, use Steps 1 and 3 of the above-described process, but not Step 2. In other words, a party may appeal from the Regional Administrator's permit decision directly to the Environmental Appeals Board. 40 CFR 124.19(a). There is no provision for formal adjudicatory hearings, unless the RCRA, UIC, or PSD permit has been consolidated for purposes of permit issuance with an NPDES permit for which a request for evidentiary hearing has been granted. 40 CFR 124.71(a).

EPA's experience with the evidentiary hearing process suggests that it causes significant delays in NPDES permit issuance without causing noticeable improvements in the quality of the permit decisions made. As discussed in more detail below, EPA statistics suggest that at least 80% of all requests for evidentiary hearing are resolved without a hearing taking place or any changes being made to the permit. Nonetheless, it takes an average of 18–21 months to complete the 2-part appeals process for such permits. EPA has maintained the process primarily due to concerns about the legality of adopting less formal procedures. As discussed below, however, these concerns no longer hold true.

2. Proposed Elimination

In EPA's opinion, formal evidentiary hearings are not required by the CWA, nor are they necessary to protect the due process rights of permittees or other interested parties. EPA therefore proposes to eliminate the requirement for such hearings prior to EPA's issuance of NPDES permits.

a. Legal Basis. (1) The Language of Section 402(a). EPA has concluded that due to the progress of the law in the Courts of Appeals, the *Seacoast* and *Marathon* decisions are no longer good law, and that the CWA may be interpreted not to impose a formal hearing requirement. As noted earlier, Section 402(a) does not explicitly state that public hearings on NPDES permits must be conducted ''on the record,'' the phrase normally associated with a requirement that hearings be conducted under section 554 of the APA. The absence of an explicit requirement in section 402(a) that formal APA procedures be used is significant in light of certain judicial decisions that followed the promulgation of the part 124 regulations. These decisions, which address procedural requirements under statutory provisions other than section 402(a) of the CWA, have abandoned the presumption that trial-type hearings are required by the APA where a statute calls for an adjudicatory hearing

without explicitly requiring formal procedures. *Chemical Waste Management* v. *EPA*, 873 F.2d 1477 (D.C. Cir. 1989) (''*CWM*'') (RCRA section 3008(h)); *Buttrey* v. *United States*, 690 F.2d 1170 (5th Cir. 1982) (CWA section 404).

In *CWM*, the D.C. Circuit upheld RCRA regulations establishing informal procedures for adjudicating corrective action orders under RCRA section 3008(h). 873 F.2d at 1478. RCRA section 3008(h) does not specifically provide for hearings, but section 3008(b) provides that ''[a]ny order issued under this section shall become final unless * * * the person or persons named therein request a public hearing. Upon such a request the Administrator shall promptly conduct a public hearing.'' 42 U.S.C. section 6928(b). Under the RCRA corrective action hearing regulations at 40 CFR part 24, the operator of a hazardous waste facility may submit written information and arguments for inclusion in the record and may make an oral presentation at the hearing itself. Direct and cross-examination of witnesses is not permitted, but the Presiding Officer may direct questions to either party. The Presiding Officer is to be either the Regional Judicial Officer or an attorney employed by the Agency who has not had any prior connection with the case. The RCRA regulations contain detailed requirements for the establishment of the administrative record. The Presiding Officer must review the record and file a recommended decision with the Regional Administrator, who in turn renders a final decision that is judicially reviewable under the APA. These procedures closely parallel, of course, the procedures for processing a permit under part 124, subpart A.

In *Buttrey*, the Fifth Circuit upheld the hearing regulations used by the Army Corps of Engineers to issue or deny CWA section 404 permits. 690 F.2d at 1172. Section 404 provides that the Secretary may issue permits for the discharge of dredge or fill material ''after notice and opportunity for public hearings.'' 33 U.S.C. section 1344(a). The Corps' section 404 procedures authorize a ''paper hearing,'' with public notice and comment on the proposed permit action. Corps procedures do not explicitly provide an opportunity for oral presentations.

Both *Buttrey* and *CWM* seriously question the continuing validity of *Seacoast* and *Marathon*. *CWM*, in particular, notes that the cases were decided prior to the Supreme Court's decision in *Chevron, U.S.A.* v. *NRDC*, 467 U.S. 837, 843 (1984), which held that where Congress has failed to express a clear intent to the contrary, an agency charged with administering the statute may adopt any interpretation which is reasonable in light of the goals and purposes of the statute. Where a statute fails to use the term ''on the record,'' the court will evaluate whether the hearing procedures adopted by the agency are reasonable in light of the statute and also any due process considerations. *CWM*, 873 F.2d at 1482. The D.C. Circuit has also noted that even assuming formal hearings are required for issuance of NPDES permits, there is no absolute right to provide oral testimony or to cross examine witnesses in such hearings. *NRDC* v. *EPA*, 859 F.2d 156, 193 (D.C. Cir. 1988) (upholding EPA's Non-Adversary Panel Procedures and distinguishing *Seacoast*).

(2) Reasonableness of Interpretation. As with the 3008(h) rules and the procedures for issuance of RCRA or UIC permits, EPA believes that providing for informal hearings prior to issuance of NPDES permits is a reasonable interpretation of section 402(a).

First and most important, EPA believes that formal hearings are not necessary to protect the due process rights of permittees or other interested parties. The leading Supreme Court case discussing due process requirements is *Mathews* v. *Eldridge*, 424 U.S. 319 (1976). *Mathews* establishes a 3-part analysis that balances the following factors in deciding what procedures are required by the Due Process clause: (1) The private interests at stake, (2) the risk of erroneous decision-making, and (3) the nature of the government interest. Due process generally requires, at a minimum, that EPA provide independent and objective fact-finding, see *Wong Yang Sung* v. *McGrath*, 339 U.S. 33, 41 (1949), *Morrisey* v. *Brewer*, 408 U.S. 471, 489 (1972), as well as a complete administrative record containing the information upon which the Agency relies. See *Camp* v. *Pitts*, 411 U.S. 138, 139–142 (1973). Due process also requires that, prior to final agency action, EPA must provide to affected parties notice of what the Agency intends so that, should those parties disagree, they may submit contrary arguments or evidence. See *Goss* v. *Lopez*, 419 U.S. 565, 581 (1975). See generally, Kenneth C. Davis, Administrative Law Treatise, 10:3, 10:7, 13:1–2, 13:7, & 18:2 (2d ed. 1980). The procedures for processing permits under part 124 subpart A meet all of these minimum requirements.

In an NPDES permit proceeding, the private interests at stake are those of a potential discharger in obtaining a permit to conduct its economic activities in a lawful manner (and the interests of private individuals in challenging permits). Yet, no personal liberty interests are at stake, there is no ''right to pollute,'' and the granting of an NPDES permit does not convey a property right of any sort, or any exclusive privilege. See 40 CFR 122.25(b).

EPA has previously concluded that, in general, due process considerations dictate that most administrative enforcement actions should proceed under formal hearing procedures. In such a proceeding, EPA is accusing respondents of violations of ''established legal standards,'' and the decision maker is called upon to adjudicate specific factual issues relating to the violations in question. See 45 FR 24,360 (Apr. 9, 1980 (promulgating part 22)). The Agency concluded that, without full adjudicatory hearings, there was a significant risk that EPA might be vulnerable to arguments that the Agency lacked the means to properly resolve disputed factual matters upon which the alleged violator's interests were dependent.

However, EPA believes that the nature of the typical hearing on an NPDES permit will differ significantly from the type of hearing held on a compliance or penalty order. Hearings on permits are less apt to present the kind of factual issues regarding the conduct of the discharger, which case law identifies as being uniquely susceptible to resolution in a formal evidentiary hearing. Rather, the issues posed in proceedings on permits will typically relate to legal, policy, or technical matters concerning the appropriate limitations on the pollutants in the discharge, which are most appropriately addressed in informal hearings. The primary factual issues in a hearing on an NPDES permit are likely to involve what technology-based and water quality-based limitations are necessary for inclusion in the permit, and whether EPA has properly derived those limits. These kinds of issues are apt to involve wide-ranging and complex facts and are more susceptible to resolution through analysis of a full documentary record than through examination and cross-examination of witnesses. The goal should then be to compile a full and fair documentary record upon which EPA can base its decision. The procedures in subpart A allow the permittee, other interested parties, and the Agency every opportunity to develop just such a record. Where an issue is in dispute, the Regional Administrator can typically resolve the dispute through analysis of the written affidavits and arguments of

the parties' technical experts. The risk of an erroneous deprivation of the discharger's rights in deciding these issues is accordingly very low.

By contrast, there is a significant public interest in an expedited process for issuing NPDES permits. EPA's experience since 1979 has been that the opportunity to request an evidentiary hearing has led to significant delays in permit issuance. EPA does not have complete data on evidentiary hearing process all the way back to 1979. However, EPA kept comprehensive statistics on the numbers of evidentiary hearing requested, resolved, and pending between 1990 and 1994. As of July 1, 1994, the latest period for which data are available, 194 requests for evidentiary hearing were pending at EPA. That is, 194 requests were awaiting a decision by the Region on the request for evidentiary hearing, were waiting a hearing, or were awaiting action on appeal to the EAB.

Between March, 1990, and July 1, 1994, 59 requests for a hearing were finally resolved, involving 55 different permits. Of those 59, 22 requests for hearing were withdrawn, 26 were denied by the Regional Administrator (RA) or the EAB, and the remaining 11 were settled without hearing. Only four hearings were conducted during this period, and only one hearing resulted in EPA being ordered to make changes to the NPDES permit. Of the 194 pending hearing requests, 19 had been pending with the Agency for 5 years or more. For the 53 permits resolved during the period for which EPA has data, the average time between request and resolution was over 18 months; if one counts only the 33 proceedings which were resolved on the merits (i.e., other than by withdrawal of the administrative appeal), the average time increases to over 21 months. In contrast, EAB appeals for NPDES, RCRA, or UIC permits average under 9 months .

These statistics suggest that evidentiary hearings themselves rarely result in changes in permits. In only 20% of the permits for which EPA has data did the appeal process result in modifications to the permit, and only one out of 55 of those as a direct result of a decision in an actual evidentiary hearing. Rather, any changes to the permits usually resulted from informal settlement discussions between the Region and the permittee (or occasionally by unilateral decision by the Region to change the permit). For the remainder of the requests, the decision of the Regional Administrator or the EAB was sufficient to resolve all issues, and the complete evidentiary hearing and appeal process resulted in no changes to the permits.

Yet, the evidentiary hearing process clearly delays the time in which the permit becomes fully effective. Under current regulations (§ 124.60), contested permit conditions are not in effect pending the dual appeals process. The 18–21 month average appeal time means that many permit limits do not take effect until well into the 5-year permit term (the 5-year term generally begins when the RA issues the permit under § 124.15). For new sources and NPDES dischargers without a prior NPDES permit, they cannot begin to discharge until the permit appeals are resolved. For existing sources, any new or modified permit limits to protect water quality which are contested cannot take effect. Thus, the long lag time in resolving permit appeals can affect all sectors of the public. In particular, the need to pursue multiple levels of administrative appeals imposes unnecessary costs on the regulated community or other parties participating in the permit processes.

The lengthy appeals process also impacts those members of the public who have an interest in participating in the permit process. Citizen participation is a vital component of the NPDES program. Section 101(e) of the CWA explicitly requires EPA to provide for, encourage, and assist in the development of requirements under the CWA. As EPA has noted before, adequate public participation helps to ensure permits which are protective of the environment by giving permit writers the valuable insights of participants other than the permittee. 61 FR 20973–74 (May 8, 1996). The lengthy formal hearing process effectively requires all interested parties to obtain legal counsel and spend a significant amount of time to request, prepare for, and conduct a trial-type hearing before an ALJ. Citizens groups interested in the content of an NPDES permit are likely to lack the same level of resources necessary to participate in such a proceeding that either the government or an NPDES permittee will possess. Thus, the formal process may pose a barrier to citizen involvement in the NPDES permit process.

In addition to affecting the government and public interests in effective permits and effective public participation in permit proceedings, the evidentiary hearing process also represents a significant drain on Agency resources. EPA Regions utilized over 25 work years of staff time between 1990 and 1994 on processing requests for evidentiary hearings, preparing for hearings, or defending before the EAB a permittee's appeal of decisions to deny requests for hearings. Only about 5 and ¼ of those work years were spent actually preparing for or conducting the hearings; the remainder of EPA staff time was used responding to (and usually denying) requests for a hearing and defending a permittee's appeal of those denials before the EAB.

The evidentiary hearing process uses significant Agency resources with little or no apparent gain in the quality of the decision-making. Often, the key issue before the EAB involves whether the RA properly denied the request for evidentiary hearing, either because there was no genuine issue of material fact raised (see *In re Mayaguez Regional Sewage Treatment Plant, Puerto Rico Aqueduct & Sewerage Authority,* NPDES Appeal No. 92–23, at 11 (EAB, Aug. 23, 1993), *aff'd, Puerto Rico Aqueduct & Sewer Auth.* v. *Browner,* 35 F.3d 600 (1st Cir. 1994)), or because the only issues raised were legal issues for which no hearing is necessary (and which the EAB can resolve). EPA utilized 8 work years between 1990 and 1994 defending denials of evidentiary hearing requests, and very few of those decisions were reversed by the EAB. It seems particularly unnecessary for the RA to have to review a request for hearing, prepare a decision to deny the request on the grounds that the only issues are ones for which there is no genuine dispute of material fact, and then defend that decision to deny before the EAB. Rather, it would seem to make more sense to take the legal issues appropriate for EAB resolution straight to the EAB, and leave resolution of the factual issues for the informal hearing process under subpart A. In those instances where the EAB finds that the Region has made a clear error in resolving a factual issue, the EAB could, as it does for RCRA, UIC, or PSD permits, remand the permit decision for further consideration including further development of the administrative record using the informal hearing process. Furthermore, to the extent that informal settlement discussions are necessary to resolve outstanding issues, such discussions could and would take place during EAB review; the formal evidentiary hearing process is not necessary to provide an opportunity for such discussions.

Balancing the private interests at stake in an NPDES permit proceeding with the public interest in ensuring that such permits control discharges (and ensure protection of the environment) in an expeditious and effective manner and the public interest in effective citizen participation in the permit process, and given that the availability of formal hearings do not appear to reduce

significantly the already low risk of erroneous decision-making, EPA concludes that due process considerations do not mandate formal hearings.

EPA also notes that the primary goal of the Clean Water Act is to ensure that waters of the United States obtain ''fishable/swimmable'' status as early as possible. CWA section 101(a). Section 301(b)(1)(C), in particular, requires that NPDES discharges do not cause or contribute to violations of State water quality standards. The long lag time between permit issuance and when effluent limitations take effect under the current proceedings impairs achievement of these goals.

Finally, the number of States in which EPA is the permit issuing authority is small and getting smaller, and EPA anticipates that its role as a permit issuing authority will continue to diminish. Forty-two States or Territories have obtained authorization to issue NPDES permits; EPA retains permitting authority in only 15 States/Territories and in Indian Country. Many States do not provide for formal hearings prior to issuance of NPDES permits, and EPA is unaware that there have been significant problems with the content of such permits as a result.[3] EPA sees no reason to retain formal hearings for a fraction of the NPDES permits issued nationwide.

For all of these reasons, EPA believes that neither due process nor the Congressional goals for the NPDES program counsels in favor of maintaining the evidentiary hearing process, and that, consistent with the principles of *Chevron*, EPA may reasonably interpret Section 402(a) to authorize use of informal hearings when issuing NPDES permits.

b. Proposed New System. (1) Permit Issuance. The existing process for RCRA, UIC, and PSD permits has proven effective in resolving all factual, legal, and policy issues, providing for adequate public participation, and ensuring that permit issues are resolved in a relatively short time frame. EPA therefore proposes to place NPDES permits under the same system.

NPDES permits would therefore utilize Steps 1 and 3 of the existing process; Step 2 would be eliminated. The EPA Regional Office would continue to prepare a draft permit, provide notice and an opportunity for public comment on the draft permit and opportunity for a public hearing when there is a significant degree of public interest, and issue a final permit decision, incorporating any changes in the draft permit occasioned by the public comments received. After that initial decision, however, a party would appeal from the Regional Administrator's permit decision directly to the Environmental Appeals Board. As provided in § 124.19, a party could appeal any factual or legal determination in the Regional Administrator's decision (if the issue were properly raised in public comments on the draft permit, as provided in 124.13).[4] Subpart E would be eliminated in its entirety.

EPA also proposes to eliminate the NAPP procedure in subpart F. Subpart F was designed to be a less onerous alternative hearing procedure for NPDES permits, to substitute for subpart E when the parties so agreed. EPA has conducted no hearings under subpart F, and EPA is aware of only three permits where a party requested use of the proceeding. One of those involved a RCRA permit denial in EPA Region IX. The purpose of requesting the NAPP in that proceeding appears to have been solely to delay final issuance of the permit denial decision. (See the public docket for today's proposal for details.) With the elimination of subpart E, and given the fact that there has been so little interest in the use of subpart F, EPA sees no reason to retain it.

(2) Termination of NPDES and RCRA Permits. EPA's regulations also currently provide for a formal hearing prior to terminating an NPDES or RCRA permit during its term. EPA regulations treat termination of a RCRA or NPDES permit in the same manner as the issuance or denial of an NPDES permit. That is, termination of a permit begins with preparation of a draft notice of intent to terminate. The notice of intent to terminate is subject to public comment and possibly an informal hearing. After the informal process, the Regional Administrator issues an initial decision, from which a party may request an evidentiary hearing under subpart E, and subsequently an appeal to the EAB.

In developing today's proposal, EPA seriously considered proposing to eliminate all formal hearing procedures for RCRA and NPDES permit terminations and instead treat such terminations just like permit issuance or denial. EPA recognizes that due process considerations may not mandate such procedures. As noted above, issuance of an NPDES permit conveys no property right to the permittee. Thus, the only private interests at stake relate to the expectation of a permittee to continue discharging until the end of a permit term, which can be up to 5 years at most. Otherwise, the permittee cannot presume it will be able to continue discharging beyond the end of the permit term, particularly if the permittee has violated the terms of the permit or misrepresented information on its permit application (the bases for terminating a permit). Thus, the private interests at stake in a permit termination are only marginally stronger than those at stake in a permit denial proceeding (which EPA has always conducted using informal hearing procedures except for NPDES). Yet, EPA also recognizes some differences between permit terminations and other permit proceedings. In contrast to the issuance of a permit, the decision to terminate a permit, other than at the request of the permittee, is more likely to involve factual issues for which formal hearings are appropriate. Under EPA regulations (40 CFR 122.64, 270.43), EPA may terminate a permit only for reasons such as the non-compliance with the permit or failure to have disclosed relevant information in the permit application. In other words, a permit termination is akin to an enforcement action (and indeed often accompanies an administrative enforcement action), where credibility of witnesses will be a more significant concern.

On balance, EPA's preferred option is to maintain the formal hearing requirement for these type of proceedings. EPA solicits comment on whether the formal hearing requirement should be eliminated entirely for RCRA and NPDES permit terminations, and whether there is an adequate basis for doing so.

Termination of NPDES and RCRA permits is a rare occurrence; EPA is aware of only one EPA-issued permit that has been terminated using these procedures since 1980 (the NPDES permit for Marine Shale Processors in Louisiana). EPA's ''Consolidated Rules

[3] However, EPA believes that the ability to judicially challenge final permits is an essential element of public participation under the Clean Water Act. On May 1, 1996, EPA issued a final rule which will require that all States that administer or seek to administer the NPDES program shall provide an opportunity for judicial review in State court of the final approval or denial of permits by the State that is sufficient to provide for, encourage, and assist public participation in the NPDES permitting process. This rule does not, at this time, apply to Indian Tribes. See 61 FR 20972 (May 8, 1996).

[4] The party need not, however, submit all supporting factual information during the comment period; rather the Regional Administrator may instruct the party to submit such information if desired. 40 CFR 124.13 (''Commenters shall make supporting materials not already included in the administrative record available to EPA *as directed by the Regional Administrator*'') (emphasis added); 49 FR 38,042 (Sept. 26, 1984) (''Generally supporting information would not be required to be submitted during the comment period'').

of Procedure'' at 40 CFR part 22 specify procedures for formal hearings in a variety of administrative enforcement actions, including civil compliance or penalty actions for violations of the CWA and RCRA. These regulations also cover the suspension/revocation of permits issued under the Marine Protection Research and Sanctuaries Act (Ocean Dumping Act). There is no significant difference between practice and the procedural guarantees under part 22 and under part 124 subpart E. The only difference is that a formal hearing under part 22 begins with EPA's issuance of a complaint against an alleged violator, whereas subpart E constitutes an appeal of an initial decision after a non-formal public comment and hearing process. Since there are no significant differences between the two sets of rules, EPA sees no reason to leave subpart E in the Code of Federal Regulations solely to cover the very occasional involuntary NPDES or RCRA permit termination. Instead, EPA today proposes to amend part 22 to mandate use of its procedures for such terminations. Instead of the current three-part process under part 124, such permit terminations would occur in a two-step process. Step 1 would be a hearing under part 22; the outcome of the hearing could then be appealed to the EAB under § 22.30.

For terminations at the request of the permittee, the part 124 process, as modified under today's proposal, would be used. In other words, EPA would provide for an informal public comment and hearing under subpart A, with opportunity for appeal to the EAB. This will allow other interested parties to comment on the proposed termination. Also, as noted above, EPA is proposing in today's notice revisions to § 122.64(b) which would allow Directors to terminate a permit by giving notice to the permittee and without following the part 22 or 124 procedures (or State equivalent) where the permittee has permanently terminated its entire discharge (by elimination of its process flow or other discharge components) or has redirected that discharge into a POTW. EPA notes that NPDES-authorized States are not required to use part 22 procedures for permit terminations.

EPA believes that the existing part 22 is generally adequate to cover involuntary permit terminations without substantive amendment. However, where permits are terminated for cause, existing part 124 treats the proceeding the same as for the issuance or denial of a permit. EPA is proposing to incorporate relevant provisions of part 124 into such a permit termination proceeding, i.e., consideration of the administrative record and provision for informal public comment on the proposed permit termination. EPA is also proposing one minor clarification to part 22. Part 22 refers to involuntary removal of a permit as ''revocation[s].'' Since the existing NPDES and RCRA regulations use the term ''revocation'' to refer to permits which are to be reissued (see 40 CFR 122.62, 124.5), EPA is proposing to add the term ''termination'' of permits to the appropriate references in part 22. EPA solicits comment on using the part 22 procedures to cover termination of NPDES and RCRA permits, and whether further amendments to part 22 would be necessary to make the regulations effective for this purpose.

Today's proposal is based on the current version of part 22. However, EPA will soon propose more comprehensive revisions to part 22 designed to make the regulations more readable and thus easier for the public to use. The changes proposed today will be harmonized with that proposal before final rules are issued.

(3) Stays of Contested Permit Conditions. Existing EPA regulations at § 124.15 specify that NPDES, RCRA, and UIC permits take effect 30 days after the Regional Administrator issues an initial permit decision, unless the permit is appealed (or if one of the other exceptions at 40 CFR 124.15(b) are met). Section 124.16(a) further provides that if an initial permit decision is appealed by requesting EAB review (for RCRA and UIC permits) or appealed by filing a request for evidentiary hearing (for NPDES permits) and the request is granted, the contested conditions of the permit (and any uncontested conditions which are not severable from the contested ones) are stayed (i.e., they do not take effect) pending the outcome of the appeal/evidentiary hearing. Existing regulations at § 124.60 supplement § 124.16 for purposes of NPDES permits. Section 124.60(a)(2) authorizes the Regional Administrator to issue an order to a new source or new discharger for whom an evidentiary hearing request has been granted authorizing the source to begin discharging pending the outcome of the hearing process. Section 124.60(c)(7) authorizes the Regional Administrator to impose interim permit requirements for offshore oil rigs that do not have an existing permit, but only when necessary to avoid ''irreparable environmental harm.'' The provisions of §§ 124.60(c)(1)–(c)(6) provide detailed rules for determining what constitutes ''contested conditions'' stayed pending an evidentiary hearing. Section 124.60(f) specifies that the date of compliance with permit conditions which have been stayed pending the outcome of an evidentiary hearing generally shall be extended for the period of the stay. Other provisions of § 124.60 parallel provisions contained in §§ 124.15, 124.16, or 124.19.

EPA today proposes substantial revisions to § 124.60 consistent with the proposal to eliminate evidentiary hearings. Sections 124.60(a)(2) and 124.60(f) grant certain relief to the regulated community to reflect the long lag time between when a permit is issued and when it becomes effective if an evidentiary hearing takes place. By eliminating the evidentiary hearing step, today's proposal would dramatically shorten that lag time. EPA believes that these provisions would no longer be necessary and proposes to delete them. The existing § 124.60(c)(7) also provides for temporary authorization pending the outcome of administrative review, but only for a very limited number of facilities and only as necessary to prevent environmental damage. EPA is unaware that this provision has ever been invoked, but is proposing today to retain it (recodified at § 124.60(a)) in case the need arises.

The existing §§ 124.60(a)(1), 124.60(c)(1), and 124.60(e) generally clarify that only uncontested permit conditions take effect pending appeal, and that the prior existing permit (if any) remains in effect (to the extent they match the contested conditions in the new permit). As noted above, EPA is today proposing to provide for a direct appeal of the Regional Administrator's initial permit decision to the EAB. The existing regulations at § 124.16 contain virtually the same requirements regarding contested permit conditions when a RCRA or UIC permit is appealed to the EAB. Compare § 124.60(a)(1) with § 124.16(a)(1); § 124.60(c)(1) with § 124.16(a)(2); 124.60(e) with 124.16(c)(2). EPA proposes to eliminate the redundant portions of § 124.60 in favor of the generally applicable provisions in § 124.16. However, EPA proposes to retain the NPDES-specific provisions of existing § 124.60(c) (2)–(6) concerning what constitutes a ''contested condition;'' these would be recodified at § 124.60(b)(2)–(6). EPA also proposes to retain the specific language of 124.60(e) as recodified at 124.60(c).

EPA also proposes to make a more general change to its practice surrounding effective dates, contested permit conditions, and stays. In the past, there has been significant confusion surrounding when a RCRA, UIC, or PSD permit takes effect if appealed to the EAB, and somewhat less

confusion with respect to the same issue for NPDES permits. Section 124.15(b) specifies that permits generally take effect 30 days after issuance by the Regional Administrator unless EAB review is requested under § 124.19 (for RCRA, UIC, or PSD) or an evidentiary hearing is requested (for NPDES) (or if one of the other exceptions at 40 CFR 124.15(b) are met). Existing §§ 124.16(a) (for non-NPDES) and 124.60(c)(1) clarify that, once the EAB grants review or the RA grants the evidentiary hearing request, contested conditions are stayed but uncontested conditions take effect. Both sections require that the Regional Administrator identify the uncontested provisions. Section 124.60(c)(1) explicitly requires the Regional Administrator to notify all interested parties. The regulations are not clear, however, as to whether any conditions of the permit are in effect during the period between filing of the request for review and the decision to grant or deny review. EPA has, in the past, interpreted § 124.16(a)(2) to apply during this period as well. In other words, the uncontested conditions take effect even prior to a decision to grant or deny review under 40 CFR 124.19. See Memorandum from Lisa K. Friedman, ''Stays of Contested Permit Conditions,'' Mar. 22, 1988 (in the docket for today's proposal).

EPA today proposes to amend § 124.16 to clearly reflect the Agency's interpretation. Section 124.16(a)(1) would clarify that contested permit conditions are stayed as of the date of filing a request for review with the EAB under § 124.19, and any contested conditions will remain stayed until EPA takes final action (either a decision of the EAB or a decision of the Regional Administrator on remand) under § 124.19(f). Uncontested permit conditions would also be stayed upon filing of a request for review, but only for a temporary period. Importing language from the existing § 124.60(c)(1), the new § 124.16(a)(2) would clarify that the uncontested conditions take effect 30 days after the Regional Administrator notifies the EAB, the permit applicant, and other interested parties as to which conditions are uncontested. Since EPA is proposing to use the same appeals process for NPDES permits as for other permits, the new § 124.16 would apply to NPDES permits as well.

The language of the existing § 124.60(b) specifies that the Regional Administrator may, at any time prior to the Administrative Law Judge's (ALJ) decision in an evidentiary hearing, withdraw contested conditions of an NPDES permit and reissue them in accordance with the procedures of subpart A. In practice, EPA has withdrawn and reissued permits under all statutes prior to decisions of the EAB as well as prior to ALJ decisions. EPA therefore proposes to clarify that the Regional Administrator may withdraw and reissue any NPDES, RCRA, UIC, or PSD permit (or a contested condition thereof) prior to a decision of the EAB to grant or deny review under § 124.19(c). To make this change, the existing § 124.60(b), as slightly modified, would be recodified as § 124.19(d).

This proposal, once finalized, will serve the public interest by shortening the time for appeals that may be brought by interested citizens, allowing for the more timely resolution of these appeals, with a shorter stay of conditions.

Finally, § 124.60(f) specifies that exhaustion of the evidentiary hearing process is a prerequisite to judicial review of an NPDES permit. EPA proposes to eliminate this language in favor of the general exhaustion provision at § 124.19(e).

(4) Procedures for Variances and New Source Determinations. EPA also proposes changes in various NPDES permit-related administrative procedures. Existing regulations at § 122.21(m) specify that applications for a ''fundamentally different factors'' variance must be filed within 180 days of promulgation of the applicable effluent limitations guideline. Section 125.32(a) contemplates that the application for a variance be submitted in accordance with part 124, subpart F. (However, subpart F does not appear to have ever been used.) All other effluent limitation variances under § 122.21(m) are processed as part of the underlying permit application in accordance with the procedures of part 124, subpart A. EPA sees no continuing reason to treat Fundamentally Different Factors (FDF) variances differently. EPA therefore proposes to amend § 125.32 to require an applicant for an FDF variance to submit an application under the procedures of part 124, subpart A. EPA will process the request for a variance as if it were an application for an NPDES permit.

Existing § 122.21(l)(2) requires EPA to make an initial determination of whether an applicant for an NPDES permit constitutes a ''new source'' subject to the additional requirements of § 122.29. Section 122.21(l)(4) allows for appeal of that initial determination by requesting an evidentiary hearing. Consistent with its proposal to eliminate evidentiary hearings for NPDES permits themselves, EPA proposes to modify this section to allow instead for an appeal of a new source determination to the EAB. Similar to the existing language, the proposed amendment would allow the EAB, with consent of the parties, to defer review of the determination until a decision is made on the permit for the source, and to consolidate review of the new source determination with any review of the permit decision.

(5) Transition to New Procedural Requirements. If EPA decides to issue the final rule as proposed today, there will be no further opportunity to request an evidentiary hearing and the existing procedural rules will be deleted from the CFR. The question arises, however, how today's proposal will affect ongoing NPDES permit issuance/denial or termination proceedings or RCRA permit termination proceedings. EPA proposes largely to ''grandfather'' such proceedings under the prior rules.

Under today's proposal, contained in § 124.21, ongoing proceedings would be treated as follows: For any NPDES permit for which a request for evidentiary hearing was granted or denied as of the date of the final rule, but for which a hearing had not yet been completed, the permit process would continue under the procedures of the prior part 124. Similarly, appeals pending before the EAB would be reviewed under the procedures of prior part 124. In other words, the evidentiary hearing would be conducted under the old subpart E; an appeal from the evidentiary hearing decision (or an appeal from the denial of a request for an evidentiary hearing) would proceed under the prior § 124.91; and any further proceedings conducted pursuant to a remand from the EAB would proceed under the appropriate provisions of the old part 124. Ongoing proceedings to terminate an NPDES or RCRA permit similarly would continue under the prior rules.

EPA is proposing to grandfather these proceedings in the interests of efficiency, fairness and minimizing the confusion to the regulated community. As of July 1, 1994, there were two NPDES permits for which an evidentiary hearing had been granted but the proceedings had not yet concluded, and 17 for which an appeal was pending before the EAB. Interested parties involved in an ongoing evidentiary hearing process may have invested significant resources to prepare or conduct the hearing to date, as would have EPA. It could prove to be a waste of all parties' resources to suspend such proceedings in mid-stream. Such preparation may have taken place even if the hearing itself has not begun. For ongoing proceedings before the EAB, all

parties may have invested resources in a prior evidentiary hearing or in briefing before the EAB. Rather than try to separate out on a case-by-case basis which proceedings are sufficiently advanced to justify continuing under the old rules, EPA proposes to let them all continue if the parties wish. (Today's proposal would allow an ongoing evidentiary hearing proceeding to be terminated with right of appeal to the EAB if all parties agree.) EPA solicits comment on whether it is appropriate to have these permits proceed under the prior rules or whether EPA should suspend all current proceedings and provide instead for an appeal to the EAB.

For any NPDES permit decision for which a request for evidentiary hearing remains pending, considerations of efficiency and fairness are less significant. Neither the parties nor EPA are likely to have invested any significant resources yet. Therefore, EPA is proposing not to grandfather these permits. Rather, EPA proposes to let interested parties refile an appeal directly to the EAB. For such permits, the EPA Region would, within 30 days after the final rule takes effect, notify the requester that the request for evidentiary hearing is being returned without prejudice. Notwithstanding the time limit in § 124.19(a), the requester would be allowed to file an appeal with the Board, in accordance with the other requirements of § 124.19(a), within 30 days.

(6) Miscellaneous Changes. EPA proposes a conforming change to part 117, which establishes regulations concerning the reporting of releases of hazardous substances under section 311 of the CWA. The reporting obligation does not cover discharges of hazardous substances ''resulting from circumstances identified, reviewed, and made a part of the public record with respect to a[n NPDES] permit.'' 40 CFR 117.12(a)(2). Section 117.1 defines the ''public record'' to include the permit itself and the record prepared during a NAPP proceeding under (now) subpart F. Since EPA is today proposing to eliminate subpart F, EPA proposes to modify this definition to refer instead to the administrative record required for all permits under § 124.18.

Finally, today's proposal would amend various sections of parts 122, 124, 144, 270, and 271 to eliminate obsolete references to subparts E or F of part 124. Many of these references authorize RCRA, UIC, or PSD permits to be processed under subparts E or F if consolidated with an NPDES permit undergoing an evidentiary hearing or NAPP. As reflected by the proposed language in § 124.1(d), today's proposal would continue to authorize permits to be processed in consolidated fashion under subpart A.

(7) Effect on State Programs. Under EPA's current regulations (40 CFR 123.25), EPA does not require States and Indian Tribes wishing to obtain authorization to issue NPDES permits to provide for formal evidentiary hearings, either under part 124 or part 22. Instead, EPA requires States and Tribes to provide for the informal process outlined in subpart A of part 124 and requires States to provide an opportunity for judicial review in State court of the final approval or denial of permits by the State that is sufficient to provide for, encourage, and assist public participation in the NPDES permitting process. EPA also does not require States nor Tribes to provide for formal hearings prior to termination of NPDES or RCRA permits. This proposed revision concerning permit appeal and termination procedures does not change the requirements of State programs. However, as described in more detail above, another revision proposed in today's package for 40 CFR 122.64(b) would allow States to terminate NPDES permits without following part 124 procedures (or their State equivalent) under certain circumstances. Of course, States and Tribes may continue to provide for formal evidentiary hearings on such permit decisions if they wish, under section 510 of the CWA and section 3009 of RCRA.

D. Proposed Removal and Reservation of Part 125, Subpart K

1. 40 CFR Part 125, Subpart K

In today's notice, EPA proposes to remove and reserve part 125, subpart K (40 CFR 125.100–104) titled ''Criteria and Standards for Best Management Practices Authorized Under Section 304(e) of the Act''. This provision was originally promulgated on June 7, 1979 (44 FR 32954) and would have established criteria and standards for imposing best management practices (BMPs) in NPDES permits under the authority provided in sections 304(e) and 402(a)(1) of the CWA. However, for reasons set forth in more detail below, subpart K has never been activated and its original purpose is now better served by EPA's existing BMP provisions at 40 CFR 122.44(k) and accompanying guidance for developing and implementing BMPS.

BMPs are schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of ''waters of the United States.'' BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs are authorized under two provisions of the CWA, sections 304(e) and 402(a)(1). Section 304(e) of the Act authorizes the Administrator to publish regulations which are supplemental to effluent limitation guidelines, for a class or category of point sources, for any toxic or hazardous pollutant regulated under sections 307(a)(1) or 311 of the CWA, in order to control plant site runoff, spillage or leaks, sludge or waste disposal, and drainage from raw material storage, which the Administrator determines are associated with or ancillary to the industrial manufacturing or treatment process within such class or category of point sources and which may contribute significant amounts of toxic or hazardous pollutants to the waters of the United States. In addition, section 402(a)(1) of the Act authorizes permitting authorities to include BMPs in permits using Best Professional Judgment (BPJ). EPA's authority to impose BMPS under section 402(a)(1) was recognized by the D.C. Circuit in *NRDC* v. *Costle*, 568 F.2d 1369 (D.C. Cir. 1977).

In addition to these statutory authorities for BMPs, EPA's regulations at 40 CFR 122.44(k) specifically authorize EPA to require BMPs in NPDES permits to control or abate the discharge of pollutants where: (1) Authorized under section 304(e) of the CWA for the control of toxic pollutants and hazardous substances, (2) numeric effluent limitations are infeasible, or (3) the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA. EPA has used § 122.44(k) to require specific BMPs in permits and has required, as a permit condition, that permittees develop and implement BMP plans. These are also known as storm water pollution prevention plans (SWPPPs) in certain storm water general permits). See EPA's ''Storm Water Multisector General Permit for Industrial Activities finalized on September 29, 1995 (50 FR 50804) as well as EPA's baseline storm water general permits finalized on September 9, 1992 (57 FR 41175) and September 25, 1992 (57 FR 44412).

The regulatory history covering the development of part 125, subpart K is lengthy. On August 21, 1978, EPA proposed regulations (43 FR 37089) that provided a definition of ''Best Management Practices'' (''BMPs''). In addition, subpart L—''Criteria and

Standards for Best Management Practices Authorized Under Section 304(e) of the Act'', was created under part 125 and was reserved for later rulemaking.

On September 1, 1978, EPA proposed a rule to revise the existing regulations governing the NPDES program in order to reflect new controls on toxic and hazardous pollutants under the 1977 amendments to the CWA. The proposed rule indicated how BMPs for on-site industrial activities (such as materials storage and waste disposal) may be required in NPDES permits to prevent the release of toxic and hazardous pollutants to surface waters. This regulation was proposed under part 125, subpart L—Criteria and Standards for Imposing Best Management Practices Under Section 304(e) of the Act (43 FR 39282).

After evaluating the comments received on the proposed regulation, EPA promulgated the BMP regulation in part 125, subpart K on June 7, 1979 (44 FR 32954). The revised regulation described how BMPs for control of toxic or hazardous pollutants that are ancillary to industrial activities under section 304(e) of the Act shall be reflected in permits, including BMPs promulgated in effluent limitations guidelines under section 304, and BMPs established on a case-by-case basis in permits under sections 301(b) and 402(a) of the Act.

In addition to the regulation, EPA had intended to publish technical information supporting the development of BMP programs in a guidance document. However, on August 10, 1979, three days before the regulations were to become effective, the Agency announced that the guidance document had been unavoidably delayed and that the Agency was deferring the effective date of the BMP regulation until 60 days after EPA published a Federal Register notice of the availability of the BMP program guidance document (44 FR 47063).

On March 20, 1980, EPA announced the availability of the draft guidance document and provided a 45-day comment period (45 FR 17997). EPA noted that after reviewing the comments on the guidance document, the document would be finalized and a notice would be published in the Federal Register announcing the effective date of the BMP regulations. In response to public comment on the guidance document, the comment period was extended twice, resulting in a 120-day comment period. After evaluating the comments on the guidance document, the Agency made revisions and in June 1981 published ''NPDES Best Management Practices Guidance Document.'' (The BMP Guidance Document has since been revised. The revised guidance was published in October 1993.) However, the effective date of the regulation was never announced and subpart K never became effective.

The continued inactive status of the subpart K has not hindered EPA's ability to require BMPs in permits because § 122.44(k) remained effective. Moreover, a number of guidance documents have since become available to assist permit issuing authorities and permittees in developing and implementing BMPs and BMP plans. While part 125, subpart K has remained in the Code of Federal Regulations as an inactive regulation, it has nonetheless been valuable as a model for imposing BMPS under 40 CFR 122.44(k). This was particularly true when there was less guidance available on how to develop and implement BMPs.

At present, requirements for the preparation and implementation of BMPs (and BMP plans) are commonly found in NPDES permits as permit conditions under 40 CFR 122.44(k). EPA has continued to work with industry to identify the generic BMPs that most well-operated facilities use for pollution control, fire prevention, occupational safety and health, or product loss prevention. Experience has shown that BMPs can be appropriately used and that permits containing BMP programs can effectively reduce pollutant discharges in a cost-effective manner. BMPs are also an effective mechanism for promoting the goals of pollution prevention. There are now a number of EPA guidance documents available to assist permit issuing authorities and the regulated community in developing and implementing BMPs and BMP plans. Moreover, the BMP provisions of EPA's baseline and multisector storm water general permits also provide guidance on how to implement BMPs.

Given these events and the continued successful use of BMPs for NPDES permits under existing § 122.44(k) and its associated guidance, EPA now believes that there is no longer a reason to activate part 125, subpart K. Because BMPs are often best tailored for specific industries, EPA believes that the use of existing § 122.44(k) in combination with guidance provides a more flexible and effective approach in developing and implementing BMPs than that found under part 125, subpart K. Finally, the provisions of subpart K are now over 16 years old and are antiquated on a number of fronts particularly with respect storm water discharges which form the bulk of BMP applications. For those reasons, EPA is proposing to remove the provisions of part 125, subpart K.

2. 40 CFR 122.44(k)

In today's notice, EPA proposes to add a note to 40 CFR § 122.44(k) which lists the various EPA BMP guidance documents. This will assist readers in developing and implementing BMPs and BMP plans.

E. Miscellaneous Corrections

EPA also proposes in today's notice a number of minor non-substantive revisions to its regulations that would correct typographical or drafting errors, and misplaced or obsolete references. EPA wishes to be clear that these corrections and not intended in anyway to result in substantive changes to its programs. In proposing these corrections, EPA does not solicit, and will not respond to, comments on the existing regulatory provisions which underlie those corrections. Furthermore, by including these corrections in the proposed rule, EPA is not conceding that any or all such changes require notice and comment. However, these errors were discovered while developing this proposed rule and EPA believes it is more cost effective to correct them in this rulemaking than in a separate Federal Register notice. EPA proposes the following corrections:

1. Section 122.1(b)(4) contains an erroneous cite to § 122.1. EPA proposes to amend § 122.1(b)(4) to add the correct cite which is § 122.2.

2. In § 122.21(l)(1), EPA proposes to replace the term ''paragaraph'' with its correct spelling, ''paragraph''.

3. The current heading for § 122.24(b) is written incorrectly as ''Defintion''. EPA proposes to correct that error by inserting the correct term ''Definition''.

4. Section 40 CFR 122.21(l)(2)(ii) incorrectly refers to paragraph ''(k)(2)(i)''. EPA proposes to insert the correct reference, paragraph ''(l)(2)''.

5. Section 40 CFR 122.21(l)(3) incorrectly refers to paragraph ''(k)(2)''. EPA proposes to insert the correct reference ''paragraph (l)(2)''.

6. In § 122.26(b)(15), EPA proposes to replace the term ''landill'' with its correct spelling, ''landfill''.

7. In § 122.26(d)(1)(iii)(D)(1), EPA proposes to replace the term ''overlayed'' with its correct spelling, ''overlaid''.

8. EPA proposes to remove an obsolete reference to § 124.58 found in the last sentence of § 122.28(b)(1). Section 124.58 was removed from the EPA's regulations on June 29, 1995. See 60 FR 33927.

9. Section 122.29(c)(1)(i) incorrectly refers to ''§ 122.21(k)''. EPA proposes to provide the correct reference, ''§ 122.21(l)''.

10. In § 122.41(l)(6)(i), EPA proposes to replace the term ''becames'' with the correct term, ''becomes''.

11. In § 122.43(b)(1), EPA proposes to replace the term ''additonal'' with its correct spelling, ''additional''.

12. EPA proposes to correct two inaccurate cites currently found at § 122.44(i)(1)(iii). Paragraph (iii) incorrectly refers to internal waste stream provisions as occurring at § 122.45(i). The correct cite is § 122.45(h). Paragraph (iii) also incorrectly refers to intake credit as being located at § 122.45(f). The correct cite is § 122.45(g).

13. The language in paragraph § 122.44(e)(1) contains a reference to § 122.21(g)(10). That cite is no longer current because § 122.21(g)(10) is reserved. EPA proposes to remove that reference.

14. In section 122.44(k), EPA proposes to amend paragraph (k)(2) to replace the comma after with word ''infeasible'' with a semicolon. This provision was originally promulgated with a semicolon on June 7, 1979 (44 FR 32907). However, when these provisions were combined with other EPA permit regulations as part of the June 14, 1979 permit consolidation proposed rulemaking (44 FR 38244), a comma was wrongly inserted in place of the semicolon. EPA proposes to correct that typographical error in today's notice.

15. Section 122.44(q) incorrectly refers to § 124.58 in support of the requirement that NPDES permits must include, where applicable, conditions that the Secretary of the Army considers necessary to ensure that navigation and anchorage will not be substantially impaired. The correct cite is § 124.59. EPA proposes to revise this paragraph to include the correct cite.

16. In the introductory text of § 122.47(b), EPA proposes to replace the term ''requriements'' with the correct spelling, ''requirements''.

17. Section 122.62(a)(8) contains two references that are incorrect. Paragraph (a)(8)(i) allows a permit to be modified upon request of a permittee who qualifies for a net basis under § 122.45(h). Net basis and net limitations pertain to pollutants in intake waters which are found at § 122.45(g) and not at § 122.45(h). Paragraph (a)(ii) would allow permit modification when a discharger is no longer eligible for net limitations, as provided in § 122.45(h)(1)(ii)(B). Net limitations are actually found at § 122.45(g)(1)(ii). EPA proposes insert the correct references in today's notice.

18. 40 CFR 123.25(a)(36) requires that authorized States must have legal authority to implement the provisions of part 125, subparts A, B, C, D, H, I, J, K, L. However, subparts C, I, J, and L are currently reserved and subpart K is proposed to be reserved in today's notice. EPA proposes to revise 40 CFR 123.25(a)(36) to remove the references to subparts C, I, J, K, and L.

19. In 40 CFR 123.25(b), EPA proposes to replace the citation, 40 CFR 35.1500, with the correct citation, 40 CFR 130.5. This error occurred in 1985, when part 130 was created from former subparts of part 35.

20. Language which is the same as that found in the definition of ''State Director'' is incorrectly inserted into the definition of ''State'' at § 124.2. EPA proposes to remove that language.

21. EPA proposes to remove the term ''consultation with the Regional Administrator'' from § 124.2 because it is obsolete. This term applies specifically to 301(k) compliance extensions which have not been available since March 31, 1991. On June 29, 1995, EPA removed regulatory provisions which implement § 301(k). See 60 FR 33926, June 29, 1995.

22. EPA proposes to correct two references in § 124.55. Each refers to ''certification conditions'' specified in § 124.53(d); the correct citation is to 124.53(e).

III. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.''

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. The Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, EPA must prepare a Regulatory Flexibility Analysis for all regulations that have a significant impact on a substantial number of small entities. The RFA recognizes three kinds of small entities and defines them as follows:

—Small governmental jurisdictions—any government of a district with a population of less than 50,000.

—Small business—any business which is independently owned and operated and not dominant in its field as defined by Small Business Administration regulations under section 3 of the Small Business Act.

—Small organization—any not-for-profit enterprise that is independently owned and operated and not dominant in its field (e.g., private hospitals and educational institutions).

Under section 605(b) of the Act, an agency may, in lieu of preparing an initial regulatory flexibility analysis, certify that a rule will not have a ''significant impact on a substantial number of small entities.'' Then no further analysis is required.

Most of the changes in today's proposal are purely technical and will have no effect on compliance costs for NPDES permittees. Also, to the extent these technical changes clarify and simplify the regulations, they will make them easier to understand and comply with, reducing the burden on small entities. The other changes will reduce the costs of obtaining and complying with NPDES permits. For instance, the proposal would make it easier for facilities to obtain coverage under general permits, rather than go through the more complicated and expensive individual permit procedure. EPA also proposes to minimize monitoring and recordkeeping for permittees subject to effluent limitation guidelines, and streamline permit application requirements for storm water dischargers and new sources/new dischargers. EPA is also proposing to streamline the permit appeals and permit termination processes, which should further reduce the costs of obtaining (or modifying) or terminating an individual permit. None of these proposed changes are expected to

increase, and most of the changes will actually decrease, the costs of compliance for NPDES dischargers, including small entities (if any). Therefore, I certify that the proposed rule will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The proposed regulations are designed specifically to streamline the regulatory process and will not impose any additional information collection requirements on either the regulated community or permit issuing authorities. Therefore, EPA did not prepare an Information Request document for approval by the Office of Management and Budget.

Should any reviewer feel that the proposed rulemaking will require additional information collection activities, they should send their comments regarding the burden estimate or any other aspect pertaining to collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch; EPA; 401 M St., S.W. (Mail Code 2136); Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' The final rule will respond to any OMB or public comments on any information collection requirements generated by this proposal.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Under section 204 of the UMRA, EPA generally must develop a process to permit elected officials of State, local and Tribal governments (or their designated employees with authority to act on their behalf) to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates. These consultation requirements build on those of Executive Order 12875 (''Enhancing the Intergovernmental Partnership'').

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or Tribal governments or the private sector. The proposed rulemaking is basically ''deregulatory'' in nature and does not impose any enforceable duties on any of these governmental entities or the private sector.

In any event, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in anyone year. This rule is intended to streamline NPDES permitting requirements and should result in resource savings to Federal and State permitting authorities as well as to the regulated community. Thus, today's rule is not subject to the requirements of sections 202, 204 and 205 of UMRA.

With respect to section 203 of UMRA, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. As previously stated, EPA believes that the rule will reduce the regulatory burden on Federal and State NPDES Permitting authorities as well as on the regulated community. This overall reduction will be applied across the board to all permitting authorities and the regulated community. While, EPA cannot document the effects of these streamlining measures on each affected entity, those smaller governments that are NPDES permittees are expected to benefit from the proposed modifications.

List of Subjects

40 CFR Part 22

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Hazardous waste, Penalties, Pesticides and pests, Poison prevention, Water pollution control.

40 CFR Part 117

Environmental Protection Agency, Hazardous substances, Penalties, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 122

Administrative practice and procedure, Confidential business information, Hazardous substances, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 123

Administrative practice and procedure, Confidential business information, Hazardous substances, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 124

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous waste, Indians—lands, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 125

Environmental protection, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

40 CFR Part 144

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Indians—lands, Reporting and recordkeeping requirements, Surety bonds, Water supply.

40 CFR Part 270

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation,

Hazardous waste, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: November 21, 1996.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR parts 22, 117, 122, 123, 124, and 125, 144, 270, and 271 as follows:

PART 22—[AMENDED]

1. The title of part 22 is revised to read as follows:

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION OF PERMITS

2. The authority citation for part 22 is revised to read as follows:

Authority: 7 U.S.C. 136(l); 15 U.S.C. 2615; 33 U.S.C. 1319, 1342, 1361, 1415 and 1418; 42 U.S.C. 300g–3(g), 6912, 6925, 6928, 6991e and 6992d; 42 U.S.C. 7413(d), 7524(c), 7545(d), 7547, 7601 and 7607(a), 9609, and 11045.

3. Section 22.01 is amended by revising paragraphs (a)(4) and (a)(6) to read as follows:

§ 22.01 Scope of these rules.

(a) * * *

(4) The issuance of a compliance order or the issuance of a corrective action order, the termination of a permit pursuant to section 3005(d), the suspension or revocation of authority to operate pursuant to section 3005(e), or the assessment of any civil penalty under sections 3008, 9006, and 11005 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6925(d), 6925(e), 6928, 6991e, and 6992d)), except as provided in 40 CFR part 24;

* * * * *

(6) The assessment of any Class II penalty under section 309(g), or the termination of any permit issued pursuant to section 402(a) of the Clean Water Act, as amended (33 U.S.C. 1319(g), 1342(a));

* * * * *

4. Section 22.03 is amended by revising the definition for ''Consent Agreement'' to read as follows:

§ 22.03 Definitions.

* * * * *

Consent Agreement means any written document, signed by the parties, containing stipulations or conclusions of fact or law and a proposed penalty or proposed revocation/termination or suspension acceptable to both complainant and respondent.

* * * * *

5. Section 22.13 is amended by revising paragraph (c) to read as follows:

§ 22.13 Issuance of complaint.

* * * * *

(c) Other good cause exists for such action, he may institute a proceeding for the revocation/termination or suspension of a permit by issuing a complaint under the Act and these rules of practice. A complaint may be for the suspension or revocation/termination of a permit in addition to the assessment of a civil penalty.

6. Section 22.14 is amended by revising paragraph (b) introductory text and paragraphs (b)(4), (b)(5), and (b)(6) to read as follows:

§ 22.14 Content and amendment of the complaint.

* * * * *

(b) *Complaint for the revocation/termination, or suspension of a permit.* Each complaint for the revocation/termination or suspension of a permit shall include:

* * * * *

(4) A request for an order either to revoke/terminate or suspend the permit and a statement of the terms and conditions or any proposed partial suspension or revocation/termination;

(5) A statement indicating the basis for recommending the revocation/termination, rather than the suspension, of the permit, or vice versa, as the case may be;

(6) Notice of the respondent's right to request a hearing on any material fact contained in the complaint, or on the appropriateness of the proposed revocation/termination or suspension.

* * * * *

7. Section 22.15 is amended by revising (a)(2) to read as follows:

§ 22.15 Answer to the complaint.

(a) * * *

(2) Contends that the amount of the penalty proposed in the complaint or the proposed revocation/termination or suspension, as the case may be, is inappropriate; or * * *

* * * * *

8. Section 22.17 is amended by revising the second-to-last sentence of paragraph (a) and by revising paragraph (c) to read as follows:

§ 22.17 Default order.

(a) * * * If the complaint is for the revocation or suspension of a permit, the conditions of revocation or suspension proposed in the complaint shall become effective without further proceedings on the date designated by the Administrator in his final order issued upon default. * * *

* * * * *

(c) *Contents of a default order.* A default order shall include findings of fact showing the grounds for the order, conclusions regarding all material issues of law or discretion, and the penalty which is recommended to be assessed or the terms and conditions of permit revocation/termination or suspension, as appropriate.

* * * * *

9. Section 22.18 is amended by revising paragraph (b)(3) to read as follows:

§ 22.18 Informal settlement; consent agreement and order.

* * * * *

(b) * * *

(3) consents to the assessment of a stated civil penalty or to the stated permit revocation/termination or suspension, as the case may be. * * *

* * * * *

10. Section 22.24 is amended by revising the first sentence to read as follows:

§ 22.24 Burden of presentation; burden of persuasion.

The complainant has the burden of going forward with and of proving that the violation occurred as set forth in the complaint and that the proposed civil penalty, revocation/termination, or suspension, as the case may be, is appropriate. * * *

11. Section 22.44 is added to subpart H to read as follows:

§ 22.44 Supplemental rules of practice governing the termination of permits under section 402(a) of the Clean Water Act or under section 3005(d) of the Resource Conservation and Recovery Act.

(a) *Scope of these Supplemental Rules.* These supplemental rules of practice shall govern, in conjunction with the preceding Consolidated Rules of Practice (40 CFR part 22), administrative proceedings for the termination of permits under section 402(a) of the Clean Water Act or under section 3005(d) of the Resource Conservation and Recovery Act. Where

inconsistencies exist between these supplemental rules and the Consolidated Rules, these Supplemental Rules shall apply.

(b) In any proceeding to terminate a permit for cause under 40 CFR 122.64 or 270.42 during the term of the permit:

(1) The complaint shall, in addition to the requirements of § 22.14(b), contain any additional information specified in 40 CFR 124.8;

(2) The Director (as defined in 40 CFR 124.2) shall provide public notice of the complaint in accordance with 40 CFR 124.10, and allow for public comment in accordance with 40 CFR 124.11; and

(3) The Presiding Officer shall admit into evidence the contents of the Administrative Record described in 40 CFR 124.9, and any public comments received.

PART 117—DETERMINATION OF REPORTABLE QUANTITIES FOR HAZARDOUS SUBSTANCES

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

Authority: Secs. 311 and 501(a), Federal Water Pollution Control Act (33 U.S.C. 1251 *et. seq.*), (''the Act'') and Executive Order 11735, superseded by Executive Order 12177, 56 FR 54757.

2. Section 117.1(d) is revised to read as follows:

§ 117.1 Definitions.

* * * * *

(d) *Public record* means the NPDES permit application or the NPDES permit itself and the materials comprising the administrative record for the permit decision specified in 40 CFR 124.18.

* * * * *

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

1. The authority citation for part 122 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 122.1 is revised to read as follows:

§ 122.1 Purpose and scope.

(a) *Coverage.* (1) The regulatory provisions contained in 40 CFR parts 122, 123, and 124 implement the National Pollutant Discharge Elimination System (NPDES) Program under sections 318, 402, and 405 of the Clean Water Act (CWA) (Pub. L. 92–500, as amended, 33 U.S.C. 1251 *et seq.*)

(2) These provisions cover basic EPA permitting requirements (part 122), what a State must do to obtain approval to operate its program in lieu of a Federal program and minimum requirements for administering the approved State program (part 123), and procedures for EPA processing of permit applications and appeals (part 124).

(3) These provisions also establish the requirements for public participation in EPA and State permit issuance and enforcement and related variance proceedings, and in the approval of State NPDES programs. These provisions carry out the purposes of the public participation requirements of 40 CFR part 25, and supersede the requirements of that part as they apply to actions covered under parts 122, 123, and 124.

(4) The NPDES permit program has separate additional provisions that are used by permit issuing authorities to determine what requirements must be placed in permits if issued. These provisions are located at 40 CFR parts 125, 129, 133, 136, 40 CFR subchapter N (parts 400 through 460), and 40 CFR part 503.

(5) Certain requirements set forth in parts 122 and 124 are made applicable to approved State programs by reference in part 123. These references are set forth in § 123.25. If a section or paragraph of part 122 or 124 is applicable to States, through reference in § 123.25, that fact is signaled by the following words at the end of the section or paragraph heading: (*Applicable to State programs, see § 123.25*). If these words are absent, the section (or paragraph) applies only to EPA administered permits. Nothing in parts 122, 123, or 124 precludes more stringent State regulation of any activity covered by these regulations, whether or not under an approved State program.

(b) *Scope of the NPDES permit requirement.* (1) The NPDES program requires permits for the discharge of ''pollutants'' from any ''point source'' into ''waters of the United States.'' The terms ''pollutant'', ''point source'' and ''waters of the United States'' are defined at § 122.2.

(2) The permit program established under this part also applies to owners or operators of any treatment works treating domestic sewage, whether or not the treatment works is otherwise required to obtain an NPDES permit, unless all requirements implementing section 405(d) of the CWA applicable to the treatment works treating domestic sewage are included in a permit issued under the appropriate provisions of subtitle C of the Solid Waste Disposal Act, Part C of the Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act of 1972, or the Clean Air Act, or under State permit programs approved by the Administrator as adequate to assure compliance with section 405 of the CWA.

(3) The Regional Administrator may designate any person subject to the standards for sewage sludge use and disposal as a ''treatment works treating domestic sewage'' as defined in § 122.2, where he or she finds that a permit is necessary to protect public health and the environment from the adverse effects of sewage sludge or to ensure compliance with the technical standards for sludge use and disposal developed under CWA section 405(d). Any person designated as a ''treatment works treating domestic sewage'' shall submit an application for a permit under § 122.21 within 180 days of being notified by the Regional Administrator that a permit is required. The Regional Administrator's decision to designate a person as a ''treatment works treating domestic sewage'' under this paragraph shall be stated in the fact sheet or statement of basis for the permit.

[Note: Information concerning the NPDES program and its regulations can be obtained by contacting the Permits Division (4203), Office of Wastewater Management, U.S.E.P.A., 401 M Street, SW., Washington, DC 20460 at (202) 260–9545.]

3. Section 122.2 is amended by adding new definitions in alphabetical order, and by revising the definition of ''Sludge-only facility'' to read as follows:

§ 122.2 Definitions.

* * * * *

Animal feeding operation is defined at § 122.23 of this part.

* * * * *

Aquaculture project is defined at § 122.25 of this part.

* * * * *

Bypass is defined at § 122.41(m) of this part.

* * * * *

Concentrated animal feeding operation is defined at § 122.23 of this part.

Concentrated aquatic animal feeding operation is defined at § 122.24 of this part.

* * * * *

Individual control strategy is defined at 40 CFR 123.46(c).

* * * * *

Municipal separate storm sewer system is defined at § 122.26 (b)(4) and (b)(7) of this part.

* * * * *

Silvicultural point source is defined at § 122.27 of this part.

* * * * *

Sludge-only facility means any ''treatment works treating domestic sewage'' whose methods of sewage sludge use or disposal are subject to regulations promulgated pursuant to section 405(d) of the CWA, and is required to obtain a permit under § 122.1(b)(2) of this part.

* * * * *

Storm water is defined at § 122.26(b)(13) of this part.

Storm water discharge associated with industrial activity is defined at § 122.26(b)(14) of this part.

* * * * *

Upset is defined at § 122.41(n) of this part.

4. Section 122.4 is amended by revising paragraph (i)(2) to read as follows:

§ 122.4 Prohibitions (applicable to State NPDES programs, see § 123.25).

* * * * *

(i) * * *

(2) The existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards. The Director may waive the submission of information by the new source or new discharger required by paragraph (i) of this section if the Director determines that the Director already has adequate information to evaluate the request. An explanation of the development of limitations to meet the criteria of this paragraph is to be included in the fact sheet to the permit under § 124.56(b)(1).

5. Section 122.21 is amended by revising paragraphs (a), (c)(2)(i), (c)(2)(ii), (g)(7), (g)(8), (l)(1), (l)(2)(ii), (l)(3), (l)(4), and notes 1, and the introductory text of notes 2, and 3; and by removing and reserving paragraph (d)(3) to read as follows:

§ 122.21 Application for a permit (applicable to State programs, see § 123.25).

(a) *Duty to apply*. (1) Any person who discharges or proposes to discharge pollutants or who owns or operates a ''sludge-only facility'' and who does not have an effective permit, except persons covered by general permits under § 122.28, excluded under § 122.3, or a user of a privately owned treatment works unless the Director requires otherwise under § 122.44(m), shall submit a complete application to the Director in accordance with this section and part 124.

(2) *Application Forms:* (i) All applicants for EPA-issued permits must submit applications on EPA permit application forms. More than one application form may be required from a facility depending on the number and types of discharges or outfalls found there. Applications for EPA-issued permits shall be submitted as follows:

(A) All applicants must submit Form 1 containing general information except as otherwise provided in another EPA application form.

(B) Applicants for new and existing POTWs must submit the information contained in § 122.21 (f) and (j).

(C) Applicants for concentrated animal feeding operations or aquatic animal production facilities must submit Form 2B.

(D) Applicants for existing industrial facilities (including manufacturing facilities, commercial facilities, mining activities, silvicultural activities, privately owned waste treatment facilities, and water treatment facilities plants whether publicly or privately owned that discharge process wastewater must submit Form 2C.

(E) Applicants for new industrial facilities that discharge process wastewater must submit Form 2D.

(F) Applicants for new and existing industrial facilities that discharge only nonprocess wastewater must submit Form 2E.

(G) Applicants for new and existing industrial facilities that whose discharge is composed entirely of storm water must submit Form 2F. If the discharge is composed of storm water and non-storm water, the applicant must also submit, Forms 2C, 2D, and/or 2E, as appropriate (in addition to Form 2F).

(H) In addition to any other applicable requirements in this part, all POTWs and other ''treatment works treating domestic sewage,'' including ''sludge-only facilities,'' must submit with their applications the information listed at 40 CFR 501.15(a)(2) within the timeframes established in paragraph (c)(2) of this section.

(ii) The application information required by § 122.21(a)(2)(i) may be electronically submitted if such method of submittal is approved by EPA or authorized NPDES State Director.

(iii) Applicants can obtain copies of these forms by contacting the Water Management Divisions (or equivalent division which contains the NPDES permitting function) of the EPA Regional Offices. The Regional Offices' addresses can be found at § 1.7 of this title.

(iv) Applicants for State-issued permits must use State forms which must require at a minimum the information required for permit applications in this paragraph(a).

* * * * *

(c) * * *

(2) * * *

(i) Any existing ''treatment works treating domestic sewage'' required to have, or requesting site-specific pollutant limits as provided in 40 CFR part 503, must submit the permit application information required by paragraph(a)(2) of this section within 180 days after publication of a standard applicable to its sewage sludge use or disposal practice(s). After this 180 day period, ''treatment works treating domestic sewage'' may only apply for site-specific pollutant limits for good cause and such requests must be made within 180 days of becoming aware that good cause exists.

(ii) Any ''treatment works treating domestic sewage'' with a currently effective NPDES permit, not addressed under paragraph (c)(2)(i) of this section, must submit the application information required by paragraph (a)(2) of this section at the time of its next NPDES permit renewal application. Such information must be submitted in accordance with paragraph (d) of this section.

* * * * *

(g) * * *

(7) *Effluent characteristics.* (i) Information on the discharge of pollutants specified in this paragraph (g)(7) of this section (except information on storm water discharges which is to be provided as specified in § 122.26). When ''quantitative data'' for a pollutant are required, the applicant must collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR part 136. When no analytical method is approved the applicant may use any suitable method but must provide a description of the method. When an applicant has two or more outfalls with substantially identical effluents, the Director may allow the applicant to test only one outfall and report that the quantitative data also apply to the substantially identical outfall. The requirements in paragraphs (g)(7) (iii) and (iv) of this section that an applicant must provide quantitative data for certain pollutants known or believed to be present do not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant must report such pollutants as present. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform and fecal streptococcus. For all other pollutants, 24-hour composite samples must be used. However, a minimum of one grab sample may be taken for effluents from holding ponds or other impoundments with a retention

period greater than 24 hours. In addition, for discharges other than storm water discharges, the Director may waive composite sampling for any outfall for which the applicant demonstrates that the use of an automatic sampler is infeasible and that the minimum of four (4) grab samples will be a representative sample of the effluent being discharged.

(ii) For storm water discharges, all samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inch and at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in that area. For all applicants, a flow-weighted composite shall be taken for either the entire discharge or for the first three hours of the discharge. The flow-weighted composite sample for a storm water discharge may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of fifteen minutes (applicants submitting permit applications for storm water discharges under § 122.26(d) may collect flow-weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots, subject to the approval of the Director). However, a minimum of one grab sample may be taken for storm water discharges from holding ponds or other impoundments with a retention period greater than 24 hours. For a flow-weighted composite sample, only one analysis of the composite of aliquots is required. For storm water discharge samples taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first thirty minutes (or as soon thereafter as practicable) of the discharge for all pollutants specified in § 122.26(c)(1). For all storm water permit applicants taking flow-weighted composites, quantitative data must be reported for all pollutants specified in § 122.26 except pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus. The Director may allow or establish appropriate site-specific sampling procedures or requirements, including sampling locations, the season in which the sampling takes place, the minimum duration between the previous measurable storm event and the storm event sampled, the minimum or maximum level of precipitation required for an appropriate storm event, the form of precipitation sampled (snow melt or rain fall), protocols for collecting samples under 40 CFR part 136, and additional time for submitting data on a case-by-case basis. An applicant is expected to ''know or have reason to believe'' that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant. (For example, any pesticide manufactured by a facility may be expected to be present in contaminated storm water runoff from the facility.)

(iii) Every applicant must report quantitative data for every outfall for the following pollutants:

Biochemical Oxygen Demand (BOD5)
Chemical Oxygen Demand
Total Organic Carbon
Total Suspended Solids
Ammonia (as N)
Temperature (both winter and summer)
pH

(iv) The Director may waive the reporting requirements for individual point sources or for a particular industry category for one or more of the pollutants listed in paragraph (g)(7)(iii) of this section if the applicant has demonstrated that such a waiver is appropriate because information adequate to support issuance of a permit can be obtained with less stringent requirements.

(v) Each applicant with processes in one or more primary industry category (see appendix A to part 122) contributing to a discharge must report quantitative data for the following pollutants in each outfall containing process wastewater:

(A) The organic toxic pollutants in the fractions designated in table I of appendix D of this part for the applicant's industrial category or categories unless the applicant qualifies as a small business under paragraph (g)(8) of this section. Table II of appendix D of this part lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure which uses gas chromatography/mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes. [See Notes 2, 3, and 4 of this section.]

(B) The pollutants listed in table III of appendix D of this part (the toxic metals, cyanide, and total phenols).

(vi)(A) Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in table IV of appendix D of this part (certain conventional and nonconventional pollutants) is discharged from each outfall. If an applicable effluent limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits the pollutant through limitations on an indicator, the applicant must report quantitative data. For every pollutant discharged which is not so limited in an effluent limitations guideline, the applicant must either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged.

(B) Each applicant must indicate whether it knows or has reason to believe that any of the pollutants listed in table II or table III of appendix D of this part (the toxic pollutants and total phenols) for which quantitative data are not otherwise required under paragraph (g)(7)(v) of this section, is discharged from each outfall. For every pollutant expected to be discharged in concentrations of 10 ppb or greater the applicant must report quantitative data. For acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4,6 dinitrophenol, where any of these four pollutants are expected to be discharged in concentrations of 100 ppb or greater the applicant must report quantitative data. For every pollutant expected to be discharged in concentrations less than 10 ppb, or in the case of acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4,6 dinitrophenol, in concentrations less than 100 ppb, the applicant must either submit quantitative data or briefly describe the reasons the pollutant is expected to be discharged. An applicant qualifying as a small business under paragraph (g)(8) of this section is not required to analyze for pollutants listed in table II of appendix D of this part (the organic toxic pollutants).

(vii) Each applicant must indicate whether it knows or has reason to believe that any of the pollutants in table V of appendix D of this part (certain hazardous substances and asbestos) are discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant.

(viii) Each applicant must report qualitative data, generated using a screening procedure not calibrated with

analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:

(A) Uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); 2-(2,4,5-trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or

(B) Knows or has reason to believe that TCDD is or may be present in an effluent.

(8) *Small business exemption.* An applicant which qualifies as a small business under one of the following criteria is exempt from the requirements in paragraph (g)(7)(v)(A) or (g)(7)(vi)(A) of this section to submit quantitative data for the pollutants listed in table II of appendix D of this part (the organic toxic pollutants):

(i) For coal mines, a probable total annual production of less than 100,000 tons per year.

(ii) For all other applicants, gross total annual sales averaging less than $100,000 per year (in second quarter 1980 dollars).

* * * * *

(l) * * *

(1) The owner or operator of any facility which may be a new sources (as defined in § 122.2) and which is located in a State without an approved NPDES program must comply with the provisions of this paragraph (l).

(2) * * *

(ii) The Regional Administrator shall make an initial determination whether the facility is a new source within 30 days of receiving all necessary information under paragraph (l)(2)(i) of this section.

(3) The Regional Administrator shall issue a public notice in accordance with 40 CFR 124.10 of the new source determination under paragraph (l)(2) of this section. If the Regional Administrator has determined that the facility is a new source, the notice shall state that the applicant must comply with the environmental review requirements of 40 CFR 6.600.

(4) Any interested party may challenge the Regional Administrator's initial new source determination by requesting review of the determination under 40 CFR 124.19 within 30 days of the public notice of the initial determination. If all interested parties agree, the Environmental Appeals Board may defer review until after a final permit decision is made, and consolidate review of the determination with any review of the permit decision.

* * * * *

[Note 1: At 46 FR 2046, Jan. 8, 1981, the Environmental Protection Agency suspended until further notice § 122.21(g)(7)(v)(A) and the corresponding portions of Item V–C of the NPDES application Form 2C as they apply to coal mines. This revision continues that suspension.] [1]

[Note 2: At 46 FR 22585, Apr. 20, 1981, the Environmental Protection Agency suspended until further notice § 122.21(g)(7)(v)(A) and the corresponding portions of Item V–C of the NPDES application Form 2C as they apply to:

* * * * *

[Note 3: At 46 FR 35090, July 1, 1981, the Environmental Protection Agency suspended until further notice § 122.21(g)(7)(v)(A) and the corresponding portions of Item V–C of the NPDES application Form 2C as they apply to:

* * * * *

6. Section 122.22 is amended by revising paragraph (a)(1)(ii) to read as follows:

§ 122.22 Signatories to permit applications and reports (applicable to State programs, see § 123.25).

(a) * * *

(1) * * *

(ii) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including the ability to allocate resources, make major capital investments, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

Note: * * *

* * * * *

§ 122.24 [Amended]

7. The paragraph heading for § 122.24(b) (known as ''Defintion'') is revised to read ''Definition''.

8. Section 122.26 is amended by revising paragraphs (b)(15), (c)(1) introductory text, (c)(1)(i)(E)(*4*), (c)(1)(i)(F), (d)(1)(iii)(D)(*1*), and (d)(2)(iv)(C)(*2*), and by removing and reserving paragraph (c)(2), to read as follows:

§ 122.26 Storm water discharges (applicable to State NPDES programs, see § 123.25).

* * * * *

(b) * * *

(15) *Uncontrolled sanitary landfill* means a landfill or open dump, whether in operation or closed, that does not meet the requirements for runon or runoff controls established pursuant to subtitle D of the Solid Waste Disposal Act.

* * * * *

(c) * * *

(1) *Individual application.* Dischargers of storm water associated with industrial activity are required to apply for an individual permit or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit, or any discharge of storm water which the Director is evaluating for designation (see 40 CFR 124.52(c)) under paragraph (a)(1)(v) of this section and is not a municipal storm sewer, shall submit an NPDES application in accordance with the requirements of § 122.21 as modified and supplemented by the provisions of this paragraph (c).

(i) * * *

(E) * * *

(*4*) Any information on the discharge required under paragraph § 122.21(g)(7)(vi) and (vii) of this part;

* * * * *

(F) Operators of a discharge which is composed entirely of storm water are exempt from the requirements of § 122.21 (g)(2), (g)(3), (g)(4), (g)(5), (g)(7)(iii), (g)(7)(iv), (g)(7)(v), and (g)(7)(viii); and * * *

* * * * *

(d) * * *

(1) * * *

(iii) * * *

(D) * * *

(*1*) A grid system consisting of perpendicular north-south and east-west lines spaced ¼ mile apart shall be overlaid on a map of the municipal storm sewer system, creating a series of cells;

* * * * *

(2) * * *

(iv) * * *

(C) * * *

(*2*) Describe a monitoring program for storm water discharges associated with the industrial facilities identified in paragraph (d)(2)(iv)(C) of this section, to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: Any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES permit for a facility; oil and grease, COD, pH, BOD5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any

information on discharges required under 40 CFR 122.21(g)(7) (vi) and (vii).

* * * * *

9. Section 122.28 is amended by revising paragraphs (a)(1) introductory text and (a)(2), adding paragraphs (a)(3) and (a)(4), and revising paragraph (b)(1) to read as follows:

§ 122.28 General permits (applicable to State NPDES programs, see § 123.25).

(a) * * *

(1) *Area.* The general permit shall be written to cover one or more categories or subcategories of discharges or sludge use or disposal practices or facilities described in the permit under paragraph (a)(2)(ii) of this section, except those covered by individual permits, within a geographic area. The area should correspond to existing geographic or political boundaries such as:

* * * * *

(2) *Sources.* The general permit may be written to regulate one or more categories or subcategories of discharges or sludge use or disposal practices or facilities, within the area described in paragraph (a)(1) of this section, where the sources within a covered subcategory of discharges are either:

(i) Storm water point sources; or

(ii) One or more categories or subcategories of point sources other than storm water point sources, or one or more categories or subcategories of ''treatment works treating domestic sewage'', if the sources or ''treatment works treating domestic sewage'' within each category or subcategory all:

(A) Involve the same or substantially similar types of operations;

(B) Discharge the same types of wastes or engage in the same types of sludge use or disposal practices;

(C) Require the same effluent limitations, operating conditions, or standards for sewage sludge use or disposal;

(D) Require the same or similar monitoring; and

(E) In the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.

(3) *Water quality-based limits.* Where sources within a specific category or subcategory of dischargers are subject to water quality-based limits imposed pursuant to § 122.44 of this part, the sources in that specific category or subcategory shall be subject to the same water quality-based effluent limitations.

(4) *Other requirements.* (i) The general permit must clearly identify the applicable conditions for each category or subcategory of dischargers or treatment works treating domestic sewage covered by the permit.

(ii) The general permit may exclude specified sources or areas from coverage.

(b) * * *

(1) *In general.* General permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of part 124 or corresponding State regulations. Special procedures for issuance are found at § 123.44 for States.

* * * * *

§ 122.29 [Amended]

10. Section 122.29(c)(1)(i) is amended by revising the reference to ''§ 122.21(k)'' to read ''§ 122.21(l)''.

11. Section 122.41 is amended by revising paragraphs (j), (l)(4), and the second sentence in paragraph (l)(6)(i) to read as follows:

§ 122.41 Conditions applicable to all permits (applicable to State programs, see § 123.25).

* * * * *

(j) *Monitoring and records.* All permits must monitor and maintain records in accordance with § 122.48 of this part.

* * * * *

(l) * * *

(4) *Monitoring reports.* Monitoring results shall be reported in accordance with § 122.48 of this part.

* * * * *

(6) *Twenty-four hour reporting.*

(i) * * * Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. * * *

* * * * *

§ 122.43 [Amended]

12. Section 122.43(b)(1) is amended by removing from the second sentence the words ''(except as provided in § 124.86(c) for NPDES permits being processed under subpart E or F of part 124)'' and by replacing the term ''additonal'' in the third sentence with its correct spelling, ''additional''.

13. Section 122.44 is amended by revising paragraphs (a), (c), and (e)(1), by removing and reserving paragraph (i), by revising paragraph (k), and revising paragraph (q) to read as follows:

§ 122.44 Establishing limitations, standards, and other permit conditions (applicable to State NPDES programs, see § 123.25).

* * * * *

(a)(1) Any permit issued shall include technology-based effluent limitations and standards based on: Effluent limitations and standards promulgated under section 301(b)(1) or 301(b)(2), as appropriate, new source performance standards promulgated under section 306 of CWA, case-by-case effluent limitations determined under section 402(a)(1) of CWA, or on a combination of the three, in accordance with § 125.3. For new sources or new dischargers, these technology based limitations and standards are subject to the provisions of § 122.29(d) (protection period).

(2) Permits need not include technology-based effluent limitations and standards for every pollutant or parameter listed in applicable effluent guidelines and standards found at 40 CFR Subchapter N if in the judgment of the Director, a permittee adequately demonstrates and certifies when applying for the permit that it will not discharge those pollutants. In such cases, the permit will be deemed not to authorize the discharge of those excluded pollutants in any amounts, and for this exclusion of limitations to be valid, the permit must contain an express condition to that effect. This exclusion is good only for the term of the permit. Certifications along with any supporting information must be submitted each time a permit is applied for.

* * * * *

(c) *Reopener clause:* For any permit issued to a treatment works treating domestic sewage (including ''sludge-only facilities''), the Director shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under section 405(d) of the CWA. The Director may promptly modify or revoke and reissue any permit containing the reopener clause required by this paragraph if the standard for sewage sludge use or disposal is more stringent than any requirements for sludge use or disposal in the permit, or controls a pollutant or practice not limited in the permit.

* * * * *

(e) * * *

(1) Limitations must control all toxic pollutants which the Director determines (based on information reported in a permit application under § 122.21(g)(7) or in a notification under § 122.42(a)(1) or on other information) are or may be discharged at a level greater than the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under § 125.3(c); or

* * * * *

(k) *Best management practices (BMPs)* to control or abate the discharge of pollutants when:

(1) Authorized under section 304(e) of the CWA for the control of toxic

pollutants and hazardous substances from ancillary industrial activities;

(2) Numeric effluent limitations are infeasible; or

(3) The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the CWA.

[Note: Additional technical information on BMPs and the elements of BMP Plans is contained in the following documents: Guidance Manual for Developing Best Management Practices (BMPs), October 1993, EPA No. 833/B–93–004, NTIS No. PB 94–178324, ERIC No. W498); Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices, September 1992, EPA No. 832/R–92–005, NTIS No. PB 92–235951, ERIC No. N482); Storm Water Management for Construction Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA No. 833/R–92–001, NTIS No. PB 93–223550; ERIC No. W139; Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices, September 1992; EPA 832/R–92–006, NTIS No. PB 92–235969, ERIC No. N477; Storm Water Management for Industrial Activities, Developing Pollution Prevention Plans and Best Management Practices: Summary Guidance, EPA 833/R–92–002, NTIS No. PB 94–133782; ERIC No. W492. Copies of those documents (or directions on how to obtain them) can be obtained by contacting either the Office of Water Resource Center (using the EPA document number as a reference) at (202) 260–7786; the National Technical Information Service (NTIS) (using the NTIS number as a reference) at (800) 553–NTIS or (703) 487–4650, or (3) the Educational Resources Information Center (ERIC) (using the ERIC number as a reference) at (800) 276–0462. Updates of these documents or additional BMP documents may also be available.]

* * * * *

(q) *Navigation.* Any conditions that the Secretary of the Army considers necessary to ensure that navigation and anchorage will not be substantially impaired, in accordance with § 124.59.

* * * * *

14. Section 122.45 is amended by revising paragraph (h)(1) to read as follows:

§ 122.45 Calculating NPDES permit conditions (applicable to State NPDES programs, see § 123.25)

* * * * *

(h) *Internal waste streams.* (1) When permit effluent limitations or standards imposed at the point of discharge are impractical or infeasible, effluent limitations or standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams or cooling water streams. In those instances, the monitoring required by § 122.48 shall also be applied to the internal waste streams.

* * * * *

§ 122.47 [Amended]

15. Section 122.47(b) introductory text is amended by removing the term ''requriements'' and replacing it with the correct spelling, ''requirements''.

16. Section 122.48 is revised to read as follows:

§ 122.48 Requirements for monitoring, recording and reporting of monitoring results (applicable to State programs, see § 123.25).

(a) *Monitoring requirements.* All permits must contain monitoring requirements to assure compliance with permit terms and conditions.

(1) Permittees must monitor:

(i) The mass (or other measurement specified in the permit) for each pollutant limited in the permit;

(ii) The volume of effluent discharged from each outfall; and

(iii) Other measurements as appropriate including:

(A) Pollutants in internal waste streams under § 122.45(h);

(B) Pollutants in intake water for net limitations under § 122.45(g);

(C) Frequency, rate of discharge, etc., for noncontinuous discharges under § 122.45(e);

(D) Pollutants subject to notification requirements under § 122.42(a); and

(E) Pollutants in sewage sludge or other monitoring as specified in 40 CFR part 503; or

(F) As determined to be necessary on a case-by-case basis pursuant to section 405(d)(4) of the CWA.

(2) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(3) Monitoring will be conducted according to test procedures approved under 40 CFR part 136, unless an alternative test procedure has been approved under § 136.5. For sludge use or disposal, monitoring will be conducted in accordance with test procedures approved under part 136 unless otherwise specified in 40 CFR part 503. Where no test procedure has been approved under 40 CFR part 136, the Director shall specify a test method in the Permit.

(4) All permits shall specify:

(i) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);

(ii) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring;

(iii) Applicable reporting requirements based upon the impact of the regulated activity and as specified in § 122.44; and

(iv) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Director in the permit.

(b) *Reporting monitoring results.* (1) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Director for reporting results of monitoring of sludge use or disposal practices.

(2) Except as provided in paragraphs (b)(5) and (b)(6) of this section, requirements to report monitoring results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year.

(3) For sewage sludge use or disposal practices, requirements to monitor and report results shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the sewage sludge use or disposal practice; minimally this shall be as specified in 40 CFR part 503 (where applicable), but in no case less than once a year.

(4) Requirements to report monitoring results for storm water discharges associated with industrial activity which are subject to an effluent limitation guideline shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year.

(5) Requirements to report monitoring results for storm water discharges associated with industrial activity (other than those addressed in paragraph (b)(4) of this section) shall be established on a case-by-case basis with a frequency dependent on the nature and effect of the discharge. At a minimum, a permit for such a discharge must require:

(i) The discharger to conduct an annual inspection of the facility site to identify areas contributing to a storm water discharge associated with industrial activity and evaluate whether measures to reduce pollutant loadings identified in a storm water pollution prevention plan are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed;

(ii) The discharger to maintain for a period of three years a record summarizing the results of the

inspection and a certification that the facility is in compliance with the plan and the permit, and identifying any incidents of non-compliance;

(iii) Such report and certification be signed in accordance with § 122.22; and

(iv) Permits for storm water discharges associated with industrial activity from inactive mining operations may, where annual inspections are impracticable, require certification once every three years by a Registered Professional Engineer that the facility is in compliance with the permit, or alternative requirements.

(6) Permits which do not require the submittal of monitoring result reports at least annually shall require that the permittee report all instances of noncompliance not reported under § 122.41(l) (1), (5), and (6) at least annually.

(7) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR part 136 or, in the case of sludge use or disposal, approved under 40 CFR part 136 unless otherwise specified in 40 CFR part 503, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Director.

(c) *Records of monitoring information*. (1) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

(2) Records of monitoring information shall include:

(i) The date, exact place, and time of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) The date(s) analyses were performed;

(iv) The individual(s) who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of such analyses.

(d) *Penalties for falsification and tampering*: (1) The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 2 years, or both.

(2) If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph (d), punishment is a fine of not more than $20,000 per day of violation, or by imprisonment of not more than 4 years, or both.

17. Section 122.62 is amended by revising paragraph (a)(8) to read as follows:

§ 122.62 Modification or revocation and reissuance of permits (applicable to State programs, see § 123.25).

* * * * *

(a) * * *

(8)(i) *Net limits.* Upon request of a permittee who qualifies for effluent limitations on a net basis under § 122.45(g).

(ii) When a discharger is no longer eligible for net limitations, as provided in § 122.45(g)(1)(ii).

* * * * *

18. Section 122.64 is amended by revising paragraph (b) to read as follows:

§ 122.64 Termination of permits (applicable to State programs, see § 123.25).

* * * * *

(b) The Director shall follow the applicable procedures in part 124 or part 22, as appropriate (or State procedures equivalent to part 124) in terminating any NPDES permit under this section, except that if the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW (but not by land application or disposal into a well), the Director may terminate the permit by notice to the permittee. Termination by notice shall be effective 30 days after notice is sent, unless the permittee objects within that time. If the permittee objects during that period, the Director shall follow the applicable part 124 or State procedures for termination. Expedited permit termination procedures are not available to permittees that are subject to pending State and/or Federal enforcement actions including citizen suits brought under State or Federal law. If requesting expedited permit termination procedures, a permittee must certify that it is not subject to any pending State or Federal enforcement actions including citizen suits brought under State or Federal law. State-authorized NPDES programs are not required to use part 22 procedures for NPDES permit terminations.

PART 123—STATE PROGRAM REQUIREMENTS

1. The authority citation for part 123 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 123.25 is amended by revising paragraphs (a)(12), (a)(19), (a)(36) and paragraph (b) to read as follows:

§ 123.25 Requirements for permitting.

(a) * * *

* * * * *

(12) § 122.41 (a)(1) and (b) through (n)—(Applicable permit conditions) (Indian Tribes can satisfy enforcement authority requirements under § 123.34);

* * * * *

(19) § 122.48 (a) through (c)—(Monitoring requirements);

* * * * *

(36) Subparts A, B, D, and H of part 125;

* * * * *

(b) State NPDES programs shall have an approved continuing planning process under 40 CFR 130.5 and shall assure that the approved planning process is at all times consistent with the CWA.

* * * * *

3. Section 123.44 is amended by revising paragraph (a)(2) and the introductory text of paragraph (b)(2), and by removing and reserving paragraph (i) to read as follows:

§ 123.44 EPA review of and objections to State permits.

(a) * * *

(2) In the case of general permits, EPA shall have 90 days from the date of receipt of the proposed general permit to comment upon, object to or make recommendations with respect to the proposed general permit, and is not bound by any shorter time limits set by the Memorandum of Agreement for general comments, objections or recommendations.

(b) * * *

(2) Within 90 days following receipt of a proposed permit to which he or she has objected under paragraph (b)(1) of this section, or in the case of general permits within 90 days after receipt of the proposed general permit, the Regional Administrator shall set forth in writing and transmit to the State Director:

* * * * *

PART 124—PROCEDURES FOR DECISIONMAKING

1. The authority citation for part 124 is revised to read as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*; Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*; Clean Water Act, 33 U.S.C. 1251 *et seq.*; Clean Air Act, 42 U.S.C. 7401 *et seq.*

2. Section 124.1 is amended by revising the first sentence of paragraph (a) and paragraphs (b) and (c), by removing the table entitled ''Hearings Available Under This Part'' following paragraph (c), and by revising the fourth sentence of paragraph (d) to read as follows:

§ 124.1 Purpose and scope.

(a) This part contains EPA procedures for issuing, modifying, revoking and reissuing, or terminating all RCRA, UIC, PSD and NPDES ''permits'' (including ''sludge-only'' permits issued pursuant to § 122.1(b)(2). * * *

(b) Part 124 is organized into four subparts. Subpart A contains general procedural requirements applicable to all permit programs covered by these provisions. Subparts B through D supplement these general provisions with requirements that apply to only one or more of the programs. Subpart A describes the steps EPA will follow in receiving permit applications, preparing draft permits, issuing public notices, inviting public comment and holding public hearings on draft permits. Subpart A also covers assembling an administrative record, responding to comments, issuing a final permit decision, and allowing for administrative appeal of final permit decisions. Subpart B contains specific procedural requirements for RCRA permits. Subpart C contains definitions and specific procedural requirements for PSD permits. Subpart D contains specific procedural requirements for NPDES permits.

(c) Part 124 offers an opportunity for public hearings (see § 124.12).

(d) * * * This part also allows consolidated permits to be subject to a single public hearing under § 124.12. * * *

* * * * *

§ 124.2 [Amended]

3. Section 124.2 is amended by:

a. Removing the following definitions: ''Applicable standards and limitations'', ''[Consultation with the Regional Administrator''], ''NPDES'', and ''Variance''; and

b. Removing paragraph (c).

§ 124.3 [Amended]

4. Section 124.3 is amended by adding the word ''and'' at the end of paragraph (g)(3), by removing ''; and'' and replacing it with a period in paragraph (g)(4) and by removing paragraph (g)(5).

§ 124.4 [Amended]

5. Section 124.4 is amended by removing and reserving paragraph (d) and by removing the phrase ''or process a PSD permit under subpart F as provided in paragraph (d) of this section'' in paragraph (e).

6. Section 124.5 is to be amended by revising paragraph (d) to read as follows:

§ 124.5 Modification, revocation and reissuance, or termination of permits.

* * * * *

(d) *(Applicable to State programs, see §§ 123.25 (NPDES), 145.11 (UIC), and 271.14 (RCRA)).* (1) If the Director tentatively decides to terminate: A permit under § 144.40 (UIC), a permit under §§ 122.64(a) (NPDES) or 270.43 (RCRA) (for EPA-issued NPDES or RCRA permits, only at the request of the permittee), or a permit under § 122.64(b) (NPDES) where the permittee objects, he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under § 124.6.

(2) For EPA-issued NPDES or RCRA permits, if the Director tentatively decides to terminate a permit under § 122.64(a) (NPDES) or § 270.43 (RCRA) other than at the request of the permittee, he or she shall prepare a complaint under 40 CFR 22.13 and 22.44. Such termination of NPDES and RCRA permits shall be subject to the procedures of part 22 instead of this part.

(3) In the case of EPA-issued permits, a notice of intent to terminate or a complaint shall not be issued if the Regional Administrator and the permittee agree to termination in the course of transferring permit responsibility to an approved State under §§ 123.24(b)(1) (NPDES), 145.25(b)(1) (UIC), 271.8(b)(6) (RCRA), or 501.14(b)(1) (sludge). In addition, termination of an NPDES permit for cause pursuant to § 122.64(b) may be accomplished by providing written notice to the permittee, unless the permittee objects.

* * * * *

7. Section 124.6 is amended by revising the third sentence after the heading of paragraph (e) to read as follows:

§ 124.6 Draft permits.

* * * * *

(e) * * * For all permits issued pursuant to this part, an appeal may be taken under § 124.19. * * *

§ 124.10 [Amended]

8. Section 124.10 is amended by removing the words '', subpart E or subpart F'' in paragraphs (a)(1)(iii) and (d)(2) introductory text.

§ 124.12 [Amended]

9. Section 124.12(e) is removed.

§ 124.14 [Amended]

10. Section 124.14(d) is removed and reserved.

11. Section 124.15 is amended by revising the third sentence of paragraph (a) and by revising paragraph (b)(2) to read as follows:

§ 124.15 Issuance and effective date of permit.

(a) * * * This notice shall include reference to the procedures for appealing a decision on a RCRA, UIC, PSD, or NPDES permit under § 124.19. * * *

(b) * * *

(2) Review is requested on the permit under § 124.19; or

* * * * *

12. Section 124.16 is amended by revising paragraph (a) to read as follows:

§ 124.16 Stays of contested permit conditions.

(a) *Stays.* (1) If a request for review of a RCRA, UIC, or NPDES permit under § 124.19 is filed, the effect of the contested permit conditions shall be stayed and shall not be subject to judicial review pending final agency action. Uncontested permit conditions shall be stayed only until the date specified in paragraph (a)(2)(i) of this section. (No stay of a PSD permit is available under this section.) If the permit involves a new facility or new injection well, new source, new discharger or a recommencing discharger, the applicant shall be without a permit for the proposed new facility, injection well, source or discharger pending final agency action. See also § 124.60.

(2)(i) Uncontested conditions which are not severable from those contested shall be stayed together with the contested conditions. The Regional Administrator shall identify the stayed provisions of permits for existing facilities, injection wells, and sources. All other provisions of the permit for the existing facility, injection well, or source become fully effective and enforceable 30 days after the date of the

notification required in paragraph (a)(2)(ii) of this section.

(ii) The Regional Administrator shall, as soon as possible after receiving notification from the EAB of the filing of a petition for review, notify the EAB, the applicant, and all other interested parties of the uncontested (and severable) conditions of the final permit that will become fully effective enforceable obligations of the permit as of the date specified in paragraph (a)(2)(i). For NPDES permits only, the notice shall comply with the requirements of § 124.60(b).

* * * * *

13. Section 124.19 is amended by revising the section heading, revising the first sentence of paragraph (a) introductory text, revising the first sentence of paragraph (b), revising paragraph (d), and revising the first sentence of paragraph (f)(1) introductory text to read as follows:

§ 124.19 Appeal of RCRA, UIC, NPDES, and PSD Permits.

(a) Within 30 days after a RCRA, UIC, NPDES, or PSD final permit decision (or a decision under 40 CFR 270.29 to deny a permit for the active life of a RCRA hazardous waste management facility or unit) has been issued under § 124.15, any person who filed comments on that draft permit or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the permit decision. * * *

* * * * *

(b) The Environmental Appeals Board may also decide on its own initiative to review any condition of any RCRA, UIC, NPDES, or PSD permit decision issued under this part. * * *

* * * * *

(d) The Regional Administrator, at any time prior to the rendering of a decision under paragraph (c) of this section to grant or deny review of a permit decision, may, upon notification to the Board and any interested parties, withdraw the permit and prepare a new draft permit under § 124.6 addressing the portions so withdrawn. The new draft permit shall proceed through the same process of public comment and opportunity for a public hearing as would apply to any other draft permit subject to this part. Any portions of the permit which are not withdrawn and which are not stayed under § 124.16(a) shall remain in effect.

* * * * *

(f)(1) For purposes of judicial review under the appropriate Act, final agency action occurs when a final RCRA, UIC, NPDES, or PSD permit decision is issued by EPA and agency review procedures under this section are exhausted. * * *

* * * * *

14. Section 124.21 is revised to read as follows:

§ 124.21 Effective date of part 124.

(a) Part 124 became effective for all permits except for RCRA permits on July 18, 1980. Part 124 became effective for RCRA permits on November 19, 1980.

(b) EPA eliminated the previous requirement for NPDES permits to undergo an evidentiary hearing after permit issuance, and modified the procedures for termination of NPDES and RCRA permits, on [date 30 days after publication of final rule].

(c)(1) For any NPDES permit decision for which a request for evidentiary hearing was granted on or prior to [date 29 days after publication of final rule], the hearing and any subsequent proceedings (including any appeal to the Environmental Appeals Board) shall proceed pursuant to the procedures of this part as in effect on [date 29 days after publication of final rule].

(2) For any NPDES permit decision for which a request for evidentiary hearing was denied on or prior to [date 29 days after publication of final rule], but for which the Board has not yet completed proceedings under § 124.91, the appeal, and any hearing or other proceedings on remand if the Board so orders, shall proceed pursuant to the procedures of this part as in effect on [date 29 days after publication of final rule].

(3) For any NPDES permit decision for which a request for evidentiary hearing was filed on or prior to [date 29 days after publication of final rule] but was neither granted nor denied prior to that date, the Regional Administrator shall, no later than [date 60 days after publication of the final rule], notify the requester that the request for evidentiary hearing is being returned without prejudice. Notwithstanding the time limit in § 124.19(a), the requester may file an appeal with the Board, in accordance with the other requirements of § 124.19(a), no later than [date 90 days after publication of the final rule].

(4) A party to a proceeding otherwise subject to paragraphs (c) (1) or (2) of this section may, no later than [date 30 days after publication of this rule], request that the evidentiary hearing process be suspended. The Regional Administrator shall inquire of all other parties whether they desire the evidentiary hearing to continue. If no party desires the hearing to continue, the Regional Administrator shall return the request for evidentiary hearing in the manner specified in paragraph (c)(3) of this section.

(d) For any proceeding to terminate an NPDES or RCRA permit commenced on or prior to [date 29 days after publication of the final rule], the Regional Administrator shall follow the procedures of § 124.5(d) as in effect on [date 29 days after publication of the final rule], and any formal hearing shall follow the procedures of subpart E of this part as in effect on the same date.

§ 124.52 [Amended]

15. Section 124.52 is amended by removing the words ''or § 124.118'' in paragraphs (b) and (c).

§ 124.55 [Amended]

16. Section 124.55 is amended by revising the reference ''§ 124.53(d) (1) and (2)'' in paragraph (a)(2) to read ''§ 124.53(e)'' and by revising the reference ''§ 124.53(d)'' in paragraph (d) to read ''§ 124.53(e)''.

17. Section 124.56 is amended by revising (b)(1) to read as follows:

§ 124.56 Fact sheets (applicable to State NPDES programs, see § 123.25).

* * * * *

(b)(1) When the draft permit contains any of the following conditions, an explanation of the reasons why such conditions are applicable:

(i) Limitations to control toxic pollutants under § 122.44(e);

(ii) Limitations on internal waste streams under § 122.45(i);

(iii) Limitations on indicator pollutants under § 125.3(g);

(iv) Limitations set on a case-by-case basis under § 125.3 (c)(2) or (c)(3), or pursuant to Section 405(d)(4) of the CWA; or

(v) Limitations to meet the criteria for permit issuance under § 122.4(i).

* * * * *

§ 124.57 [Amended]

18. Section 124.57 is amended by removing and reserving paragraph (b) and by removing paragraph (c).

19. Section 124.60 is revised to read as follows:

§ 124.60 Issuance and effective date and stays of NPDES permits.

In addition to the requirements of §§ 124.15, 124.16, and 124.19, the following provisions apply to NPDES permits:

(a) Notwithstanding the provisions of § 124.16(a)(1), if, for any offshore or coastal mobile exploratory drilling rig or coastal mobile developmental drilling rig which has never received a final effective permit to discharge at a ''site,'' but which is not a ''new discharger'' or a ''new source,'' the Regional

Administrator finds that compliance with certain permit conditions may be necessary to avoid irreparable environmental harm during the administrative review, he or she may specify in the statement of basis or fact sheet that those conditions, even if contested, shall remain enforceable obligations of the discharger during administrative review.

(b)(1) As provided in § 124.16(a), if an appeal of an initial permit decision is filed under § 124.19, the force and effect of the contested conditions of the final permit shall be stayed until final agency action under § 124.19(f). The Regional Administrator shall notify, in accordance with § 124.16(a)(2)(ii), the discharger and all interested parties of the uncontested conditions of the final permit that are enforceable obligations of the discharger.

(2) When effluent limitations are contested, but the underlying control technology is not, the notice shall identify the installation of the technology in accordance with the permit compliance schedules (if uncontested) as an uncontested, enforceable obligation of the permit.

(3) When a combination of technologies is contested, but a portion of the combination is not contested, that portion shall be identified as uncontested if compatible with the combination of technologies proposed by the requester.

(4) Uncontested conditions, if inseverable from a contested condition, shall be considered contested.

(5) Uncontested conditions shall become enforceable 30 days after the date of notice under paragraph (b)(1) of this section.

(6) Uncontested conditions shall include:

(i) Preliminary design and engineering studies or other requirements necessary to achieve the final permit conditions which do not entail substantial expenditures;

(ii) Permit conditions which will have to be met regardless of the outcome of the appeal under § 124.19;

(iii) When the discharger proposed a less stringent level of treatment than that contained in the final permit, any permit conditions appropriate to meet the levels proposed by the discharger, if the measures required to attain that less stringent level of treatment are consistent with the measures required to attain the limits proposed by any other party; and

(iv) Construction activities, such as segregation of waste streams or installation of equipment, which would partially meet the final permit conditions and could also be used to achieve the discharger's proposed alternative conditions.

(c) In addition to the requirements of § 124.16(c)(2), when an appeal is filed under § 124.19 on an application for a renewal of an existing permit and upon written request from the applicant, the Regional Administrator may delete requirements from the existing permit which unnecessarily duplicate uncontested provisions of the new permit.

20. Section 124.64 is amended by revising paragraph (b), paragraph (c) introductory text, and paragraph (d) to read as follows:

§ 124.64 Appeals of variances.

* * * * *

(b) Variance decisions made by EPA may be appealed under the provisions of § 124.19.

(c) *Stays for section 301(g) variances.* If an appeal is filed under § 124.19 of a variance requested under CWA section 301(g), any otherwise applicable standards and limitations under CWA section 301 shall not be stayed unless:

* * * * *

(d) Stays for variances other than section 301(g) variances are governed by §§ 124.16 and 124.60.

§ 124.66 [Amended]

21. Section 124.66(a) is amended by removing the words ''Except as provided in § 124.65,'' from the first sentence, and by revising the words ''evidentiary or panel hearing under subpart E or F.'' in the fourth sentence to read ''appeal under § 124.19.''

Subpart E to Part 124 [Removed]

22. Subpart E is removed.

Subpart F to Part 124 [Removed]

23. Subpart F is removed.

Appendix A to Part 124 [Removed]

24. Appendix A to Part 124 is removed.

PART 125—CRITERIA AND STANDARDS FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

1. The authority citation for part 125 is revised to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.,* unless otherwise noted.

2. Section 125.32(a) is revised to read as follows:

§ 125.32 Method of application.

(a) A written request for a variance under this subpart D shall be submitted in duplicate to the Director in accordance with §§ 122.21(m)(1) and 124.3.

* * * * *

§ 125.72 [Amended]

3. Section 125.72(c) is amended by removing the words ''and § 124.73(c)(1)''.

Subpart K to Part 125 [Removed and Reserved]

4. Subpart K is removed and reserved.

PART 144—UNDERGROUND INJECTION CONTROL PROGRAM

1. The authority citation for part 144 continues to read as follows:

Authority: Safe Drinking Water Act, 42 U.S.C. 300f *et seq.;* Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

§ 144.52 [Amended]

2. Section 144.52(b)(2) is amended by removing from the second sentence the parenthetical phrase ''(except as provided in § 124.86(c) for UIC permits being processed under subpart E or F of part 124)''.

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

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

Authority: 42 U.S.C. 6905, 6912, 6924, 6925, 6927, 6939, and 6974.

§ 270.32 [Amended]

2. Section 270.32(c) is amended by removing from the second sentence the parenthetical phrase ''(except as provided in § 124.86(c) for RCRA permits being processed under subpart E or F of part 124)''.

§ 270.43 [Amended]

3. Section 270.43(b) is amended by revising the words ''part 124'' to read ''part 124 or part 22, as appropriate''.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

1. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, and 6926.

§ 271.19 [Amended]

2. Section 271.19(e) introductory text is amended by removing the words ''in accordance with the procedures of part 124, subpart E,''.

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Part III

Department of Housing and Urban Development

24 CFR Part 92

HOME Investment Partnerships Program; Additional Streamlining; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 92

[Docket No. FR–4111–P–01]

RIN 2501–AC30

HOME Investment Partnerships Program—Additional Streamlining

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This rule proposes to streamline the HOME Program regulation by: replacing the hearing procedures of the current HOME rule with the Department-wide streamlined hearing procedures; removing the closeout requirements and instead providing that HOME funds will be closed out in accordance with procedures established by HUD; and replacing the extensive requirements for the competitive reallocation of HOME funds with a citation to the selection factors in the HOME statute and a statement of the maximum number of points that may be awarded for each factor. In addition, this rule invites comment on establishing a separate market interest rate formula for rehabilitation loans.

DATES: *Comment due date:* February 10, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. FAXED comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: Mary Kolesar, Director, Program Policy Division, Office of Affordable Housing Programs, Room 7162, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708–2470 (this is not a toll-free number). A telecommunications device for hearing- and speech-impaired persons (TTY) is available at 1–800–877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: On March 4, 1995, President Clinton issued a memorandum to all Federal departments and agencies regarding regulatory reinvention. In response to this memorandum, the Department of Housing and Urban Development conducted a page-by-page review of its regulations to determine which can be eliminated, consolidated, or otherwise improved. HUD has determined that the regulations for the HOME Investment Partnerships Program can be improved and streamlined by eliminating unnecessary provisions.

As a part of HUD's regulatory reinvention initiative, this rule proposes three streamlining changes to, and a change to the market rate formula in, the HOME regulation at 24 CFR part 92.

For the first streamlining change, HUD proposes to replace the requirements for the competitive reallocation of HOME funds in § 92.453, which largely repeat the HOME statute at section 217(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)), with a citation to the selection criteria in the statute; the maximum number of points that may be awarded for each category of criteria (policies, actions, commitment), as is done in the current regulation; and a statement that such requirements will be published in a Notice of Funding Availability (NOFA) in accordance with the requirements of the HUD Reform Act as funds become available.

Second, this rule proposes to remove the closeout requirements specified in § 92.507 and instead provide that, ''HOME funds will be closed out in accordance with procedures established by HUD.''

Third and last, this rule would replace the hearing procedures in § 92.552 of the current HOME rule with the Department-wide, streamlined, hearing procedures of 24 CFR part 26 published as a final rule on September 24, 1996 (61 FR 50208).

The changes described above are consistent with the general reinvention goals of streamlining the requirements of HUD's funding programs and maximizing their administrative flexibility. For example, removing the current rigid and burdensome closeout requirements permits the Department to simplify the closeout process and administer it on the basis of the reports and other monitoring information it receives. In addition, every recipient of HUD funding and the Department itself would benefit from the adoption of uniform hearings procedures that would apply to all HUD programs.

The Department is considering making one additional change to the HOME program besides the three described above. The HOME rule currently requires a participating jurisdiction (PJ) wishing to claim match credit for the value of below-market interest rate loans to calculate the yield foregone based upon the difference between the actual interest rate charged and the market interest rate established at § 92.220(a)(1)(iii)(B). The Department established the formula for determining the market interest rate for various types of projects based on assumptions involving first mortgage financing.

In the course of administering the program, the Department has received comments asserting that this method undervalues the match contribution of below-market interest rate financing for rehabilitation loans. HUD recognizes that loans for rehabilitation, whether for home improvements or renovation of rental housing, typically carry higher market interest rates than first mortgage financing for comparable projects. Consequently, the Department is considering amending § 92.220(a)(1)(iii)(B) to establish a separate market interest rate formula for rehabilitation loans. The Department is soliciting comments on this proposed change. Specifically, comment is requested on the formula to be used to establish this rate and whether separate rates for the type or tenure of housing would be appropriate.

Findings and Certifications

Paperwork Reduction Act

The information collection requirements for the HOME Investment Partnerships Program have been approved by the Office of Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), and assigned OMB control number 2501–0013. This proposed rule does not contain additional information collection requirements.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule does not impose any Federal mandates on any State, local or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implement 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 in the

Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, D.C. 20410.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities, because jurisdictions that are statutorily eligible to receive formula allocations are relatively larger cities, counties or States. In addition, this rule only proposes to streamline regulations by removing unnecessary provisions. The rule will have no adverse or disproportionate economic impact on small businesses.

Federalism Impact

The General Counsel has determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, that this rule does not have federalism implications concerning the division of local, State, and federal responsibilities. While the HOME Program interim rule was determined to be a rule with federalism implications and the Department submitted a Federalism Assessment concerning the interim rule to OMB, this proposed rule would only make limited adjustments to the interim rule and does not significantly affect any of the factors considered in the Federalism Assessment for the interim rule.

Impact on the Family

The General Counsel, as the designated official under Executive Order 12606, *The Family*, has determined that this rule would not have significant impact on family formation, maintenance, and general well-being. Assistance provided under this rule can be expected to support family values, by helping families achieve security and independence; by enabling them to live in decent, safe, and sanitary housing; and by giving them the means to live independently in mainstream American society. This rule would not, however, affect the institution of the family, which is requisite to coverage by the Order.

The Catalog of Federal Domestic Assistance Number for the HOME Program is 14.239.

List of Subjects in 24 CFR Part 92

Grant programs—housing and community development, Manufactured homes, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, part 92 of title 24 of the Code of Federal Regulations would be amended to read as follows:

PART 92—HOME INVESTMENT PARTNERSHIPS PROGRAM

1. The authority citation for part 92 continues to read as follows:

Authority: 42 U.S.C. 3535(d) and 12701–12839.

2. Section 92.453 is revised to read as follows:

§ 92.453 Competitive reallocations.

(a) HUD will invite applications through Federal Register publication of a Notice of Funding Availability (NOFA), in accordance with section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) and the requirements of sec. 217(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)), for HOME funds that become available for competitive reallocation under § 92.451 or § 92.452, or both. The NOFA will describe the application requirements and procedures, including the total funding available for the competition and any maximum amount of individual awards. The NOFA will also describe the selection criteria and any special factors to be evaluated in awarding points under the selection criteria.

(b) The NOFA will include the selection criteria at sec. 217(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)), with the following maximum number of points awarded for each category of criteria:

(1) *Commitment.* Up to 25 points for the criteria at sec. 217(c)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)(1));

(2) *Actions.* Up to 50 points for the criteria at sec. 217(c)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)(2)); and

(3) *Policies.* Up to 25 points for the criteria at sec. 217(c)(3) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(c)(3)).

3. Section 92.507 is revised to read as follows:

§ 92.507 Closeout.

HOME funds will be closed out in accordance with procedures established by HUD.

4. In § 92.552, paragraph (b) is revised to read as follows:

§ 92.552 Notice and opportunity for hearing; sanctions.

* * * * *

(b) *Proceedings.* When HUD proposes to take action pursuant to this section, the respondent in the proceedings will be the participating jurisdiction or, at HUD's option, the State recipient. Proceedings will be conducted in accordance with 24 CFR part 26.

Dated: October 31, 1996.

Henry G. Cisneros,

Secretary.

[FR Doc. 96–31307 Filed 12–10–96; 8:45 am]

BILLING CODE 4210–32–P

federal register

Wednesday
December 11, 1996

Part IV

Department of Agriculture

Agricultural Research Service

7 CFR Part 500

Conduct on National Arboretum Property; Final Rule

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

7 CFR Part 500

Conduct on National Arboretum Property

AGENCY: Agricultural Research Service; Research, Education, and Economics; USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Research Service (ARS) is revising regulations governing conduct on the U.S. National Arboretum property. This action is being taken because a review of the regulations identified certain words in the current regulations that are out of date. Other minor changes, corrections and deletions will be made to clarify the regulations.

EFFECTIVE DATE: December 11, 1996.

FOR FURTHER INFORMATION CONTACT: Area Administrative Officer, Beltsville Area, ARS, Building 003, Room 203, Beltsville, Md. 20705; (301) 504–5392.

SUPPLEMENTARY INFORMATION: A review of this regulation was done in response to the President's Regulatory Review Initiative. As a result, certain words describing the property and personnel contained in the current regulations were identified as obsolete. The amendments change these obsolete descriptions and make other minor revisions and deletions to the current regulations. Pursuant to 5 U.S.C. 553(b) it has been determined that notice and public comment procedures are unnecessary because the changes being made are minor changes to obsolete words and will not substantively alter the regulation. Further, since this rule involves minor revision to existing regulations it is not a ''major rule'' and is exempt from the provisions of Executive Order 12291. The amendments will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget. This rule is exempt from the requirements of the National Environmental Policy Act, as amended (42 U.S.C. 4321 *et seq.*) and the requirements of the Paperwork Reduction Act (44 U.S.C. Ch. 35). Among other minor changes, the amendment changes the phrase ''National Arboretum'' to ''U.S. National Arboretum (USNA)''; and the word ''guard'' or ''watchman'' is replaced with the phrase ''Security Staff'';

List of Subjects in 7 CFR Part 500

Agricultural Research Service, Federal buildings and facilities, National Arboretum.

For the reasons set out in the preamble, 7 CFR Part 500 is amended as set forth below.

PART 500—CONDUCT ON U.S. NATIONAL ARBORETUM PROPERTY

1. The heading for Part 500 is revised as set forth above.

2. The authority citation for Part 500 is revised to read as follows:

Authority: Secs. 2, 4, 62 Stat. 281; sec. 103, 63 Stat. 380; sec. 205(d), 63 Stat. 389; 40 U.S.C. 318a, 318c, 486(d), 753, 34 FR 6406; 34 FR 7389.

3. Section 500.1 is revised to read as follows:

§ 500.1 General.

The rules and regulations in this part apply to the buildings and grounds of the U.S. National Arboretum, Washington, D.C., and to all persons entering in or on such property. The Administrator, General Services Administration, has delegated to the Secretary of Agriculture, with authority to redelegate, the authority to make all the needful rules and regulations for the protection of the buildings and grounds of the U.S. National Arboretum (34 FR 6406). The Secretary of Agriculture has in turn delegated such authority to the Administrator, Agricultural Research Service (34 FR 7389). The rules and regulations in this part are issued pursuant to such delegations.

4. Section 500.2 is revised to read as follows:

§ 500.2 Recording presence.

Admission to the U.S. National Arboretum during periods when it is closed to the public will be limited to authorized individuals who may be required to sign the register and/or display identification documents when requested by the Security Staff, or other authorized individuals.

5. Section 500.4 is revised to read as follows:

§ 500.4 Conformity with signs and emergency directions.

Persons in and on property of the U.S. National Arboretum shall comply with official signs of prohibitory or director nature and with the directions of authorized individuals.

6. Section 500.6 is revised to read as follows:

§ 500.6 Gambling.

Participating in games for money or other personal property, or the operation of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets, in or on U.S. National Arboretum property, is prohibited.

7. Section 500.7 is revised to read as follows:

§ 500.7 Intoxicating beverages and narcotics.

Entering U.S. National Arboretum property or the operation of a motor vehicle thereon, by a person under the influence of intoxicating beverages or narcotic drug, or the consumption of such beverages or the use of such drug in or on U.S. National Arboretum property, is prohibited.

8. Section 500.8 is revised to read as follows:

§ 500.8 Soliciting, vending, debt collection, and distribution of handbills.

The soliciting of contributions, display or distribution of commercial advertising and the collection of private debts, is prohibited. This section does not apply to national or local drives for funds for welfare, health, and other purposes sponsored or approved by the Agricultural Research Service, concessions, or personal notices posted by employees on authorized bulletin boards. Distribution of material such as pamphlets, handbills, and flyers is prohibited without prior approval of the Director, U.S. National Arboretum.

9. Section 500.9 is revised to read as follows:

§ 500.9 Photographs for news, advertising, or commercial purposes.

Photographs for news purposes may be taken at the U.S. National Arboretum without prior permission. Photographs for advertising and commercial purposes may be taken, but only with the prior approval of the Director, U.S. National Arboretum and fees may be charged.

10. Section 500.10 is revised to read as follows:

§ 500.10 Pets.

Pets, except assistance trained animals, brought upon U.S. National Arboretum property must be kept on leash and have proper vaccinations. The abandonment of unwanted animals on USNA grounds is prohibited.

11. Section 500.11 is revised to read as follows:

§ 500.11 Vehicular and pedestrian traffic.

(a) Drivers of all vehicles in or on U.S. National Arboretum property shall drive in a careful and safe manner at all times

and shall comply with the signals and directions of the Security Staff and all posted traffic signs;

(b) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants in or on U.S. National Arboretum property is prohibited;

(c) Except in emergencies, parking in or on U.S. National Arboretum property in other than designated areas is not allowed without a permit. Parking without authority, parking in unauthorized locations or in locations reserved for other persons, or contrary to the direction of posted signs is prohibited. This section may be supplemented from time to time, by the issuance and posting of specific traffic directives as may be required, and when so issued and posted such directives shall have the same force and effect as if incorporated in this part.

12. Section 500.12 is revised to read as follows:

§ 500.12 Weapons and explosives.

No person while in or on U.S. National Arboretum property shall carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, except for official purposes.

13. Section 500.13 is revised to read as follows:

§ 500.13 Nondiscrimination.

There shall be no discrimination by segregation or otherwise against any person or persons because of race, religion, color, age, sex, disability or national origin, in furnishing, or by refusing to furnish to such person or persons the use of any facility of a public nature, including all services, privileges, accommodations, and activities provided thereby on U.S. National Arboretum property.

Done at Washington, DC, this 29th day of November, 1996.

Edward B. Knipling,

Acting Administrator, Agricultural Research Service.

[FR Doc. 96–31073 Filed 12–10–96; 8:45 am]

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federal register

Wednesday
December 11, 1996

Part V

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 15, 42, 46, 47 and 52

Federal Acquisition Regulation; Changes in Contract Administration and Audit Cognizance; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 15, 42, 46, 47 and 52

[FAR Case 95–022]

RIN 9000–AH27

Federal Acquisition Regulation; Changes in Contract Administration and Audit Cognizance

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to add policies and procedures for assigning and performing contract audit services and to clarify the policy for assigning or delegating responsibility for establishing forward pricing and billing rates, and final indirect cost rates. This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

DATES: Comments should be submitted on or before February 10, 1997 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405.

E-mail comments submitted over Internet should be addressed to: 95–022@www.arnet.gov.

Please cite FAR case 95–022 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAR case 95–022.

SUPPLEMENTARY INFORMATION:

A. Background

In February 1994, the Office of Federal Procurement Policy formed a Contract Audit Committee. The committee was divided into subcommittees. This case implements recommendations of Subcommittee One to address civilian agencies' contract administration and audit practices. The rule amends FAR Parts 15, 42, 46, 47 and 52 to add policies and procedures for assigning and performing contract audit services and to clarify the policy for assigning or delegating responsibility for establishing forward pricing and billing rates, and final indirect cost rates.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the proposed rule affects primarily internal Government operating procedures. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR parts will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 95–022), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 15, 42, 46, 47 and 52

Government procurement.

Dated: December 4, 1996.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR Parts 15, 42, 46, 47 and 52 be amended as set forth below:

1. The authority citation for 48 CFR Parts 15, 42, 46, 47 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 15—CONTRACTING BY NEGOTIATION

2. Section 15.809 is amended by revising the section heading and the last sentence in paragraph (a) to read as follows:

15.809 Forward pricing rate agreements.

(a) * * * The cognizant Federal agency (see 42.003) shall determine whether an FPRA will be established.

* * * * *

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

3. Part 42 heading is revised to read as shown above.

4. Section 42.000 is revised and placed in a new subpart 42.0, which is added to read as set forth below, and subparts 42.1 and 42.2 are revised to read as follows:

Sec.

Subpart 42.0—General

42.000 Scope of part.
42.001 Definitions.
42.002 Interagency agreements.
42.003 Cognizant Federal agency.

Subpart 42.1—Contract Audit Services

42.101 Contract audit responsibilities.
42.102 Assignment of audit services.
42.103 Audit services directory.

Subpart 42.2—Contract Administration Services

42.201 Contract administration responsibilities.
42.202 Assignment of contract administration.
42.203 Contract administration services directory.

Subpart 42.0—General

42.000 Scope of part.

This part prescribes policy and procedures for assigning and performing contract administration and contract audit services.

42.001 Definitions.

As used in this part—

Cognizant audit agency means the agency responsible for performing all required contract audit services at a business unit (as defined in 31.001).

Cognizant Federal agency means the Federal agency that on behalf of all Federal agencies is responsible for establishing final indirect cost rates and forward pricing rates, if applicable, and administering cost accounting standards for all contracts in a business unit.

42.002 Interagency agreements.

(a) Agencies shall avoid duplicate audits, reviews, inspections, and examinations of contractors or subcontractors, by more than one agency, through the use of interagency agreements (see OFPP Policy Letter 78–4, Field Contract Support Cross-Servicing Program).

(b) Subject to the fiscal regulations of the agencies, the requesting agency may reimburse the servicing agency for rendered services in accordance with the Economy Act of 1932 (31 U.S.C. 1535). The hourly rate established under the interagency agreement between the Department of Defense and the National Aeronautics and Space Administration may be used by other agencies to reimburse the Defense Contract Audit Agency for audit services.

(c) When an interagency agreement is established, the agencies are encouraged to consider establishing procedures for the resolution of issues that may arise under the agreement.

42.003 Cognizant Federal agency.

(a) Normally, when a contractor has contracts with more than one agency, the agency with the largest dollar amount of negotiated contracts should be the cognizant Federal agency.

(b) Once a Federal agency assumes cognizance for a contractor, it shall remain cognizant for at least three years to ensure continuity and ease of administration. If, at the end of the three years, another agency has the largest dollar amount of negotiated contracts, the two agencies shall coordinate and determine which will assume cognizance.

Subpart 42.1–Contract Audit Services

42.101 Contract audit responsibilities.

(a) The auditor is responsible for submitting information and advice to the requesting activity based on the auditor's analysis of the contractor's financial and accounting records or other related data as to the acceptability of the contractor's incurred and estimated costs, as well as for reviewing the financial and accounting aspects of the contractor's cost control systems. The auditor is also responsible for performing analyses and reviews which require access to the contractor's financial and accounting records supporting proposed and incurred costs.

(b) The Defense Contract Audit Agency (DCAA) is designated as the Government cognizant audit agency for ''for-profit'' organizations and those ''not-for-profit'' organizations identified in Attachment C to OMB Circular A–122, Cost Principles for Nonprofit Organizations.

42.102 Assignment of audit services.

(a) As provided in agency procedures or interagency agreement, contracting officers may request audit services directly from the cognizant audit agency cited in the Directory of Federal Contract Audit Offices. The audit request should include a suspense date and identify any information needed by the contracting officer.

(b) The cognizant audit agency may decline requests for services in accordance with interagency agreements on a case-by-case basis if resources of the audit agency are inadequate to accomplish the tasks.

42.103 Audit services directory.

(a) DCAA maintains and distributes the Directory of Federal Contract Audit Offices. The directory identifies cognizant audit offices and the contractors over which they have cognizance. Changes to audit cognizance are to be provided to DCAA for updating the directory.

(b) Agencies may obtain a copy of the directory or obtain information concerning cognizant audit offices by contacting the Defense Contract Audit Agency, ATTN: CMO, Publications Officer, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, Virginia 22060–6219.

Subpart 42.2—Contract Administration Services

42.201 Contract administration responsibilities.

(a) For each contract assigned for administration, the contract administration office (CAO) (see definition at 2.101) shall——

(1) Perform the functions listed in 42.302(a) to the extent that they apply to the contract, except for the functions specifically withheld;

(2) Perform the functions listed in 42.302(b) only when and to the extent specifically authorized by the contracting officer; and

(3) Request supporting contract administration under 42.202(e), and (f) when it is required.

(b) The Defense Logistics Agency, Defense Contract Management Command (DCMC), Fort Belvoir, Virginia, and certain civilian agencies offer a wide variety of contract administration and support services to other agencies.

42.202 Assignment of contract administration.

(a) *Delegating functions.* As provided in agency procedures, contracting officers may delegate contract administration or specialized support services either through interagency agreements, or by direct request to the cognizant CAO listed in the Federal Directory of Contract Administration Services Components. The delegation should include——

(1) The name and address of the CAO designated to perform the administration (this information is also to be entered in the contract);

(2) Any special instructions, including any specific authorization to perform functions listed in 42.302(b);

(3) A copy of the contract to be administered; copies of all contracting agency regulations or directives that are—

(i) Incorporated into the contract by reference, or

(ii) Otherwise necessary to administer the contract, unless copies have been provided previously.

(b) *Special instructions.* The contracting officer shall also advise the CAO and the contractor (and other activities as appropriate) of any functions withheld or additional functions delegated in the special instructions under paragraph (a)(2) of this section.

(c) *Delegating additional functions.* For individual contracts or groups of contracts, the contracting office may delegate to the CAO functions not listed in 42.302; provided that—

(1) Prior coordination with the CAO ensures the availability of required resources;

(2) In the case of authority to issue orders under provisioning procedures in existing contracts and under basic ordering agreements for items and services identified in the schedule, the head of the contracting activity or designee approves the delegation; and

(3) The delegation does not require the CAO to undertake new or follow-on acquisitions.

(d) *Rescinding functions.* The contracting officer of the requesting agency may rescind or recall a contract or contract administration function delegated to another agency for administration, except for cost accounting standards, and negotiation of forward pricing rates and indirect cost rates (see 42.003).

(e) *Secondary delegations of contract administration.* (1) A CAO delegated administration of a contract under 42.202(a) or (c), or a contracting office retaining administration, may request supporting contract administration from the CAO cognizant of the contractor location where performance of specific contract administration functions is required. The request shall—

(i) Be in writing;

(ii) Clearly state the specific functions to be performed; and

(iii) Be accompanied by a copy of pertinent contractual and other necessary documents.

(2) The prime contractor is responsible for managing its subcontracts. The CAO's review of subcontracts is normally limited to

evaluating the prime contractor's management of them (see part 44). Therefore, supporting contract administration shall not be used for subcontracts unless—

(i) The Government would otherwise incur undue cost;

(ii) Successful completion of the prime contract is threatened; or

(iii) It is authorized under paragraph (f) of this section or elsewhere in this part.

(f) *Special surveillance.* For major system acquisitions (see part 34), the contracting officer may designate certain high risk or critical subsystems or components for special surveillance in addition to requesting supporting contract administration. This surveillance shall be conducted in a manner consistent with the policy of calling upon the cognizant CAO to perform contract administration functions at a contractor's facility (see 42.002).

(g) *Refusing delegation of contract administration.* An agency may decline a request for contract administration services on a case-by-case basis if resources of the agency are inadequate to accomplish the tasks.

42.203 Contract administration services directory.

The Defense Contract Management Command (DCMC) maintains and distributes the Federal Directory of Contract Administration Services Components. The Directory lists the name and telephone number of those DCMC and civilian agency offices which offer contract administration services within designated geographic areas and at specified contractor plants. Federal agencies may obtain a free copy of the Directory on CD-ROM by writing to HQ Defense Logistics Agency, Attn: DLA-DASC-WP, 8725 John J. Kingman Road, Fort Belvoir, Virginia 22060.

5.–7. Section 42.301 is revised to read as follows:

42.301 General.

When a contract is assigned for administration under Subpart 42.2, the contract administration office (CAO) shall perform contract administration functions in accordance with this part, the contract terms and, unless otherwise agreed to in an interagency agreement (see 42.002), the applicable regulations of the servicing agency.

8. Section 42.302 is amended by revising paragraphs (a) introductory text, (a)(9), (a)(11) introductory text, (a)(11)(iv), (a)(13), (a)(20), (a)(29), (a)(61) (a)(63) and (b) introductory text to read as follows:

42.302 Contract administration functions.

(a) The following contract administration functions are normally delegated to a CAO. The contracting officer may retain any of these functions, except those in paragraphs (a) (5), (9), and (11) that cannot be retained by the awarding agency unless it is the cognizant Federal agency (see 42.001).

* * * * *

(9) Establish final indirect cost rates and billing rates for those contractors meeting the criteria for contracting officer determination in subpart 42.7 (see 42.001).

* * * * *

(11) In connection with Cost Accounting Standards (see 30.601, 42.001, and 48 CFR chapter 99 (FAR Appendix B))——

* * * * *

(iv) Negotiate price adjustments and execute supplemental agreements under the Cost Accounting Standards clauses at 52.230–2, 52.230–3, 52.230–4, 52.230–5, and 52.230–6.

* * * * *

(13) Make payments on assigned contracts when prescribed in agency acquisition regulations.

* * * * *

(20) For classified contracts, administer those portions of the applicable industrial security program delegated to the CAO (see subpart 4.4).

* * * * *

(29) Issue contract modifications requiring the contractor to provide packing, crating, and handling services on excess Government property. When the CAO determines it to be in the Government's interests, the services may be secured from a contractor other than the contractor in possession of the property.

* * * * *

(61) Obtain contractor proposals for any contract price adjustments resulting from amended shipping instructions. CAOs shall review all amended shipping instructions on a periodic, consolidated basis to assure that adjustments are timely made. Except when the CAO has settlement authority, the CAO shall forward the proposal to the contracting officer for contract modification. The CAO shall not delay shipments pending completion and formalization of negotiations of revised shipping instructions.

* * * * *

(63) Cancel unilateral purchase orders when notified of nonacceptance by the contractor. The CAO shall notify the contracting officer when the purchase order is canceled.

* * * * *

(b) The CAO shall perform the following functions only when and to the extent specifically authorized by the contracting office:

* * * * *

9. Section 42.602 is amended by revising paragraphs (c)(2) and (d) to read as follows:

42.602 Assignment and location.

* * * * *

(c) * * *

(2) When the locations are under the contract administration cognizance of more than one agency, the agencies concerned shall agree on the responsible agency (normally on the basis of the agency with the largest dollar balance of affected contracts). In such cases, agencies may sometimes also consider geographic location.

(d) The directory of contract administration components referenced in 42.203 includes a listing of CACO's and the contractors for which they are assigned responsibility.

10. Section 42.603(a) is revised to read as follows:

42.603 Responsibilities.

(a) The CACO shall perform, on a corporate-wide basis, the contract administration functions as designated by the responsible agency. Typical CACO functions include—

(1) The determination of final indirect cost rates for cost-reimbursement contracts,

(2) Establishment of advance agreements or recommendations on corporate/home office expense allocations, and

(3) Administration of Cost Accounting Standards (CAS) applicable to corporate-level and corporate-directed accounting practices.

* * * * *

11. Section 42.701 is amended by revising definitions for ''Business unit'' and ''Indirect cost'' and by adding in alphabetical order a definition for ''Forward pricing rate agreement''. The revised and added text reads as follows:

42.701 Definitions.

* * * * *

Business unit has the same meaning as defined in 31.001.

* * * * *

Forward pricing rate agreement has the same meaning as defined in 15.801.

Indirect cost has the same meaning as defined in 31.203.

* * * * *

12. Section 42.703–1 is amended by revising paragraph (a), and by removing paragraph (c) introductory text, and revising (c)(1) to read as follows:

42.703–1 Policy.

(a) A single agency (see 42.705–1) shall be responsible for establishing final indirect cost rates for each business unit. These rates shall be binding on all agencies and their contracting offices, unless otherwise specifically prohibited by statute.

* * * * *

(c)(1) Final indirect cost rates shall be used for contract closeout for a business unit unless the quick-closeout procedure in 42.708 is used. These final rates shall be binding for all cost-reimbursement contracts at the business unit, subject to any specific limitation in a contract or advance agreement; and

* * * * *

13. Section 42.704 is amended by revising paragraphs (a), (b), and (c) to read as follows:

42.704 Billing rates.

(a) The contracting officer (or cognizant Federal agency official) or auditor responsible under 42.705 for establishing the final indirect cost rates ordinarily shall also be responsible for determining the billing rates.

(b) The contracting officer (or cognizant Federal agency official) or auditor shall establish billing rates on the basis of information resulting from recent review, previous rate audits or experience, or similar reliable data or experience of other contracting activities. In establishing billing rates, the contracting officer (or cognizant Federal agency official) or auditor should ensure that they are as close as possible to the final indirect cost rates anticipated for the contractor's fiscal period, as adjusted for any unallowable costs. When the contracting officer (or cognizant Federal agency official) or auditor determines that the dollar value of contracts requiring use of billing rates does not warrant submission of a detailed billing rate proposal, the billing rates may be established by making appropriate adjustments from the prior year's indirect cost experience to eliminate unallowable and nonrecurring costs and to reflect new or changed conditions.

(c) Once established, billing rates may be prospectively or retroactively revised by mutual agreement of the contracting officer (or cognizant Federal agency official) or auditor and the contractor at either party's request, to prevent substantial overpayment or underpayment. When agreement cannot be reached, the billing rates may be unilaterally determined by the contracting officer (or cognizant Federal agency official.

* * * * *

14. Section 42.705–1 is amended by revising paragraphs (a) introductory text, (a) (1), (3) and (4) and (b) (1) and (2) to read as follows:

42.705–1 Contracting officer determination procedure.

(a) *Applicability and responsibility.* Contracting officer determination shall be used for the following, with the indicated cognizant contracting officer (or cognizant Federal agency official) responsible for establishing the final indirect cost rates:

(1) Business units of a multi-divisional corporation under the cognizance of a corporate administrative contracting officer (CACO) (see subpart 42.6), with that officer responsible for the determination, assisted, as required, by the administrative contracting officers, assigned to the individual business units. Negotiations may be conducted on a coordinated or centralized basis, depending upon the degree of centralization within the contractor's organization.

* * * * *

(3) For business units not included in paragraph (a)(1) or (a)(2) of this subsection, the contracting officer (or cognizant Federal agency official) will determine whether the rates will be contracting officer or auditor determined.

(4) Educational institutions (see 42.705–3.).

* * * * *

(b) *Procedures.* (1) In accordance with the Allowable Cost and Payment clause at 52.216–7 or 52.216–13, the contractor shall submit to the contracting officer (or cognizant Federal agency official) and, if required by agency procedures, to the cognizant auditor a final indirect cost rate proposal reflecting actual cost experience during the covered period, together with supporting cost or pricing data.

(2) The auditor shall submit to the contracting officer an advisory audit report—

(i) Identifying any relevant advance agreement or restrictive terms of specific contracts, and

(ii) Including the information required by 15.805–5(e) (1) and (2).

* * * * *

15. Section 42.705–2 is amended by revising paragraphs (a)(2) introductory teft, (a)(2)(iv), (b)(2) introductory text, and (b)(2) (i), (ii), and (iv) to read as follows:

42.705–2 Auditor determination procedure.

(a) * * *

(2) In addition, auditor determination may be used for business units that are covered in 42.705–1(a) when the contracting officer (or cognizant Federal agency official) and auditor agree that the indirect costs can be settled with little difficulty and any of the following circumstances apply:

* * * * *

(iv) The contracting officer (or cognizant Federal agency official) and auditor agree that special circumstances require auditor determination.

(b) *Procedures. (1)* * * *

(2) Upon receipt of proposal the auditor shall—

(i) Audit the proposal and seek agreement on indirect costs with the contractor;

(ii) Prepare an indirect cost rate agreement conforming to the requirements of the contracts. The agreement shall be signed by the contractor and the auditor;

* * * * *

(iv) If agreement with the contractor is not reached, forward the audit report to the contracting officer (or cognizant Federal agency official) identified in the Directory of Contract Administration Services Components (see 42.203), who will then resolve the disagreement; and

* * * * *

PART 46—QUALITY ASSURANCE

16. Section 46.103 is amended by revising paragraph (d) to read as follows:

46.103 Contracting office responsibilities.

* * * * *

(d) When contract administration is retained (see 42.201), verifying that the contractor fulfills the contract quality requirements; and

* * * * *

17. Section 46.104 is amended by revising paragraph (f) to read as follows:

46.104 Contract administration office responsibilities.

* * * * *

(f) Recommend any changes necessary to the contract, specifications, instructions, or other requirements that will provide more effective operations or eliminate unnecessary costs (see 46.103(c)).

18. Section 46.502 is amended by revising the second sentence to read as follows:

46.502 Responsibility for acceptance.

* * * When this responsibility is assigned to a cognizant contract administration office or to another agency (see 42.202(g)), acceptance by that office or agency is binding on the Government.

47.301–3 Using the Defense Transportation System (DTS)

19. Section 47.301–3 is amended in paragraph (c) by removing ''42.202(d)'' and inserting ''42.202(a)''.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

20. Section 52.216–7 is amended by revising the clause date and the first sentence of paragraph (d)(2) to read as follows:

52.216–7 Allowable Cost and Payment.

* * * * *

Allowable Cost and Payment (Date)

* * * * *

(d) Final indirect cost rates. (1) * * *

(2) The Contractor shall, within 90 days after the expiration of each of its fiscal years, or by a later date approved by the Contracting Officer, submit to the cognizant Contracting Officer (or cognizant Federal agency official) responsible for negotiating its final indirect cost rates and, if required by agency procedures, to the cognizant audit activity proposed final indirect cost rates for that period and supporting cost data specifying the contract and/or subcontract to which the rates apply. * * *

* * * * *

(End of clause)

21. Section 52.216–13 is amended by revising the clause date and paragraph (c)(2) to read as follows:

52.216–13 Allowable Cost and Payment—Facilities.

* * * * *

Allowable Cost and Payment—Facilities (Date)

* * * * *

(c) Negotiated indirect costs. (1) * * *

(2) The Contractor shall, within 90 days after the expiration of each of its fiscal years, or by a later date approved by the Contracting Officer, submit to the Contracting Officer (or cognizant Federal agency official) and to the cognizant audit activity proposed final indirect cost rates for that period and supporting cost and data specifying the contract and/or subcontract to which the rates apply. The proposed rates shall be based on the Contractor's actual cost experience for the period. The appropriate Government representative and the Contractor shall establish the final indirect cost rates as promptly as practical after receipt of the Contractor's proposal.

* * * * *

(End of clause)

[FR Doc. 96–31405 Filed 12–10–96; 8:45 am]

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federal register

Wednesday
December 11, 1996

Part VI

Department of the Treasury

Office of Foreign Assets Control

31 CFR Part 575

Iraqi Sanctions Regulations; Licensing of Performance on Certain Contracts With the Government of Iraq; Final Rule

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 575

Iraqi Sanctions Regulations; Licensing of Performance on Certain Contracts With the Government of Iraq

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendment.

SUMMARY: This final rule amends the Iraqi Sanctions Regulations to provide a statement of licensing policy regarding specific licensing of U.S. persons seeking to purchase Iraqi–origin petroleum and petroleum products from Iraq. Statements of licensing policy are also provided regarding sales of essential parts and equipment for the Kirkuk–Yumurtalik pipeline system, and sales of humanitarian goods to Iraq, pursuant to United Nations approval. A general license is being added to authorize dealings in Iraqi–origin petroleum and petroleum products that have been exported from Iraq with United Nations and U.S. Government approval. The rule also adds definitions and makes technical amendments.

EFFECTIVE DATE: December 10, 1996.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief, Licensing Division, tel.: 202/622–2480, or William B. Hoffman, Chief Counsel, tel.: 202/622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

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Background

On April 14, 1995, the United Nations Security Council (the ''UNSC'') adopted Resolution 986, which creates a framework, subject to agreement of the Government of Iraq, that would permit the Government of Iraq to sell $2 billion worth of petroleum and petroleum products over a 6–month period, with all proceeds placed in a United Nations (''UN'') escrow account for designated uses. On May 20, 1996, a Memorandum of Understanding Between the Secretariat of the United Nations and the Government of Iraq on the Implementation of Security Council Resolution 986 (1995) (the ''Memorandum of Understanding'') was signed by representatives of the Government of Iraq and the UN. The Memorandum of Understanding contains agreements preparatory to implementation of Resolution 986. On August 12, 1996, Procedures to be Employed by the Security Council Committee Established by Resolution 661 (1990) Concerning the Situation Between Iraq and Kuwait in the Discharge of its Responsibility as Required by Paragraph 12 of Security Council Resolution 986 (1995) (the ''Guidelines'') further elaborated the procedures necessary to implement Resolution 986. A portion of the proceeds in the escrow account will be available for Iraq's purchase of medicine, health supplies, foodstuffs, and materials and supplies for essential civilian needs, to be specified in a list prepared by Iraq and submitted to and approved by the UN Secretary–General. At the UN level, this program will be administered by the UNSC Committee established pursuant to UNSC Resolution 661 (the ''661 Committee''), which has established guidelines concerning procedures for permitted Iraqi purchases and sales. Within the United States, the Treasury Department's Office of Foreign Assets Control (''OFAC''), in consultation with the Department of State, will implement UNSC Resolution 986. No direct financial transactions with the Government of Iraq are permitted.

New §§ 575.327 and 575.328 define the terms ''Memorandum of Understanding'' and ''Guidelines,'' and a technical amendment is made to § 575.325 (61 FR 36628, July 12, 1996).

New § 575.523 provides a statement of licensing policy for U.S. persons seeking to purchase petroleum and petroleum products from the Government of Iraq or Iraq's State Oil Marketing Organization (''SOMO'') pursuant to UNSC Resolution 986, other relevant Security Council resolutions, the Memorandum of Understanding, and other guidance issued by the 661 Committee. Issuance of a specific license authorizes the licensee to deal directly with the 661 Committee or its designee (the ''overseers'') appointed by the UN Secretary–General pursuant to UNSC Resolution 986, other relevant Security Council resolutions, the Memorandum of Understanding, and other guidance issued by the 661 Committee. The list of ''national oil purchasers'' will be supplied to the 661 Committee. Licensees whose contracts are approved by the overseers are authorized to perform those contracts in accordance with their terms.

New §§ 575.524 and 575.525 provide statements of licensing policy for the exportation to Iraq of pipeline parts and equipment necessary for the safe operation of the Iraqi portion of the Kirkuk–Yumurtalik pipeline system, and the sale of humanitarian aid to Iraq.

New § 575.526 adds a general license for dealing in, and importation into the United States of, Iraqi–origin petroleum and petroleum products, the purchase and exportation of which have been authorized in accordance with UNSC Resolution 986, other relevant Security Council resolutions, the Memorandum of Understanding, and other guidance issued by the 661 Committee.

Finally, § 575.522 (61 FR 36628, July 12, 1996) is amended to clarify that the authorization for executory contracts by U.S. persons includes contracts with third parties incidental to permissible executory contracts with the Government of Iraq.

Because the Regulations involve a foreign affairs function, Executive Order 12886 and the provisions of the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612), does not apply.

Paperwork Reduction Act

The Regulations are being issued without prior notice and public procedure pursuant to the

Administrative Procedure Act (5 U.S.C. 553). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the collections of information contained in the Regulations have been submitted to and approved by the Office of Management and Budget (''OMB''), pending public comment, and have been assigned control number 1505–0130. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collections of information in this final rule are contained in §§ 575.523, 575.524, and 575.525. This information is required by the Office of Foreign Assets Control for licensing and administrative purposes and for ensuring compliance with the Regulations. The likely respondents and recordkeepers are business organizations.

No assurances of confidentiality are given to persons who furnish information to OFAC unless specifically indicated in advance. It is the policy of OFAC to protect the confidentiality of information in appropriate cases pursuant to the exemptions from disclosure provided under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a).

Estimated total annual reporting and/or recordkeeping burden: 100 hours.

The estimated annual burden per respondent/recordkeeper varies from 30 minutes to 1 1/2 hours, depending on individual circumstances, with an estimated average of 1 hour.

Estimated number of respondents and/or recordkeepers: 100.

Estimated annual frequency of responses: 1.

Comments are invited on: (a) whether these collections of information are necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collections 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 concerning the above information, the accuracy of estimated average annual burden, and suggestions for reducing this burden should be directed to the Office of Management and Budget, Paperwork Reduction Project, control number 1505–0130, Washington, DC 20503, with a copy to the Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave., NW—Annex, Washington, DC 20220. Any such comments should be submitted not later than 60 days from publication. Comments on aspects of the Regulations other than those involving collections of information should not be sent to OMB.

List of Subjects in 31 CFR Part 575:

Administrative practice and procedure, Banks, banking, Blocking of assets, Exports, Foreign trade, Humanitarian aid, Imports, Iraq, Oil imports, Penalties, Petroleum, Petroleum products, Reporting and recordkeeping requirements, Specially designated nationals, Travel restrictions.

For the reasons set forth in the preamble, 31 CFR part 575 is amended as follows:

PART 575—IRAQI SANCTIONS REGULATIONS

1. The authority citation for part 575 is revised to read as follows:

Authority: 50 U.S.C. 1701–1706; 50 U.S.C. 1601–1651; 22 U.S.C. 287c; Pub. L. 101–513, 104 Stat. 2047–55 (50 U.S.C. 1701 note); Pub. L. 104–132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); 3 U.S.C. 301; E.O. 12722, 55 FR 31803, 3 CFR, 1990 Comp., p. 294; E.O. 12724, 55 FR 33089, 3 CFR, 1992 Comp., p. 317; E.O. 12817, 57 FR 48433, 3 CFR, 1992 Comp., p. 317.

Subpart C—General Definitions

2. Section 575.325 is revised to read as follows:

§ 575.325 986 Escrow Account; United Nations Iraq Account.

The term *986 Escrow Account* or *United Nations Iraq Account* means the escrow account established by the Secretary–General of the United Nations pursuant to paragraph 7 of UNSC Resolution 986.

3. Section 575.327 is added to subpart C to read as follows:

§ 575.327 Memorandum of Understanding.

The term *Memorandum of Understanding* means the Memorandum of Understanding Between the Secretariat of the United Nations and the Government of Iraq on the Implementation of Security Council Resolution 986 (1995).

4. Section 575.328 is added to subpart C to read as follows:

§ 575.328 Guidelines.

The term *Guidelines* means the Procedures to be Employed by the Security Council Committee Established by Resolution 661 (1990) Concerning the Situation Between Iraq and Kuwait in the Discharge of its Responsibility as Required by Paragraph 12 of Security Council Resolution 986 (1995).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

5. Section 575.522 is amended by removing paragraph (a)(2), redesignating paragraphs (a)(3) and (a)(4) as (a)(2) and (a)(3) respectively; redesignating paragraphs (b), (c), (d) and (e) as (c), (d), (e), and (f) respectively amending new paragraph (c) by revising ''paragraph (a)'' to read ''paragraphs (a) and (b)''; ; and adding a new paragraph (b) to read as follows:

§ 575.522 Executory contracts with the Government of Iraq for trade in petroleum, pipeline parts and equipment, and humanitarian goods authorized.

*****

(b) United States persons are authorized to enter into executory contracts for the trading, importation, exportation, or other dealings in or related to Iraqi–origin petroleum and petroleum products outside Iraq, the performance of which is contingent upon the prior authorization of the Office of Foreign Assets Control in or pursuant to this part.

*****

6. Section 575.523 is added to subpart E to read as follows:

§ 575.523 Certain transactions in Iraqi petroleum and petroleum products.

(a) Specific licenses may be issued on a case–by–case basis to permit United States persons to purchase Iraqi–origin petroleum or petroleum products from the Government of Iraq in accordance with the provisions of UNSC Resolution 986, other relevant Security Council resolutions, the Memorandum of Understanding, and other guidance issued by the 661 Committee. Licensees will be included on the U.S. oil purchaser list to be provided to the 661 Committee, authorizing such U.S. persons to seek approval from the 661 Committee or its designee for the purchase of Iraqi–origin petroleum or petroleum products. Licensees are authorized to perform a contract approved by the 661 Committee or its designee in accordance with its terms.

(b) Applications for specific licenses pursuant to this section shall provide the following information:

(1) The applicant's full legal name;

(2) The applicant's mailing and street addresses;

(3) The name of the individual(s) responsible for the license application and related commercial transactions and the individual's telephone and facsimile numbers;

(4) If the applicant is a business entity, the state or jurisdiction of incorporation and principal place of business;

(5) Written certification that the applicant has entered into an executory contract for the purchase of Iraqi–origin petroleum or petroleum products with the Government of Iraq, that the contract accords with normal arms–length commercial practice, and that the applicant is familiar with this part, particularly §§ 575.601 and 575.602, and will make the executory contract and other documents related to the purchase of Iraqi–origin petroleum or petroleum products available to the Office of Foreign Assets Control in accordance with the requirements of this part; and

(6) Written certification that the applicant understands that issuance of a license pursuant to this section does not authorize a licensee to provide goods, services, or compensation of any kind to the Government of Iraq other than that specifically provided in contracts entered into by the applicant and the Government of Iraq and submitted to and approved by the 661 Committee or its designee.

(c) Applications for specific licenses pursuant to this section shall be submitted to the Licensing Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Avenue, NW—Annex, Washington, DC 20220.

(d) Contracts may be performed only as specifically authorized pursuant to this section unless additional authorization is granted or obtained pursuant to this part for any amendment or modification.

(e) This section does not authorize any transfer of funds or other financial or economic resources to or for the benefit of the Government of Iraq or a person in Iraq except transfers to the 986 Escrow Account.

(f) Attention is drawn to § 575.418 regarding authorization for transactions ordinarily incident to a licensed transaction.

7. Section 575.524 is added to subpart E to read as follows:

§ 575.524 Exportation of pipeline parts and equipment.

(a) Specific licenses may be issued to U.S. persons on a case–by–case basis to permit the sale and exportation to Iraq of pipeline parts and equipment essential for the safe operation of the Kirkuk–Yumurtalik pipeline system in Iraq, in accordance with the provisions of UNSC Resolution 986, other applicable Security Council resolutions, the Memorandum of Understanding, and applicable guidance issued by the 661 Committee.

(b) Applications for specific licenses pursuant to this section shall be made in advance of the proposed sale and exportation, and provide the following information:

(1) Identification of the applicant, including:

(i) Applicant's full legal name;

(ii) Applicant's mailing and street addresses;

(iii) The name of the individual(s) responsible for the application and related commercial transactions and the individual's telephone and facsimile numbers; and

(iv) If the applicant is a business entity, the state or jurisdiction of incorporation and principal place of business;

(2) The name and address of all parties involved in the transactions and their role, including financial institutions and any Iraqi broker, purchasing agent, or other participant in the purchase of the pipeline parts or equipment;

(3) The nature, quantity, value and intended use of the pipeline parts and equipment;

(4) The intended point(s) of entry into Iraq, proposed dates of entry and delivery, and the final destination in Iraq of the pipeline parts and equipment;

(5) A copy of the concluded contract with the Government of Iraq and other relevant documentation, all of which must comply with the provisions of UNSC Resolution 986, other applicable Security Council resolutions, the Memorandum of Understanding, and applicable guidance issued by the 661 Committee; and

(6) A statement that the applicant is familiar with the requirements of the above–referenced documents, particularly Memorandum of Understanding paragraph 24 and Guidelines paragraphs 35 and 45, and will conform the letter of credit and related financing documents to their terms.

(c) Applications for specific licenses pursuant to this section shall be submitted to the Licensing Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Avenue, NW—Annex, Washington, DC 20220.

(d) Attention is drawn to § 575.418 regarding authorization for transactions ordinarily incident to a transaction licensed by OFAC. Transactions of a U.S. person that are incidental to a third–country national's activities pursuant to UNSC Resolution 986 require specific OFAC licensing. Licensing requirements for the reexportation of goods subject to U.S. jurisdiction are addressed in § 575.205.

(e) Contracts may be performed only pursuant to the terms submitted to OFAC when specifically authorized pursuant to this section unless additional authorization is granted or obtained pursuant to this part for any amendment or modification of such contracts.

(f) Payment for goods exported pursuant to this section may be obtained only from the 986 Escrow Account, and must conform to the requirements of UNSC Resolution 986, other applicable Security Council resolutions, the Memorandum of Understanding, and applicable guidance issued by the 661 Committee.

(g) Attention is drawn to § 575.101 regarding compliance with other applicable laws and regulations. No license or authorization contained in or issued pursuant to this part shall be deemed to authorize the exportation, reexportation or retransfer of goods, technology, or services that are subject to unmet export license application requirements of another agency of the United States Government.

8. Section 575.525 is added to subpart E to read as follows:

§ 575.525 Exportation of humanitarian aid.

(a) Specific licenses may be issued to U.S. persons on a case–by–case basis to permit the sale and exportation to Iraq of medicine, health supplies, foodstuffs, and materials and supplies for essential civilian needs of the Iraqi population (''Humanitarian Aid''), in accordance with the provisions of UNSC Resolution 986, other applicable Security Council resolutions, the Memorandum of Understanding, and applicable guidance issued by the 661 Committee.

(b) Applications for specific licenses pursuant to this section shall be made in advance of the proposed sale and exportation, and provide the following information:

(1) Identification of the applicant, including:

(i) Applicant's full legal name;

(ii) Applicant's mailing and street addresses;

(iii) The name of the individual(s) responsible for the application and related commercial transactions and the individual's telephone and facsimile numbers; and

(iv) If the applicant is a business entity, the state or jurisdiction of incorporation and principal place of business.

(2) The name and address of all parties involved in the transactions and their role, including financial

institutions and any Iraqi broker, purchasing agent, or other participant in the purchase of the Humanitarian Aid;

(3) The nature, quantity, value and the intended use of the Humanitarian Aid;

(4) The intended point(s) of entry into Iraq, proposed dates of entry and delivery, and the final destination in Iraq of the Humanitarian Aid;

(5) A copy of the concluded contract with the Government of Iraq or the United Nations Inter–Agency Humanitarian Programme and other relevant documentation, all of which must comply with the provisions of UNSC Resolution 986, other applicable Security Council resolutions, the Memorandum of Understanding, and applicable guidance issued by the 661 Committee; and

(6) A statement that the applicant is familiar with the requirements of UNSC Resolution 986, other applicable Security Council resolutions, the Memorandum of Understanding, and applicable guidance issued by the 661 Committee, particularly Memorandum of Understanding paragraph 24 and Guidelines paragraphs 35 and 45, and will conform the letter of credit and related financing documents to their terms.

(c) Applications for specific licenses pursuant to this section shall be submitted to the Licensing Division, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Avenue, NW—Annex, Washington, DC 20220.

(d) Attention is drawn to § 575.418 regarding authorization for transactions ordinarily incident to a transaction licensed by OFAC. Transactions of a U.S. person that are incidental to a third–country national's activities pursuant to UNSC Resolution 986 require specific OFAC licensing. Licensing requirements for the reexportation of goods subject to U.S. jurisdiction are addressed in § 575.205.

(e) Contracts may be performed only pursuant to the terms submitted to OFAC when specifically authorized pursuant to this section unless additional authorization is granted or obtained pursuant to this part for any amendment or modification of such contracts.

(f) Payment for goods exported pursuant to this section may be obtained only from the 986 Escrow Account and must conform to the requirements of UNSC Resolution 986, other applicable Security Council resolutions, the Memorandum of Understanding, and applicable guidance issued by the 661 Committee.

(g) Attention is drawn to § 575.101 regarding compliance with other applicable laws and regulations. No license or authorization contained in or issued pursuant to this part shall be deemed to authorize the exportation, reexportation or retransfer of goods, technology, or services that are subject to unmet export license application requirements of another agency of the United States Government.

9. Section 575.526 is added to subpart E to read as follows:

§ 575.526 Dealings in and importation of certain Iraqi–origin petroleum and petroleum products authorized.

(a) United States persons are authorized to deal in, and to import into the United States, Iraqi–origin petroleum and petroleum products, the purchase and exportation from Iraq of which have been authorized by the 661 Committee or its designee and, if otherwise required pursuant to this part, by the Office of Foreign Assets Control.

(b) This section does not authorize any transfer of funds or other financial or economic resources to or for the benefit of the Government of Iraq or a person in Iraq except transfers to the 986 Escrow Account.

(c) Attention is drawn to § 575.418 regarding authorization for transactions ordinarily incident to a licensed transaction.

10. Section 575.901 is amended by adding a sentence to the end thereof to read as follows:

§ 575.901 Paperwork Reduction Act Notice.

* * * The information collection requirements in §§ 575.523, 575.524, and 575.525 have been approved by the Office of Management and Budget and assigned control number 1505–0130.

Dated: December 9, 1996.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: December 9, 1996.

Elisabeth A. Bresee,

Deputy Assistant Secretary (Law Enforcement).

[FR Doc. 96–31647 Filed 12–10–96; 12:10 pm]

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The items 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 Research Service

Conduct on National Arboretum Property:
- Technical amendments; published 12-11-96

ENVIRONMENTAL PROTECTION AGENCY

Superfund program:
- National oil and hazardous substances contingency plans--
  - National priorities list update; published 12-11-96

Toxic and hazardous substances:
- Health and safety data reporting rule--
  - List additions; partial stay; published 12-11-96

JUSTICE DEPARTMENT

Privacy Act; implementation; published 12-11-96

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Airbus; published 11-6-96
- Beech; published 11-6-96
- Bell; published 11-6-96
- Boeing; published 11-6-96
- British Aerospace; published 11-6-96
- Jetstream; published 11-6-96
- McDonnell Douglas; published 11-6-96
- Shorts; published 11-6-96

TREASURY DEPARTMENT

Thrift Supervision Office

Savings associations:
- Technical amendments; published 12-11-96

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Dairy products; grading, inspection, and standards:
- Fee increases; comments due by 12-16-96; published 11-14-96

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Atlantic highly migratory species; comments due by 12-20-96; published 11-6-96
- Caribbean, Gulf, and South Atlantic fisheries--
  - Red snapper, etc.; comments due by 12-16-96; published 11-20-96

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control; new motor vehicles and engines:
- Light-duty vehicles and trucks--
  - Durability testing procedures and allowable maintenance; 1994 and later model years; comments due by 12-16-96; published 11-15-96

Air programs:
- Fuels and fuel additives--
  - Minor revisions; comments due by 12-18-96; published 11-18-96

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
- Indiana; comments due by 12-16-96; published 11-15-96

Drinking water:
- Marine sanitation device standards--
  - Application requirements specific to drinking water intake no discharge zones; comments due by 12-16-96; published 10-16-96

Water pollution control:
- Great Lakes System; water quality guidance--
  - Selenium criterion maximum concentration; comments due by 12-16-96; published 11-14-96

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
- Telecommunications Act of 1996; implementation--
  - Infrastructure sharing; comments due by 12-20-96; published 12-2-96

Practice and procedure:
- Telecommunications Act of 1996; conformance--
  - Universal service; comments due by 12-16-96; published 12-2-96

Radio stations; table of assignments:
- Iowa; comments due by 12-16-96; published 11-6-96
- Kansas; comments due by 12-16-96; published 11-6-96
- Ohio; comments due by 12-16-96; published 11-6-96

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

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  - Acrylic acid, sodium salt copolymer with polyethyleneglycol allyl ether; comments due by 12-18-96; published 11-18-96

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
- Colorado; comments due by 12-19-96; published 11-19-96

JUSTICE DEPARTMENT

Federal Bureau of Investigation

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- Significant upgrade and major modifications; section 109 terms clarification; comment request; comments due by 12-19-96; published 11-19-96

JUSTICE DEPARTMENT

Parole Commission

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- Transfer treaty cases; special transferee hearings; comments due by 12-16-96; published 10-17-96

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SECURITIES AND EXCHANGE COMMISSION

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TRANSPORTATION DEPARTMENT

Federal Aviation Administration

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- Air Tractor, Inc.; comments due by 12-20-96; published 10-18-96
- Airbus; comments due by 12-16-96; published 11-5-96
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Class E airspace; comments due by 12-16-96; published 11-20-96

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TRANSPORTATION DEPARTMENT

Federal Highway Administration

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  - National Network for commercial vehicles; route additions in North Carolina; comments due by 12-20-96; published 10-21-96

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- Parts and accessories necessary for safe operation--
  - Protection against shifting or falling cargo; North American standard development; comments due by 12-16-96; published 10-17-96

Motor carrier transportation:
- Agricultural cooperative associations which conduct compensated transportation operations for nonmembers; notice filing requirements exemption; comments due by 12-20-96; published 10-21-96
- Compensated intercorporate hauling; Federal regulatory

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TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

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TRANSPORTATION DEPARTMENT

Surface Transportation Board

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TREASURY DEPARTMENT

Internal Revenue Service

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