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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 72

RIN 3150–AE64

Interim Storage of Spent Fuel in an Independent Spent Fuel Storage Installation at a Reactor Site; Site-Specific License to a Qualified Applicant

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its procedures to permit the Director of Nuclear Material Safety and Safeguards to issue a site-specific license to a qualified applicant for the interim storage of spent fuel in an independent spent fuel storage installation (ISFSI) at a reactor site following satisfactory completion of NRC safety and environmental reviews and after any public hearing on the application. The amendment eliminates the need for express Commission authorization for each ISFSI license, but does not affect the scope of NRC review of an ISFSI license application or change the present opportunity for public hearing provided for in the NRC rules of practice.

EFFECTIVE DATE: May 30, 1995.

ADDRESSES: The documents referenced in this final rule are available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Copies of NUREG–0575 and NUREG–1092 may also be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC. 20013–7028. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

FOR FURTHER INFORMATION CONTACT: C. William Reamer, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415–1640.

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II. Summary of Proposed Rule
III. Public Comments and the Commission's Response
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V. Environmental Impact: Categorical Exclusion
VI. Paperwork Reduction Act Statement
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I. Background

Under 10 CFR Part 72, the NRC will issue a specific license for the interim storage of nuclear power plant spent fuel in an independent spent fuel storage installation (ISFSI) if NRC determines the application meets the requirements of the Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*) and the Commission's regulations. An ISFSI is a facility that is specifically designed and constructed for interim spent fuel storage, after use of the nuclear fuel as a source of energy in a nuclear power reactor, until its shipment to the U.S. Department of Energy's (DOE) planned geologic repository for disposal of radioactive waste. Part 72 applies to site-specific licenses for storage of spent fuel in an ISFSI (up to 20 years with renewal at the option of the NRC) or a monitored retrievable storage installation (MRS) (up to 40 years with renewal at the option of the NRC). Although Part 72 also applies to spent fuel storage in approved casks at an ISFSI at a reactor site pursuant to a general license (10 CFR part 72, subpart K), the general license is not covered or affected by this rulemaking.

On June 3, 1993 (58 FR 31478), the Commission proposed rulemaking to modify the Commission's procedures for the issuance of a specific ISFSI license to a qualified applicant. After considering the public comments received in response to the Commission's request, the Commission has decided to adopt the proposed rule as final with one clarification. Specifically, the final rule covers an ISFSI at a reactor site. (The proposed rule was not explicit on this point.)

II. Summary of Proposed Rule

As set forth in its notice of proposed rulemaking (58 FR 31478–81), the Commission proposed to amend the procedures that authorize the NRC Director of Nuclear Material Safety and Safeguards (or the Director's designee) to issue a site-specific license for the interim storage of spent fuel in an ISFSI under 10 CFR part 72. This type of license would be issued after the NRC completes a comprehensive, documented, public health and safety review; prepares an environmental assessment and determines that issuing the license would conform to all statutory and regulatory requirements; and after an opportunity for a public hearing has been offered and any requested hearing is complete. The amendment would end the current internal practice under which the Director obtained the Commission's express authorization for each ISFSI license, after the NRC review and determination that a license should be issued under 10 CFR part 72, but before the Director actually issued the license. However, the proposed rule would not affect, in any way, existing procedures for the NRC review or the opportunity for public hearing.

III. Public Comments and the Commission's Response

In response to publication of the proposed rule and request for public comments, including extension of the public comment period (58 FR 48004; September 14, 1993), NRC received 11 written comments. (Copies of the comment letters are available for inspection in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC). In some instances, similar comments were offered by more than one commenter, and comments were therefore grouped into the categories that are set forth below, together with the Commission's response.

1. *Comment*: The proposed rule forecloses public participation in important reactor spent fuel storage decisions.

Several comments took issue with the Commission's statement in the notice of proposed rulemaking that the amendment would not affect the opportunity for a public hearing provided in NRC's rules of practice. One commenter argued the amendment

would exclude public participation given that the existing procedure (i.e., without the rule change) provides the public more opportunity for knowledge of an ISFSI license application because there is a second publication of notice and an open Commission meeting on the application. A second commenter expressed the view that the proposed rule should not be applied to its pending petition for hearings on the Calvert Cliffs ISFSI.

Another commenter criticized NRC for what the commenter called a refusal to open NRC doors to public participation on the spent fuel storage issue despite growing public opposition to spent fuel storage as a threat to the environment. That commenter cited public hearing requests from the Michigan Attorney General and citizens interested in the Palisades nuclear plant in a recent NRC storage cask approval rulemaking (58 FR 17948; April 7, 1993) and argued other facilities were also experiencing public opposition to spent fuel storage or transportation plans.

Response: Commission procedures provide a broad opportunity for public participation in ISFSI decisions. The Commission is not changing the public participation process in any manner in this rulemaking.

Rather, these rulemaking amendments mainly affect future NRC proceedings in which the public chooses not to participate. In this regard, we should highlight the limiting language in amended § 72.46(d) which begins with the words ''If no request for a hearing or petition to intervene is filed * * *.'' If, on the other hand, an interested member of the public does want to participate in a hearing on an ISFSI license, then these rulemaking amendments will in no way limit the opportunity to do so. In addition, the amendments will not change the right of hearing participants to request Commission review before any ISFSI license is issued.

The public participation opportunities in NRC site-specific licenses for ISFSIs were detailed in the Commission's notice of proposed rulemaking, as follows:

> Under the Commission's rules of practice, after receipt of an application for a specific license for interim spent fuel storage in an ISFSI, the NRC publishes a notice of proposed action and opportunity for hearing in the **Federal Register** to potentially interested entities and persons (10 CFR 2.105, 72.46(a)). Among other things, the notice indicates that any person whose interest may be affected may file a request for a hearing or a petition for leave to intervene. Potentially affected persons and entities have a right to obtain all relevant NRC staff safety documents, as well as all technical submissions of the license applicant. They may request a hearing or provide written comments before any final NRC action on an ISFSI license application (10 CFR 2.105). If a hearing on the application is held before an Atomic Safety and Licensing Board, issuance of a specific license for an ISFSI by NRC must await completion of the hearing and the initial decision by the Board, and must be appropriately conditioned in light of the Board's findings and conclusions on the matters determined in the hearing (10 CFR 2.760). Under NRC rules of practice, hearing participants have the right to request Commission review of the Board's decision, including the right to request that the effectiveness of the Board's decision be stayed, and that the Commission undertake review before license issuance if they believe the facts warrant such a review (10 CFR 2.786, 2.788). Of course, absent a stay request, under the general rule which the Commission is now proposing to restore, the Board's decision would be immediately effective, and the Director would issue the ISFSI license within 10 days after the decision, without being required to obtain additional, express Commission authorization to do so (See 10 CFR 2.764 (a) and (b)).

The opportunity for public hearing described above, including the opportunity to request Commission review before issuance of a site-specific license for an ISFSI, will continue even with adoption of these rulemaking amendments. Accordingly, because the amendments have no effect at all on public participation, they would also have no retroactive effect on any petition regarding Calvert Cliffs.

Therefore, regarding the comment that NRC doors are closed to public participation generally on spent fuel storage issues, the Commission believes the true facts are quite different. With respect to the commenter's criticism of an unrelated 1993 NRC cask-approval final rule (58 FR 17948; April 7, 1993), involving a storage cask (i.e., VSC–24) later used at the Palisades nuclear plant, which is not a relevant matter to be addressed in this rulemaking, the final rule and public participation procedures were recently upheld by the United States Court of Appeals for the Sixth Circuit. *Kelley* v. *Selin*, No. 93–3613 (6th Cir., Jan. 11, 1995) (''* * * [P]etitioners' assertion that the NRC attempted to shut them out of meaningful participation on the question of the use of the VSC–24 casks is meritless.''). The description of and rationale for that rulemaking process can be found in the 1993 final rule (e.g., 58 FR 17962–63; April 7, 1993).

The Commission has been entrusted with the responsibility to protect the public health and safety, and to provide adequate assurance for public confidence, in the safe storage of spent nuclear fuel from nuclear power plants in the United States. It is NRC's responsibility as a regulator to verify the adequate protection of the public health, safety, and the environment, and to conduct its processes in the open with opportunity for full public participation. In carrying out its responsibilities, NRC will continue to rely on, among other things, a careful, comprehensive public health and safety examination of each ISFSI application, addressing NRC requirements covering site-related parameters, facility design, systems for protection against potential accidents, quality assurance and quality control, worker training, emergency planning, and operating plans and programs to ensure protection of the public from radiation and radioactive materials. To provide further assurance, NRC will continue to rely on a broad, selectively applied program of nuclear plant inspections and compliance reviews, using resident inspectors stationed at each nuclear plant ISFSI site throughout the United States, supported by augmented, expert teams as may be necessary to judge the quality of licensee compliance with ISFSI requirements. NRC will also continue to conduct its ISFSI activities through an open regulatory process that demonstrates, at all stages, an objective and full consideration of public views and concerns.

2. *Comment:* There are growing technical problems which should lead NRC not to go forward with its ISFSI storage rulemaking proposal.

One commenter claimed that technical problems at existing ISFSIs show dry storage will not prove to be a satisfactory solution to utilities' need for additional spent fuel storage capacity. The commenter claimed that dry casks at the Surry ISFSI were operating beyond their designed thermal, radiation and pressure limits; it also claimed that casks systems at Palisades and systems proposed for use elsewhere have inadequate thermal safety margin. The commenter stated that internal NRC studies (CNWRA–93–0006, May 1993) raise other safety problems that will increase spent fuel management costs which the public ultimately must pay. The commenter argued that, given the problems, NRC should not amend its ISFSI licensing procedures as proposed.

Response: Although the comment principally relates to specific plants and therefore seeks to present broader issues independent of the narrow procedural subject matter of this rulemaking, the following information is offered to address the stated concerns.

Spent fuel has been safely stored in independent storage casks at the Surry nuclear plant site for nearly seven years

without, to date, serious incidents or reports of casks operating outside specified thermal, radiation, or pressure limits. Moreover, the cask limits at Surry, which were measured at cask loading and are expected not to change significantly during normal operations, will continue to be monitored on a periodic basis. In addition, dry storage at the Palisades plant commenced about one and one-half years ago after a 1993 NRC rulemaking to approve the VSC–24 storage cask (58 FR 17948; April 7, 1993). That rulemaking exhaustively covered a number of public comments relating to Palisades and, in particular, comments questioning thermal safety margins of the storage cask. NRC responses to those public comments, particularly the response to comment 26, detail the basis for NRC acceptance of the thermal margins for the VSC–24. As set forth in the response, the basis for NRC acceptance of the VSC–24 included assurance that cask thermal margins were calculated using conservative assumptions (e.g., sustained ambient temperatures of 100 °F over several days; little heat conduction through the ends of the canister; fuel clad temperatures based on a peak heat generation rate rather than an average rate; a fuel temperature criterion derived from long-term degradation mechanisms rather than short-term mechanisms that would have led to a much higher temperature standard). Moreover, as indicated in the response, the calculated margins for the VSC–24 were significantly larger when more realistic assumptions were used in the calculations.[1] Thermal analyses and calculations have also been satisfactorily resolved with respect to another cask system, the NUHOMS dry storage system. Rulemaking was completed in January 1995 for the NUHOMS system, and the applicant and NRC staff analyses and calculations are available in the docket of that rulemaking. See Docket No. PR–72 (59 FR 28496) (''List of Approved Spent Fuel Storage Casks: Addition'') (see also 59 FR 65898).

Turning to the internal NRC study referenced in the comment that is the subject of this response, it is important to fully identify that the report is actually directed not at spent fuel storage at reactors, but rather at long-term geologic disposal of high-level waste and spent fuel over thousands of years. Consequently, the report does not draw conclusions that would be directly relevant to decisions about interim storage of spent fuel in ISFSIs or, more significantly, that would be contrary to the NRC's experience with such storage to date. As discussed elsewhere (e.g., 58 FR 17948; April 7, 1993; 55 FR 29181; July 18, 1990; 54 FR 19379; May 5, 1989) and as summarized below, NRC experience to date is that spent fuel can be safely stored under dry conditions over the 20-year licensed term of an ISFSI without presenting significant public health and safety risks.

Irradiated reactor fuel has been handled under dry conditions since the mid-1940's when fuel examinations began in hot cells. Light water reactor fuel has been handled in dry cells since the early 1960's, and some fuels have been in storage under dry conditions for approximately 20 years. Experience with storage of spent fuel in dry casks is extensive, and it is growing. Six nuclear power plant sites are already using dry cask storage: Virginia Power's Surry Station (500 assembles); Carolina Power and Light's H.B. Robinson Station (60 assembles); Duke Power's Oconee Station (530 assemblies); Public Service of Colorado's Fort St. Vrain facility (1480 fuel elements); Consumers Power's Palisades plant (160 assemblies); and Baltimore Gas and Electric's Calvert Cliffs Station (190 assemblies). A seventh plant—Northern States Power's Prairie Island plant—will begin loading assemblies in March 1995. As a result of the growing use of dry storage technology experience, NRC has over 35 staff years of experience in licensing ISFSI storage, further supported by the knowledge and experience of an outside pool of recognized, expert scientists and engineers to perform independent safety analyses of ISFSI systems and components proposed by licensees and vendors in the field.

The successful experience to date in the dry storage of spent fuel storage and the licensing of ISFSIs in the United States, provides support for the Commission's belief there is reasonable assurance such storage and licensing can safely continue without the need for express Commission authorization of each ISFSI license at a reactor site. However, past successes provide no guarantee for the future, and the Commission therefore hastens to emphasize that the NRC staff—under the Commission's active supervision, as described in this document—will continue to bring to bear its full experience in the review, licensing, and inspection of ISFSIs.

3. *Comment:* The Commission proposal would unacceptably reduce Commission oversight of the siting of ISFSIs.

Several comments opposing the Commission proposal believe it will reduce NRC oversight of spent fuel storage, and they find that reduction unacceptable for several reasons. One comment reflecting this view stated that, because the Federal Government was unable satisfactorily to solve the high-level waste (HLW) management problem, and given the growing storage of spent fuel at reactor sites, there is increasing public concern over ISFSI storage and a consequent need for more, rather than less, Commission regulatory oversight of siting decisions. Another commenter stated that ISFSI licenses should have Commissioner review because Commission members have the responsibility to protect public health and safety and should not delegate it to the Director, NMSS, or to anyone else.

Other comments argued the rule change was inappropriate because of the likelihood that the number of ISFSI licenses will increase in the future and the Commission would therefore increasingly need to supervise the licensing process. One commenter, for example, observed that requiring the NRC staff to explain all aspects of a specific ISFSI license to the Commissioners would necessarily lead to a more careful review, and that this additional layer of review would become even more important as the number of ISFSIs grew.

Another commenter argued that the Commission seemed to view its license approval review as ''marginal to safety,'' and disagreed with this view on the ground that spent fuel storage in an ISFSI created a significant hazard to the public in the vicinity of the storage facility.

Response: While it is true the Commission believes its express authorization of each ISFSI license—the internal procedure that is the subject of these rulemaking amendments—is an unnecessary, additional layer of agency review, and, therefore, can be eliminated without reducing public health and safety protection, the Commission's belief is based on its years of experience in supervision of the entire NRC licensing review process for ISFSIs which the Commission will continue to oversee.

The anchor point of the NRC's internal review process to protect public health and safety from the potential risks of a proposed ISFSI is the NRC staff's technical review of the license

[1] On August 1, 1994, Consumers Power Company, the Palisades licensee, reported that two small crack-like indications and a slag-like indication had been discovered in review of radiographs of a weld in a component of a VSC–24 cask at the Palisades ISFSI. After additional analyses, the licensee concluded the cask met requirements and was capable of safely storing fuel for the 20-year license term. The licensee has nonetheless decided to remove from service and replace the cask.

application. As described in the notice of proposed rulemaking, that process is as follows:

Upon receipt of an ISFSI license application, after publishing a notice of docketing in the **Federal Register,** the NRC staff reviews the license application and applicant's supporting safety analysis report (SAR) describing the proposed ISFSI. This comprehensive, technical review by the NRC staff addresses all relevant public health and safety matters including site characteristics affecting construction and operating requirements for the proposed ISFSI, criteria for and design of the proposed installation, operation systems of the facility, site-generated waste confinement and management systems, measures to ensure the protection of the public and occupational workers from radiation and radioactive materials, analyses of potential accidents that might occur at the facility, and the applicant's plans for the conduct of ISFSI operations. In its review, the NRC staff may require further submittals from the applicant as necessary to complete the ISFSI application, will thoroughly review all of the applicant's supporting technical information, and will independently verify the applicant's safety analyses and design calculations if necessary. To document its review and conclusions, the NRC staff will prepare a comprehensive safety evaluation report (SER) detailing its safety findings and conclusions, as well as an environmental assessment (EA) for the proposed specific license for interim storage of spent fuel in an ISFSI. As noted, interested members of the public may obtain copies of these documents from NRC. None of these NRC staff technical activities would, in any way, be modified by this proposed amendment. (58 FR 31479; June 3, 1993.)

After issuance of an ISFSI license, NRC regulatory responsibilities during the 20-year license term include an inspection and enforcement program, providing for an NRC resident inspector at every licensed reactor site of an ISFSI in the United States, supplemented as necessary by teams of engineers and technical specialists, performing inspections in a wide variety of engineering and scientific disciplines, and ranging from civil and structural engineering to health physics and quality assurance. By means of selective examinations, NRC's inspection program seeks to ensure that each ISFSI licensee is meeting its responsibility for safe maintenance and operation of the ISFSI, in accordance with NRC regulations. The program is preventive in nature, and is designed to anticipate and preclude potentially significant public health and safety events or problems by identifying underlying safety concerns or latent vulnerabilities for prompt licensee management attention and adequate corrective action. NRC inspections supplement, rather than supplant, the licensee's programs, so as to provide an independent check or verification of the effectiveness of those licensee programs and their strict conformance with NRC requirements.

The Commission, alone, is ultimately responsible and accountable for the successful regulation of spent fuel storage in licensed ISFSIs to protect the public health and safety. These rulemaking amendments do not change in any way the Commission's responsibility and accountability to the public and its elected representatives. Rather, in one respect, these amendments modify how the Commission will perform its responsibility (i.e., they eliminate a Commission vote before issuance of an ISFSI license at a reactor site). After the amendments become effective, however, the Commission will still have, and will still continue to fulfill, the responsibilities to supervise and direct the NRC staff's performance of the licensing, inspection, and enforcement activities described above. The NRC staff is required to keep the Commission fully and currently informed about significant proposed licensing actions. This means the Director, NMSS, must notify the Commission before issuance of any license for an ISFSI. The Director must also notify the Commission if the staff's inspection program reveals any significant public health and safety matter relating to ISFSI operations that are of regulatory concern. The NRC staff is also required to bring any significant policy issue regarding ISFSI activities to the Commission's attention for resolution. This means the Commission will continue to make any decision involving any significant new ISFSI issues that may arise in the future. In addition, any member of the public who has specific concerns about a proposed ISFSI license can bring them to the Commission for resolution in NRC's public hearing process, as described previously in this notice. In short, through these mechanisms, which are adequate and well-suited for the purpose, the Commission will continue to perform all of its health and safety responsibilities to the public, and will ensure that ISFSI regulation by NRC continues to takes place under the Commission's supervision and direction. If new information becomes available that casts doubt on the adequacy of the oversight mechanisms, the Commission can and will take action which could include reversal of these rulemaking amendments.

4. *Comment:* ISFSI licensing should be the same as licensing for new reactors, an MRS or for the disposal repository which the Commission would need to specifically approve.

Several comments, opposing the proposed rule, express the view that the Commission should apply to specific ISFSI licenses the same Commission approval process it would use to license nuclear reactors, a monitored retrievable storage installation (MRS), and HLW disposal facilities.

One commenter, for example, stated that, given that the cumulative load of discharged irradiated spent fuel in a spent fuel pool could contain more radioactivity than an operating nuclear reactor, greater care should therefore be given to ISFSI licensing than to the reactor itself because the potential for release is greater. Another comment, adopting the view that ISFSI licensing should be in the same category as licensing nuclear reactors or amending such licenses, stated the Commission should not characterize Commission approval of ISFSI licenses as a ''special exception.'' Other commenters stated that spent fuel is highly radioactive and its quantity increasing. Therefore, in their view, the requirement for Commission approval of ISFSI licensing, in addition to NRC staff review, as in the case of licenses to operate reactors, is consistent with the NRC's longstanding regulatory philosophy of redundancy of safeguards and defense-in-depth.

Several comments also opposed the proposed rule change on the ground that it would make ISFSI licensing less stringent than the licensing review afforded to disposal of spent fuel in a repository. One commenter, for example, stated that, in the absence of a viable disposal solution, storage of spent fuel in an ISFSI cannot be labeled ''temporary,'' and should therefore be done under procedures comparably stringent to those for ''permanent'' disposal facilities.

Another commenter viewed elimination of Commission review to be at odds with the history of the MRS which was authorized only through Congressional action in the Nuclear Waste Policy Act and which could be constructed in the future only after further Congressional action. In this commenter's view, the amount of spent fuel stored at the various ISFSIs under NRC license was approaching the amount that might be expected to be stored at the MRS. Another commenter, who also compared the quantity of spent fuel stored in ISFSIs to the capacity of an MRS, stated that NRC was not properly perceiving the inherent hazards in spent fuel storage operations.

Response: The Commission agrees in part with the thrust of the comments, that is, that NRC regulations as applied should achieve a comparable level of

protection for the public health and safety, whether the NRC-licensed activity is operation of a nuclear power reactor, storage of spent fuel in an ISFSI or an MRS, or disposal of high-level radioactive wastes in a geologic repository. Significantly, however, the goal of comparable protection does not mean ISFSI activities must be regulated by NRC's using the same NRC requirements as for reactors or geologic repositories.

Specifically, the public health and safety risks posed by ISFSI storage, described in various publicly available NRC documents identified below, are very different from the risks posed by the safe irradiation of the fuel assemblies in a commercial nuclear reactor, which requires the adequate protection of the public factor in the conditions of high temperatures and pressures under which the reactor operates. The risks of ISFSI storage are also very different from those posed by the safe disposal of the irradiated fuel in a geologic repository, which would require isolation of the wastes from the accessible environment for thousands of years.

Nuclear fuel irradiated in a power reactor is highly radioactive and produces considerable heat. However, after the minimum 1 year of cooling that precedes its storage in an ISFSI, cooling and some shielding requirements will decrease as a result of the natural decay process over time. See Generic Environmental Impact Statement on the Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG–0575–V–1, August 1979) at 2–2. A fuel assembly cooled for 10 years after discharge from the reactor (typically the age of spent fuel actually placed in dry storage) generates approximately 500 watts of heat, which is on the order of the amount of heat generated by the light bulb in a floodlamp. In addition, its radiation dose rate is approximately one-half the rate when it was discharged from the reactor. ISFSIs are therefore designed to adequately dissipate the remaining heat, provide sufficient shielding from the radioactivity, and safely confine any gaseous and particulate radioactive nuclides.

The potential ability of irradiated fuel to adversely affect public health and safety and the environment is largely determined by the presence of a driving force behind dispersion. Therefore, it is the absence of such a driving force, due to the absence of high temperature and pressure conditions in an ISFSI (unlike a nuclear reactor operating under such conditions that could provide a driving force), that substantially eliminates the likelihood of accidents involving a major release of radioactivity from spent fuel stored in an ISFSI.

> [D]uring normal [storage] operations the conditions required for the release and dispersal of significant quantities of radioactive materials are not present. There are no high temperatures or pressures present during normal operations of under design basis accident conditions to cause the release and dispersal of radioactive materials. This is primarily due to the low heat generation rate of spent fuel with more than the one year of decay before storage in an ISFSI required by the rule and with the low inventory of volatile radioactive materials readily available for release to the environs. (45 FR 74693; November 12, 1980.)

Further, since its radioactive content is in the form of solid ceramic material (except for some gaseous fission products) encapsulated in high-integrity metal cladding, spent fuel is relatively invulnerable to sabotage and natural disruptive forces. See Environmental Assessment for 10 CFR Part 72, ''Licensing Requirements for the Independent Storage of Spent Fuel and High-Level Radioactive Waste,'' at II–15 and –16 (NUREG–1092, August 1984); see also 45 FR 74693 (November 12, 1980).

Although the risks associated with ISFSIs described above differ from those of nuclear power plant operation or geologic disposal, the Commission's regulatory responsibility to ensure adequate protection remains the same. However, the manner in which it discharges those responsibilities will differ. Significantly, because of the very different risks, the Commission would not automatically apply all regulatory requirements to ISFSIs that it applies to other regulated activities. More particularly for this rulemaking, based on its experience to date, the Commission believes it can and should fulfill its public responsibilities, through the ISFSI licensing and inspection process described earlier in this notice, as supervised and directed by the Commission, but without the need for specific Commission authorization of every ISFSI license in the future.

However, as discussed in response to comment 8, the NRC licensing experience that support this rulemaking to eliminate specific Commission approval of ISFSI licenses is not sufficient to support a similar change for the MRS or for an ISFSI at other than a reactor site. Therefore, the Commission intends that NRC rules continue to require specific Commission authorization before issuance of a license for an MRS or a license for an ISFSI that is located at a site other than a reactor site.

5. *Comment:* The cost savings for the agency and utilities are not an appropriate basis for the rulemaking amendments.

Several commenters took issue with the Commission's statement in the proposed rule that the amendments could save money that would otherwise be spent on unnecessary agency reviews. One commenter characterized the prospect of financial savings for the agency and its licensees as ''offensive,'' because it was being used to justify elimination of a ''safety-related'' review of ISFSIs whose failure could lead to significant adverse consequences to the public health and safety. Another commenter similarly challenged the Commission's rationale for reducing the costs of duplicative Commission review on the ground that the Commission's responsibility is to protect the public health and safety, not the nuclear industry's financial well-being or its profitability for stockholders.

Response: As the foregoing responses to comments make clear, the Commission's experience to date leads it to believe it can fully perform its public protection responsibilities without specific authorization of every license for an ISFSI at a reactor site that is now required under the Commission's current process. The extra step of express Commission authorization for each specific license is a minor, ancillary matter in protecting public health and safety. If the Commission thought the additional step was needed for safety, then it would require the review step regardless of its cost.

Therefore, one consequence of the current process (i.e., the process that includes the extra step of specific Commission authorization) is that someone is paying the bill for agency review steps that are not really needed. Because Commission funding is recovered from the nuclear industry through license fees and the like, the people who are paying the bill are normally utility ratepayers. Significantly, however, the Commission would have proposed these rulemaking amendments even if its costs were not recoverable and, in that case, the people paying the bill were the U.S. taxpayers.

The Commission has the public interest responsibility to regulate effectively without imposing unnecessary or overly burdensome regulatory costs. Where, as here, the Commission can make rulemaking amendments that will allow it to perform its public health and safety responsibilities more efficiently, but do not diminish in any way the license applicant's obligation to demonstrate to NRC (and to any member of the public

who is interested) that a proposed ISFSI is safe, then the Commission believes it should make those rulemaking amendments.

6. *Comments:* The revision is a useful simplification of existing procedures that does not create any impacts adverse to safety. Given the proven safety and reliability of ISFSIs. NRC licensing procedures should not have layers of unnecessary reviews that are not used in other NRC licensing actions.

Several comments received on the notice of proposed rulemaking favor the NRC proposed rule change. One commenter stated the amendments do not change the fact that the license applicant must still undergo a comprehensive public health and safety review, environmental assessment and an opportunity for public hearing, in order to ensure the proposed ISFSI is safe and in compliance with NRC regulations. The commenter noted the only change would be elimination of Commissioner approval.

Another comment supporting the change stated it would make ISFSI procedures more like NRC licensing procedures for other types of facilities handling nuclear materials, and justified it on the basis of the safety and reliability of spent fuel dry storage in ISFSI. The commenter also noted the rule is consistent with Congress' intent in the Nuclear Waste Policy Act (Sec. 131(a)(2)) that directs the Federal government to expedite additional spent fuel storage capacity and encourage dry storage technologies which have been proven to be safe. It further argued the change was in keeping with NRC initiatives elsewhere to reduce unnecessary regulatory burdens without reducing public health and safety protection. It also noted the only practical effect of the change was to eliminate mandatory Commission review in uncontested licensing action.

Response: The Commission generally agrees with this comment. However, the Commission notes that substantial reliance is being placed in this rulemaking on the demonstrated safety and reliability of dry storage at reactors in ISFSIs to date. In this connection, although NRC has an important regulatory role outlined elsewhere in this notice, licenses have the primary responsibility for safe ISFSI operations, to protect the public health and safety, and to abide by NRC regulations. If circumstances warrant in a particular case, or if significant new information becomes available, the Commission could require specific Commission authorization before issuance of any ISFSI license in a future case.

7. *Comment:* The rule needs to reflect that DOE continues to pursue plans for interim storage.

The U.S. Department of Energy (DOE) submitted a comment expressing concern that the notice of proposed rulemaking printed in the **Federal Register** gave the erroneous impression that DOE is not pursuing plans respecting interim storage. In recounting the history of the MRS, the DOE states the Nuclear Waste Policy Act of 1982 (NWPA) adopted a policy of spent fuel disposal in repositories and did not authorize large-scale storage facilities. DOE goes on to state that Congress amended the NWPA in 1987 to authorize an MRS subject to specific conditions, after DOE recommended a mandated MRS site-specific proposal. The DOE comment also indicates that DOE plans continue to include interim storage. DOE requests the discussion accompanying the proposed rulemaking change should be revised to accurately reflect DOE's position.

Response: The rulemaking record should be corrected to reflect the facts set forth in DOE's letter. The Commission did not intend any of its statements in the notice of proposed rulemaking to imply circumstances contrary to those described by DOE.

8. *Comment:* The Commission's proposal not to extent the rule change to the MRS, thereby continuing the need for express Commission authorization before the Director could issue an MRS license, drew opposing views.

Several comments took opposing positions on the Commission's proposal not to eliminate Commissioner authorization for issuance of a license under Part 72 for the MRS. One commenter posited that an MRS might be simple in design and operation, much like an ISFSI, and therefore ought to be licensed by the Director, NMSS, without the need for specific authorization by the Commission. The comment recognized that the proposed MRS design might be more complex than an ISFSI, in which case the MRS license could be reviewed by Commission before issuance.

Another commenter, however, agreed with the Commission's proposal not to change the requirement for express Commission authorization of an MRS license, arguing the different procedure is justified by a fundamental difference between an ISFSI and an MRS, as those facilities are defined in Part 72.

Response: As the differing comments reflect, there is, at this time, no DOE license application or DOE-proposed design for an MRS that is before the Commission. In addition, the Commission has no basis to speculate on any interim storage design that DOE might proposal for licensing, including whether it would be similar to the ISFSI facilities licensed by NRC to date. Therefore, inasmuch as the Commission cannot now determine that NRC licensing experience with ISFSIs would be directly applicable to an MRS, it has decided not to eliminate the requirement for express Commission authorization before issuance by the Director, NMSS, of any initial license for the acquisition, receipt or possession of spent fuel, high-level waste and associated radioactive material, for the purpose of storage at an MRS by DOE. In this connection, the Commission notes that the DOE letter referred to in comment 7 does not disagree with this aspect of the NRC rulemaking amendments.

Similarly, various plans have received mention recently regarding possible private ISFSIs at non-DOE sites (e.g., a new off-site ISFSI for the Prairie Island plant located within Goodhue County, Minnesota at a site not on Prairie Island). However, the Commission has no basis to speculate on these possible facilities or their designs. Therefore, since the Commission cannot determine that its ISFSI licensing experience would be directly applicable to these possible facilities, it has decided not to eliminate the requirement for express Commission authorization before issuance by the Director, NMSS, of any initial license for the acquisition, receipt or possession of spent fuel, high-level waste and associated radioactive material, for the purpose of storage at an ISFSI that is not located at a reactor site.

9. *Comment:* The Commission should not make rule changes that would result in an ISFSI being licensed by Agreement States.

One comment questions the proposed rule change on the ground that it might open ISFSI siting to licensing by Agreement States which may not be technically prepared to handle the responsibility.

Response: The proposed rule does not open ISFSIs to licensing by Agreement States. As the comment correctly notes, a number of States have agreements with the Commission or its predecessor, the Atomic Energy Commission, pursuant to section 274 of the Atomic Energy Act of 1954. These agreements typically provide for the Commission to discontinue, and the State to assume, responsibility for regulating certain nuclear materials in order to protect the public health and safety. However, under section 274 of the Act, the Commission will not discontinue regulatory responsibility for special nuclear materials in quantities sufficient

to form a critical mass. Because spent nuclear fuel may contain special nuclear materials in such quantities, Agreements States therefore have no authority to license spent fuel storage in an ISFSI.

The Commission's exclusive authority to license ISFSIs is reflected in § 72.8 of NRC regulations which provides that ''Agreement States may not issue licenses covering the storage of spent fuel in an ISFSI * * *.'' The foregoing regulation would be unchanged by this rulemaking.

IV. Section-by-Section Analysis

This portion of the notice contains a section-by-section analysis of the rulemaking amendments. A comparable analysis was provided in the notice of proposed rulemaking for these amendments (58 FR 31478; June 3, 1993). The following analysis, among other things, clarifies that the rulemaking amendments apply only to an ISFSI located at a reactor site.

A. Rules of Practice (10 CFR 2.764)

The Commission is amending 10 CFR 2.764(c) to modify the references in the section to ''an independent spent fuel storage installation (ISFSI)'' by adding at the end of each of the references the words ''located at a site other than a reactor site.'' As amended, the provision continues to apply in the future to licensing of an independent spent fuel storage installation (ISFSI) located at a site other than a reactor site or licensing of a monitored retrievable storage installation (MRS) under 10 CFR part 72. The amendment eliminates the requirement of express Commission authorization before issuance by the Director of NMSS (or the Director's designee) of each initial license for interim storage of spent fuel in an ISFSI at a reactor site. The general rule applies under which the Director, NMSS, has delegated authority, when no public hearing on the application has been requested, to issue a license for an ISFSI at a reactor site under 10 CFR part 72 following satisfactory completion of NRC's environmental assessment and public health and safety review, without obtaining additional, express authorization from the Commission to do so. Further, under the amendment to 10 CFR 2.764, if the application is the subject of a public hearing, then the Director will issue the license for an ISFSI at a reactor site only after an initial decision of the Atomic Safety and Licensing Board directing issuance of the license, but without the Director being required to obtain the additional, express authorization of the Commission to do so. In this connection, 10 CFR 2.764 (a) and (b) are being clarified to explicitly incorporate ''a license under 10 CFR part 72 to store spent fuel in an independent spent fuel storage installation (ISFSI) at a reactor site'' to thereby cover any application for a specific ISFSI license at a reactor site that is the subject of a public hearing.

Under other provisions of the Commission's rules pertaining to the opportunity for public hearing that are not being changed, a party to the hearing could request Commission review and ask the Commission to stay the effectiveness of the Board's decision (including any direction for issuance of any ISFSI license at a reactor site) pending that review (10 CFR 2.786, 2.788). If the Commission granted a stay, then the Director would not issue the license until the terms of the stay, if any, were met or until further order of the Commission.

B. Licensing Requirements for ISFSIs (10 CFR 72.46)

The amendment of 10 CFR 72.46(d) modifies the reference to ''an ISFSI'' in the last sentence of paragraph (d) by adding at the end of the reference the words ''located at a site other than a reactor site.'' As amended, the sentence continues to apply to licensing of an ISFSI located at a site other than a reactor site or licensing of the MRS. Thus, under the amendment, the Director, NMSS, will have delegated authority to issue a specific license for interim storage of spent fuel in an ISFSI at a reactor site. He/she is not required to seek the express authorization of the Commission to do so. However, the Director's authority will continue to be subject to the limitation that the Commission will be fully and currently informed and will address any significant questions of policy relating to a specific license for interim storage of spent fuel in an ISFSI at a reactor site.

V. Environmental Impact: Categorical Exclusion

The NRC has determined that this rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1) and (3). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

VI. Paperwork Reduction Act Statement

This rule does not contain a new or amended information collection requirement subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0136 and –0132.

VII. Regulatory Analysis

The Nuclear Regulatory Commission is making changes to internal procedures that are administrative in nature. The changes will not have any significant impact on the public health and safety or the U.S. economy. The amendments create no new regulatory burdens, or result in the use of resources by NRC licensees or by the staff of the NRC or an Agreement State. The Commission's current procedures require the Director, NMSS, to obtain express authorization of the Commission before issuing a license to construct and operate an ISFSI. The amendments will authorize the Director to issue a license for interim storage of spent fuel in an ISFSI at a reactor site without seeking express authorization from the Commission to do so. The costs of the amendments, in this regard, are likely to be less than the costs of the current procedure since the amendments will reduce the layers of agency review. The foregoing discussion constitutes the regulatory analysis for this final rule.

VIII. Regulatory Flexibility Act Certification

The final rule does not have a significant economic impact on a substantial number of small entities. The rule sets forth internal procedures of an administrative nature for issuance of licenses for ISFSIs at reactor sites. Owners of nuclear power reactors do not fall within the scope of the definition of ''small entities'' set forth in section 601(3) of the Regulatory Flexibility Act (15 U.S.C. 632) or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121. Thus, in accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the NRC hereby certifies that this final rule will not have a significant economic impact upon a substantial number of small entities.

IX. Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 72.62, does not apply to this rule and that a backfit analysis is not required because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 72.62(a) (see also 10 CFR 50.109).

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

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 Nuclear Regulatory Commission is adopting the following amendments to 10 CFR parts 2 and 72.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

1. The authority citation for part 2 is revised to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Sec. 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161 b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b *et seq.*).

2. In § 2.764, paragraphs (a), (b) and (c) are revised to read as follows:

§ 2.764 Immediate effectiveness of initial decision directing issuance or amendment of construction permit or operating license.

(a) Except as provided in paragraphs (c) through (f) of this section, or as otherwise ordered by the Commission in special circumstances, an initial decision directing the issuance or amendment of a construction permit, a construction authorization, an operating license, or a license under 10 CFR part 72 to store spent fuel in an independent spent fuel storage installation (ISFSI) at a reactor site shall be effective immediately upon issuance unless the presiding officer finds that good cause has been shown by a party why the initial decision should not become immediately effective, subject to review thereof and further decision by the Commission upon petition for review filed by any party pursuant to § 2.786 or upon its own motion.

(b) Except as provided in paragraphs (c) through (f) of this section, or as otherwise ordered by the Commission in special circumstances, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, notwithstanding the filing or granting of a petition for review, shall issue a construction permit, a construction authorization, an operating license, or a license under 10 CFR part 72 to store spent fuel in an independent spent fuel storage installation (ISFSI) at a reactor site, or amendments thereto, authorized by an initial decision, within ten (10) days from the date of issuance of the decision.

(c) An initial decision directing the issuance of an initial license for the construction and operation of an independent spent fuel storage installation (ISFSI) located at a site other than a reactor site or a monitored retrievable storage installation (MRS) under 10 CFR part 72 shall become effective only upon order of the Commission. The Director of Nuclear Material Safety and Safeguards shall not issue an initial license for the construction and operation of an independent spent fuel storage installation (ISFSI) located at a site other than a reactor site or a monitored retrievable storage installation (MRS) under 10 CFR part 72 until expressly authorized to do so by the Commission.

* * * * *

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

3. The authority citation for Part 72 continues to read as follows:

Authority. Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (43 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148 (c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168 (c), (d). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); section 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

4. In § 72.46, paragraph (d) is revised to read as follows:

§ 72.46 Public hearings.

* * * * *

(d) If no request for a hearing or petition for leave to intervene is filed within the time prescribed in the notice of proposed action and opportunity for hearing, the Director, Office of Nuclear Material Safety and Safeguards or the Director's designee may take the proposed action, and thereafter shall promptly inform the appropriate State and local officials and publish a notice in the **Federal Register** of the action taken. In accordance with § 2.764(c) of this chapter, the Director, Office of Nuclear Material Safety and Safeguards shall not issue an initial license for the construction and operation of an ISFSI located at a site other than a reactor site or an MRS until expressly authorized to do so by the Commission.

Dated at Rockville, Maryland, this 24th day of April, 1995.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 95–10478 Filed 4–27–95; 8:45 am]

BILLING CODE 7590–01–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

10 CFR Part 1703

FOIA Fee Schedule

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Update of FOIA fee schedule.

SUMMARY: The Defense Nuclear Facilities Safety Board is publishing its annual update to the Freedom of Information Act (FOIA) Fee Schedule pursuant to 10 CFR 1703.107(b)(6) of the Board's regulations.

EFFECTIVE DATE: May 1, 1995.

FOR FURTHER INFORMATION CONTACT:

Kenneth M. Pusateri, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue NW., Suite 700, Washington, DC 20004–2901, (202) 208–6447.

SUPPLEMENTARY INFORMATION: The FOIA requires each Federal agency covered by the Act to specify a schedule of fees applicable to processing of requests for agency records. 5 U.S.C. 552(a)(4)(i). On March 15, 1991 the Board published for comment in the **Federal Register** its proposed FOIA Fee Schedule. 56 FR 11114. No comments were received in response to that notice and the Board issued a final Fee Schedule on May 6, 1991.

Pursuant to 10 CFR 1703.107(b)(6) of the Board's regulations, the Board's General Manager will update the FOIA Fee Schedule once every 12 months. Previous Fee Schedule updates were published in the **Federal Register** and went into effect, most recently, on May 1, 1994. 59 FR 21640.

Board Action

Accordingly, the Board issues the following schedule of updated fees for services performed in response to FOIA requests:

Defense Nuclear Facilities Safety Board Schedule of Fees for FOIA Service

[Implementing 10 CFR 1703.107(b)(6)]

Search or Review Charge.	$44 per hour.
Copy Charge (paper)	$.05 per page or generally available commercial rate (approximately $.10 per page).
Copy Charge (3.5″ diskette).	$5.00 per diskette.
Copy Charge (audio cassette).	$3.00 per cassette.
Duplication of Video	$25.00 per video; $16.50 for each additional video
Copy Charge for large documents (e.g., maps, diagrams).	Actual commercial rate.

Dated: April 25, 1995.

Kenneth M. Pusateri,

General Manager.

[FR Doc. 95–10462 Filed 4–27–95; 8:45 am]

BILLING CODE 3670–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–69–AD; Amendment 39–9208; AD 95–09–05]

Airworthiness Directives; British Aerospace Model Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain British Aerospace Model Avro 146–RJ series airplanes. This action requires a revision to the FAA-approved Airplane Flight Manual (AFM) to alert the flightcrew of the potential for significant delays in the Honeywell Standard Windshear Detection and Recovery Guidance System (WSS) detecting windshear when the flaps of the airplane are in transition. This amendment is prompted by a report of an accident during which an airplane encountered severe windshear during a missed approach. The actions specified in this AD are intended to ensure that the flightcrew is aware that there may be significant delays in the WSS detecting windshear when the flaps of the airplane are in transition.

DATES: Effective on May 15, 1995.

Comments for inclusion in the Rules Docket must be received on or before June 27, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–69–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The information concerning this amendment may be obtained from or examined at FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Kirk Baker, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (310) 627–5345; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: Recently, the FAA received a report of an accident during which the flightcrew executed a missed approach following an instrument landing system (ILS) approach. A McDonnell Douglas Model DC–9–31 series airplane equipped with Honeywell Windshear Detection and Recovery Guidance System (WSS) was involved in this accident. Investigation into the cause of this accident revealed that the airplane encountered severe windshear during the missed approach. The FAA has determined that a design feature in the windshear computer delayed the detection of windshear when the airplane's flaps were in transition. This condition, if not corrected, could result in the flightcrew being unaware of the potential for significant delays in the WSS detecting windshear when the flaps of the airplane are in transition.

On February 14, 1995, the FAA issued AD 95–04–01, amendment 39–9153 (60 FR 9619, February 21, 1995), applicable to various transport category airplanes equipped with a Honeywell Standard Windshear Detection and Recovery Guidance System (WSS). That AD requires a revision to the FAA-approved Airplane Flight Manual (AFM) to alert the flightcrew of the potential for significant delays in the WSS detecting windshear when the flaps of the airplane are in transition. The actions required by that AD are intended to prevent the flightcrew from failing to realize that the WSS does not detect windshear in a timely manner when the flaps of the airplane are in transition,

which could result in loss of control of the airplane.

Since the issuance of that AD, the FAA has identified three additional U.S.-registered airplanes that are equipped with Honeywell WSS and, therefore, subject to the same unsafe condition addressed by AD 95–04–01. The additional airplanes are all Model Avro 146–RJ series airplanes, manufactured by British Aerospace.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. The FAA has determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to ensure that the flightcrew of Model Avro 146–RJ series airplanes is aware that there may be significant delays in the WSS detecting windshear when the flaps of the airplane are in transition. This AD requires a revision to the FAA-approved AFM to alert the flightcrew of the potential for significant delays in the WSS detecting windshear when the flaps of the airplane are in transition.

This is considered to be interim action. Once a modification is developed, approved, and available, the FAA may consider additional rulemaking.

Note: The FAA's normal policy is that when an AD requires a substantive change, such as a change (expansion) in its applicability, the ''old'' AD is superseded by removing it from the system and a new AD is added. In the case of this AD action, the FAA normally would have superseded AD 95–04–01 to expand its applicability to include the 3 additional affected airplanes. However, in reconsideration of the entire fleet size that would be affected by a supersedure action (approximately 3,000 U.S. registered airplanes), and the consequent workload associated with revising maintenance record entries, the FAA has determined that a less burdensome approach is to issue a separate AD applicable only to these 3 additional airplanes. Operators should note that this AD does not supersede AD 95–04–01; airplanes listed in the applicability of AD 95–04–01 are required to continue to comply with the requirements of that AD. This AD is a separate AD action, and is applicable only to Model Avro 146–RJ series airplanes equipped with Honeywell WSS having part number 4048300–902.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–69–AD.'' The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

95–09–05 British Aerospace Regional Aircraft Limited, Avro International Aerospace Division (Formerly British Aerospace, plc; British Aerospace Commercial Aircraft Limited): Amendment 39–9208. Docket 95–NM–69–AD.

Applicability: Model Avro 146–RJ70A, –RJ85A, and –RJ100A airplanes; equipped with Honeywell Standard Windshear Detection and Recovery Guidance System (WSS), part number 4048300–902; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure that the flight crew is aware of significant delays in the Windshear Detection and Recovery Guidance System (WSS) detecting windshear when the flaps of the airplane are in transition, accomplish the following:

(a) Within 14 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

''During sustained banks of greater than 15 degrees or during flap configuration changes, the Honeywell Windshear Detection and Recovery Guidance System (WSS) is desensitized and alerts resulting from

encountering windshear conditions will be delayed.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

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

(d) This amendment becomes effective on May 15, 1995.

Issued in Renton, Washington, on April 21, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10319 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 94–NM–127–AD; Amendment 39–9207; AD 95–09–04]

Airworthiness Directives; de Havilland Model DHC–8–100 and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain de Havilland Model DHC–8–100 and –300 series airplanes, that requires an inspection to verify the integrity of the shield grounds for the cable harness of the electronic engine control (EEC), and correction of any discrepancy. This amendment also requires measurement of the electrical resistance of certain shield grounds, and repair, if necessary. This amendment is prompted by a report of an engine flameout after a lightning strike, due to several shields for the cable harness of the EEC not being properly grounded to the airframe. The actions specified by this AD are intended to prevent engine flameout due to insufficient protection of the EEC.

DATES: Effective May 30, 1995.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 30, 1995.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Fiesel, Aerospace Engineer, Propulsion Branch, ANE–174, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7504; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain de Havilland Model DHC–8–100 and –300 series airplanes, was published in the **Federal Register** on September 21, 1994 (59 FR 48408). That action proposed to require a visual inspection to verify the integrity of the shield grounds for the cable harness of the EEC, and correction of any discrepancy. That action also proposed to require measurement of the electrical resistance of certain shield grounds, and repair, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter requests that the proposed 45-day compliance time in paragraph (b) of the proposed AD be extended to permit operators to schedule the proposed actions according to the size of their individual fleets and, specifically, to allow up to 165 days for a fleet-wide inspection. The commenter bases this request on the following factors:

1. The commenter states that, to accomplish the proposed measurement requirement, the use of a low resistance ohm meter (micro-ohm) is necessary. The commenter has only one low resistance ohm meter to perform the measurement of all the airplanes in its fleet. With only one micro-ohm meter available, the commenter could inspect only a limited number of its fleet of airplanes during its regularly scheduled maintenance visits, and would not be able to accomplish the proposed inspections within the proposed 45-day compliance time. Further, the commenter does not believe it should have to purchase or otherwise obtain additional units to satisfy the requirements of the proposed AD.

2. The commenter states that the actions specified in the service bulletin could not be accomplished in less than 25 hours and, that based on the amount of time available for a scheduled maintenance visit, up to 4 visits may be required to complete the inspection. The commenter is concerned about these additional expenses that would be associated with this action.

The FAA does not concur with the commenter's request to extend the compliance time. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the normal maintenance schedules for timely accomplishment of the actions required by the final rule for all affected airplanes to continue to operate without compromising safety. In consideration of these items, the FAA has determined that the 45-day compliance time represents an average maintenance interval for the affected fleet, during which time the required inspections, measurement, repair, and restoration can reasonably be accomplished and an acceptable level of safety can be maintained. However, under the provisions of paragraph (e) of the final rule, the FAA may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

As for the commenter's concern regarding the expenses associated with accomplishing the requirements of this AD, the FAA recognizes that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because AD's require specific actions (such as testing with special equipment) to address specific unsafe conditions as required in this rule, they appear to impose costs that would not otherwise be borne by operators. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions in a timely manner even if they were not required to do so by the AD.

One commenter requests that a certain procedure for repairing frayed or broken harnesses be referenced in the proposed rule as an acceptable means of repair. The commenter states that

accomplishment of this repair procedure may be necessary in the course of performing the required inspections. The commenter notes that this repair procedure is not included in any service bulletin or manual.

The FAA does not concur. The FAA does not consider it appropriate to include various provisions in an AD applicable to a single operator. Paragraph (e) of this AD provides for the approval of alternative methods of compliance to address these types of unique circumstances.

As a result of recent communications with the Air Transport Association (ATA) of America, the FAA has learned that, in general, some operators may misunderstand the legal effect of AD's on airplanes that are identified in the applicability provision of the AD, but that have been altered or repaired in the area addressed by the AD. The FAA points out that all airplanes identified in the applicability provision of an AD are legally subject to the AD. If an airplane has been altered or repaired in the affected area in such a way as to affect compliance with the AD, the owner or operator is required to obtain FAA approval for an alternative method of compliance with the AD, in accordance with the paragraph of each AD that provides for such approvals. A note has been included in this notice to clarify this long-standing requirement.

The FAA has recently reviewed the figures it has used over the past several years in calculating the economic impact of AD activity. In order to account for various inflationary costs in the airline industry, the FAA has determined that it is necessary to increase the labor rate used in these calculations from $55 per work hour to $60 per work hour. The economic impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 141 airplanes of U.S. registry will be affected by this AD, that it will take approximately 16 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $135,360, or $960 per airplane.

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

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

95–09–04 De Havilland, Inc.: Amendment 39–9207. Docket 94–NM–127–AD.

Applicability: Model DHC–8–102, –103, and –106 series airplanes, serial numbers 3 through 369 inclusive; and Model DHC–8–301, –311, and –314 series airplanes, serial numbers 100 through 370 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent engine flameout following a lightning strike, accomplish the following:

(a) Within 45 days after the effective date of this AD, perform a visual inspection of the mounting clamps and ''breakout junctions'' in the metal overbraid to verify the integrity of the shield grounds for the cable harness of the electronic engine control (EEC), in accordance with de Havilland Service Bulletin S.B. 8–73–18 (for Model DHC–8–100 series airplanes), or S.B. 8–73–19 (for Model DHC–8–300 series airplanes), both dated April 29, 1994, as applicable. If any discrepancy is found, prior to further flight, correct the discrepancy in accordance with the applicable service bulletin.

(b) Within 45 days after the effective date of this AD, perform an electrical resistance measurement of Class A and Class B shield grounds in accordance with de Havilland Service Bulletin S.B. 8–73–18 (for Model DHC–8–100 series airplanes), or S.B. 8–73–19 (for Model DHC–8–300 series airplanes), both dated April 29, 1994, as applicable.

(1) For Class A shield grounds: If the electrical resistance exceeds the value specified in the service bulletin, within 50 flight hours after performing the resistance measurement, repair in accordance with the applicable service bulletin.

(2) For Class B shield grounds: If the electrical resistance exceeds the value specified in the service bulletin, within 180 days after performing the resistance measurement, repair in accordance with the applicable service bulletin.

(c) For Model DHC–8–102, –103, and –106 series airplanes on which an interim shield ground is installed in accordance with paragraphs 19 and 93 of the Accomplishment Instructions of de Havilland Service Bulletin S.B. 8–73–18, dated April 29, 1994: Within one year after the effective date of this AD, restore the airplane to the Post-Modification 8/0772 configuration in accordance with paragraph 161 of the Accomplishment Instructions of that service bulletin.

(d) For Model DHC–8–301, –311, and –314 series airplanes on which an interim shield ground is installed in accordance with paragraphs 19 and 112 of the Accomplishment Instructions of de Havilland Service Bulletin S.B. 8–73–19, dated April 29, 1994: Within one year after the effective date of this AD, restore the airplane to the Post-Modification 8/0772 configuration in accordance with paragraph

200 of the Accomplishment Instructions of that service bulletin.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

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

(g) The inspections, measurement, repair, and restoration shall be done in accordance with de Havilland Service Bulletin S.B. 8–73–18 (for Model DHC–8–100 series airplanes), or de Havilland S.B. 8–73–19 (for Model DHC–8–300 series airplanes), both dated April 29, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on May 30, 1995.

Issued in Renton, Washington, on April 20, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–10203 Filed 4–27–95; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 240 and 249

[Release No. 34–35637; File No. S7–4–95]

RIN 3235–AG28

Unlisted Trading Privileges

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting new rules and amendments to existing rules concerning unlisted trading privileges (''UTP''). The rules would reduce the period that exchanges have to wait before extending UTP to any listed initial public offering, from the third trading day in the security to the second trading day in the security. The rules also would require exchanges to have rules and oversight mechanisms in place to ensure fair and orderly markets and the protection of investors with respect to UTP in any security.

EFFECTIVE DATE: April 21, 1995.

FOR FURTHER INFORMATION CONTACT: Betsy Prout, 202/942–0170, Attorney, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission (Mail Stop 5–1), 450 5th Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

On February 2, 1995, the Securities and Exchange Commission (''Commission'') proposed for comment rules [1] under Section 12(f) of the Securities Exchange Act of 1934 (''Exchange Act''),[2] as recently amended by the Unlisted Trading Privileges Act of 1994 (''UTP Act''). The proposed rules would have: (1) Required national securities exchanges (''exchanges''), for any security that is the subject of an initial public offering (''IPO'') and is listed on another exchange (''listed IPO''), to wait until the listing exchange reports the first trade in the security to the Consolidated Tape before trading the security pursuant to unlisted trading privileges (''UTP''); (2) required each national securities exchange to have in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP; and (3) amended certain existing rules under Section 12(f) of the Exchange Act to conform to the recent statutory amendments effected by the UTP Act. The Commission also requested comments on alternatives to the proposed rule concerning UTP in listed IPOs from commenters who believe that either no waiting period or a longer waiting period would be appropriate. In addition, the Commission requested comment on whether any Commission action is necessary to carry out the congressional objectives of linked markets as required by Section 11A(a)(1)(D) of the Exchange Act.[3]

The Commission received nine comment letters on the proposed rules,[4] eight of which discuss the proposed rule concerning UTP in listed IPOs.[5] The Commission also received, prior to publication of the proposed rules in the **Federal Register**, a report presenting certain volume and price parameter statistics of listed IPOs.[6]

The Commission is adopting the rules as proposed, except for the rule that would have required exchanges to wait, before extending UTP to listed IPOs, until the first trade is reported by the listing exchange. Instead, that proposed rule is being replaced with a requirement that exchanges wait, before trading a listed IPO pursuant to UTP, until the opening of business on the day following the initial public offering of the security on the listing exchange.

II. Background

As stated above, the Commission is adopting rules pursuant to the UTP Act, which recently amended Section 12(f) of the Exchange Act. The UTP Act became effective on October 22, 1994. As discussed more fully in the Proposing Release and below, the UTP Act amended Section 12(f) of the Exchange Act to require the Commission to prescribe rules concerning UTP in listed IPOs. Rule 12f–2, as adopted, meets this requirement. The UTP Act also authorizes the Commission to prescribe other rules pertaining to exchange extensions of UTP, and specifically authorizes the Commission to prescribe, by rule or order, the procedures that will apply to exchanges when they apply to reinstate UTP in a security after the Commission has suspended UTP in the security on the applicant exchange.

Section 12(f) governs when an exchange may trade a security that is

[1] See Securities Exchange Act Release No. 35323 (February 2, 1995), 60 FR 7718 (''Proposing Release'').

[2] 15 U.S.C. 78*l*.

[3] 15 U.S.C. 78k–1(a)(1)(D).

[4] See letters from James F. Duffy, American Stock Exchange, Inc., dated March 21, 1995 (''Amex letter''), George W. Mann, Boston Stock Exchange, Inc., dated March 6, 1995 (''BSE letter''), Lisa W. Barry, CS First Boston, dated March 14, 1995 (''CS First Boston letter''), J. Craig Long, Foley & Lardner, dated March 20, 1995 (''Chx letter''), Richard T. Chase, Lehman Brothers, dated March 10, 1995 (''Lehman letter''), James E. Buck, New York Stock Exchange, Inc., dated March 15, 1995 (''NYSE letter''), Leopold Korins, Pacific Stock Exchange, Inc., dated March 14, 1995 (''PSE letter''), John C. Katovich, Pacific Stock Exchange, Inc., dated March 29, 1995 (''PSE response''), and William Uchimoto, Philadelphia Stock Exchange, Inc., dated March 29, 1995 (''Phlx response''), to Jonathan G. Katz, Secretary, SEC.

[5] See BSE letter, Chx letter, CS First Boston letter, Lehman letter, NYSE letter, PSE letter, Phlx response, and PSE response, *id*.

[6] See letter and report from William Uchimoto, Philadelphia Stock Exchange, Inc., dated February 6, 1995 (''Phlx Study''). The Phlx Study was submitted to the Commission on behalf of the Boston Stock Exchange, Inc., the Chicago Stock Exchange, Inc., the Philadelphia Stock Exchange, Inc., and the Pacific Stock Exchange, Inc.

not listed and registered on that exchange, *i.e.* by extending UTP to the security.[7] Prior to the UTP Act, Section 12(f) required exchanges to apply to the Commission before extending UTP to a security, and required the Commission to provide notice of each application for comment and opportunity for a hearing. The Commission also was required to review each application, and if the application met certain standards, the Commission issued an order approving the exchange's request to trade the security pursuant to its grant of UTP.[8] These requirements caused significant delays before exchanges could begin UTP trading in securities already traded on the listing exchange, even though over-the-counter (''OTC'') dealers were not subject to UTP limitations.[9] The delay in trading, resulting from the previous application procedures, was especially criticized by competing exchanges because, while the Commission published for comment hundreds of exchange applications for the extension of UTP each year, comments on the applications were extremely rare. Indeed, virtually no comments had been submitted to the Commission on a UTP application in over ten years.

In response to the Concept Release that initiated the Market 2000 Study,[10] resulting in the Division of Market Regulation's (''Division'') report, Market 2000: An Examination of Current Equity Market Developments, some commenters noted that the regulatory process for UTP could be a potential area for reform.[11] After publication of the Concept Release, on June 22, 1994, the Telecommunications and Finance Subcommittee of the House Committee on Energy and Commerce (''Subcommittee'') held a hearing on the UTP Act, ultimately adopted on October 22, 1994.[12]

The UTP Act, among other matters, removed the application, notice, and Commission approval process from Section 12(f) of the Exchange Act, except in cases of Commission suspension of UTP in a particular security on an exchange. Thus, the UTP Act generally allows an exchange to extend UTP to any security when it becomes listed and registered on another exchange or included in Nasdaq, subject to certain limitations.[13]

Specifically, the UTP Act grants exchanges the authority to trade any security via UTP immediately upon listing on another exchange, provided that the security is not a listed IPO security, as defined in the UTP Act.[14] For listed IPO securities, the UTP Act contains a temporary provision that requires exchanges to wait, before trading any listed IPO security, until the third day of trading in the security on the listing exchange. This provision also requires the Commission to prescribe by rule or regulation, within 180 days of the enactment of the UTP Act, the mandatory delay (or, ''duration of the interval''), if any, that should apply to UTP extensions to listed IPO securities.[15]

The UTP Act also provides the Commission with rulemaking authority to prescribe additional procedures or requirements for exchange extensions of UTP to any security, and allows the Commission summarily to suspend UTP in a security at any time within 60 days of the commencement of trading on the relevant exchange pursuant to UTP. Upon suspension, the exchange must cease trading pursuant to UTP in the security. An exchange seeking to reinstate UTP in the security, following a Commission suspension, must file an application with the Commission pursuant to procedures that the Commission may prescribe by rule or order for the maintenance of fair and orderly markets, the protection of investors and the public interest, or otherwise in furtherance of the purposes of the Exchange Act. Public notice by the Commission of an exchange application to reinstate suspended UTP, and Commission review of the application, are also required. The amended Section 12(f) notice, review, and Commission approval provisions are substantially similar to the requirements that previously applied to an exchange's initial extension of UTP to a security under former Section 12(f).[16]

III. Extensions of UTP to Listed Securities That Are the Subject of an Initial Public Offering

A. Proposed Rule 12f–2

Proposed Rule 12f–2 would have allowed exchanges to extend UTP to a listed IPO security when at least one transaction in the security had been effected on the listing exchange and the

[7] When an exchange ''extends UTP'' to a security, the exchange allows its members to trade the security as if it were listed on the exchange. For discussions of the history of UTP in U.S. markets and Section 12(f) of the Exchange Act, see, *e.g.*, Stephen L. Parker & Brandon Becker, Unlisted Trading Privileges, 14 Rev. Sec. Reg. 853 (1981); and Walter Werner, Adventure in Social Control of Finance: The National Market System for Securities, 75 Colum. L. Rev. 1233 (1975).

[8] Section 12(f) required the Commission to review each UTP application to ensure the maintenance of fair and orderly markets and the protection of investors with respect to the extension of UTP to the securities named in the application. Pursuant to this standard of review, the staff identified, over time, certain areas of particular concern as they related to UTP. Accordingly, these areas included ensuring that the applicant exchange had proper trading rules in place to provide a fair and orderly market in each security named and had sufficient standards for regulatory oversight of each security to provide for the protection of investors. While Commission review of the applications led to occasional discoveries of material deficiencies and errors in the applications, the overwhelming majority of applications raised no substantive issues.

[9] As a technical matter, Section 12(a) limits the trading of securities on an exchange to those securities that are listed and registered on that exchange. Section 12(f), both prior to and following this amendment, makes an exemption from this requirement for securities traded pursuant to UTP. OTC dealers are not subject to the Section 12(a) listing requirement because they do not transact business on an exchange.

[10] See Securities Exchange Act Release No. 30920 (July 14, 1992), 57 FR 32587 (''Concept Release'').

[11] See letter from William G. Morton, Jr., Boston Stock Exchange; John L. Fletcher, Midwest (currently Chicago) Stock Exchange; Leopold Korins, Pacific Stock Exchange; and Nicholas A. Giordano, Philadelphia Stock Exchange, to Jonathan G. Katz, Secretary, Commission, dated December 11, 1992. See also, Division of Market Regulation, Securities and Exchange Commission, Market 2000: An Examination of Current Equity Market Developments (January 1994).

[12] A representative of the Division and representatives of several self-regulatory organizations testified at this hearing. The Unlisted Trading Privileges Act of 1994 and Review of the SEC's Market 2000 Study: Hearing Before the Subcomm. on Telecommunications and Finance of the House Comm. on Energy and Commerce, 103d Cong., 2d Sess. (1994) (''UTP Hearing'').

[13] Section 12(f)(1)(E) prohibits extension of unlisted trading privileges in securities that are registered under Section 12(g) of the Exchange Act (generally, ''OTC securities''), except pursuant to a rule, regulation or order of the Commission approving such extension or extensions. The Commission's order approving the on-going pilot program, including all limitations and conditions therein, is deemed such an order. See Securities Exchange Act Release No. 34371 (July 13, 1994), 59 FR 37103. Pursuant to Section 12(f)(1)(E), the Commission will consider issues involved in extensions of UTP to OTC securities as the Commission continues it on-going review of the operation of the pilot program.

[14] Section 12(f)(1)(B), read jointly with Section 12(f)(1)(A)(i), as amended, provides this exception for listed IPO securities. In defining securities that fall within the exception, new subparagraphs 12(f)(1)(G)(i) and (ii) provide:

(i) a security is the subject of an initial public offering if—

(I) the offering of the subject security is registered under the Securities Act of 1933; and

(II) the issuer of the security, immediately prior to filing the registration statement with respect to the offering, was not subject to the reporting requirements of section 13 or 15(d) of this title; and

(ii) an initial public offering of such security commences at the opening of trading on the day on which such security commences trading on the national securities exchange with which such security is registered.

15 U.S.C. 78*l*(f)(1)(G).

[15] 15 U.S.C. 78*l*(f)(1)(C). The UTP Act temporary two-day delay provision for UTP in listed IPOs expires on the earlier of the effective date of a Commission rule prescribing the appropriate interval of delay, if any, or 240 days following the enactment of the UTP Act.

[16] See Section 12(f)(2), as amended, 15 U.S.C. 78*l*(f)(2).

transaction had been reported pursuant to an effective transaction reporting plan as defined in Rule 11Aa3–1 under the Exchange Act.[17] The proposed rule, therefore, would have shortened the mandatory waiting period (or ''interval,'' as it is described in the UTP Act) for UTP in listed IPO securities from two trading days, as temporarily specified by amended Section 12(f),[18] to the time that it takes to effect and report the initial trade in the security on a listing exchange. The result of the proposed rule would have been to permit the regional exchanges to trade listed IPOs at essentially the same time as the primary listing exchange.

The Commission proposed a one-trade delay for UTP in listed IPOs because the Commission preliminarily believed that it was appropriate to minimize regulatory restraints on competition for trading listed IPO securities. In soliciting comments on proposed Rule 12f–2, however, the Commission noted a previous New York Stock Exchange (''NYSE'') position that listed IPOs should be traded solely on the listing market for a ''short'' period of time to help ensure market efficiency immediately following the IPO.[19] The Commission also cited a report on the UTP Act by the House Committee on Energy and Commerce (''Committee''), in which the Committee directed the markets to provide the Commission with trading activity data on the effects of UTP in IPOs (including, for example, any volatility effects on the security), so that the Commission could determine whether the benefits of confining early trading in IPOs to one marketplace would be outweighed by the benefits of removing regulatory delays that inhibit competition among markets.[20]

The Commission solicited comments on these issues, specifically seeking comments on certain items that would be particularly useful to the Commission. These included identification and analysis of the potential harms and benefits that would result from either no waiting period, or from a longer waiting period than that proposed by the Commission. To the extent that commenters believed a waiting period would be appropriate, the Commission requested that they provide data to illustrate the potential negative effects on the pricing of an IPO. The Commission also suggested that commenters might provide an analysis of the effects of the two-day waiting period temporarily in effect under the UTP Act. Finally, the Commission stated that it would be interested in receiving alternative proposed rules from commenters who believe that either no waiting period or a longer waiting period would be appropriate.

In addition, the Commission sought comment on whether any Commission action would be necessary under Section 12(f), as amended, in order to carry out the congressional objectives of linked markets as required by Section 11A(a)(1)(D).[21] Specifically, the Commission requested comment on whether changes should be made to the consolidated quotation, trade reporting, and order routing systems, now that exchanges and linking facilities will have less time to prepare for multiple exchange trading in the securities. The Commission expressed particular interest in receiving comments concerning any existing procedural delays that should be corrected by Commission action to ensure that the operation of amended Section 12(f) is not impeded.

B. Comments on Proposed Rule 12f–2

The Commission received a total of eight comment letters on proposed Rule 12f–2, five of which supported the proposed rule,[22] and three of which opposed the proposal.[23] Shortly prior to the publication of the proposed rules, the Commission also received a study from the Philadelphia Stock Exchange (''Phlx''), submitted on behalf of the Boston Stock Exchange, Inc., the Chicago Stock Exchange Inc., and the Pacific Stock Exchange Inc., concerning certain volume and pricing characteristics of listed IPOs.[24]

The Phlx Study shows high volume in IPOs during the early days of trading, particularly on the first and second day of trading. Based on this data, the Phlx Study states that a restriction on UTP in IPOs creates a substantial negative effect on competition, both in relation to the listing exchange and OTC dealers.[25] The Phlx Study concludes that the Commission should adopt a rule for UTP in listed IPOs that would allow the regional exchanges to trade the securities on the first day of trading.

These competitive concerns were reiterated by the other comment letters supporting the proposed rule.[26] One regional exchange also states that it has listed IPOs simultaneously with the NYSE and has seen no adverse effect related to the dual listings.[27] This exchange argues that the NYSE has not been able to identify any adverse effects from the dual listing of IPOs. Another regional exchange states that, since the UTP Act reduced the waiting period to two days, there have been no instances of pricing disparities, inordinate volatility, or issuer complaints for securities traded by regional exchanges on the third trading day of IPOs, and no offering has been adversely affected by regional trading.[28]

The Commission received three comment letters, one from the NYSE and two from underwriters, expressing opposition to proposed Rule 12f–2.[29] These commenters believe that immediate regional exchange trading of IPOs would increase price volatility in the trading of IPO securities because the underwriters would not have sufficient time to ensure an orderly distribution of the securities. Two of the commenters argued that the temporary two-day delay should continue in place,[30] while the third commenter recommends at the very least a one-day trading delay.[31] Those proposing a two-day delay base their recommendation on data compiled by Lehman Brothers (''Lehman Study''), showing higher volatility in some Nasdaq IPOs than in selected NYSE IPOs. The two letters assert that this data demonstrates that dispersed initial trading of IPOs in the Nasdaq market is more volatile than initial centralized trading of IPOs.

The Commission received two comment letters from two regional exchanges in response to the comments opposing the proposed rule.[32] One of these commenters believes that National Market System procedures and practices are capable of providing effective

[17] 17 CFR 240.11Aa3–1 (1991).

[18] See supra note 15.

[19] See Proposing Release, *supra* note 1, citing prepared testimony of Edward A. Kwalwasser, Executive Vice President, Regulation, New York Stock Exchange, UTP Hearing, *supra* note 12.

[20] See Proposing Release, *supra* note 1, citing H.R. Rep. No. 626, 103d Cong., 2d Sess. (1994). The Committee also identified the experience of third market trading in listed IPOs as relevant to this inquiry.

[21] Section 11A(a)(1)(D) of the Exchange Act provides:

The linking of all markets for qualified securities through communication and data processing facilities will foster efficiency, enhance competition, increase the information available to brokers, dealers, and investors, facilitate the offsetting of investors' orders, and contribute to best execution of such orders.

15 U.S.C. 78k–1(a)(1)(D).

[22] See BSE letter, Chx letter, PSE letter, Phlx response, and PSE response, *supra* note 4.

[23] See CS First Boston letter, Lehman letter, and NYSE letter, *supra* note 4.

[24] See Phlx Study, *supra* note 6.

[25] See *supra* note 9.

[26] See BSE letter, Chx letter, and PSE letter, *supra* note 4.

[27] See Chx letter, *supra* note 4.

[28] See PSE letter, *supra* note 4.

[29] See NYSE letter, CS First Boston letter, and Lehman letter, *supra* note 4.

[30] See NYSE letter and Lehman letter, *supra* note 4.

[31] See CS First Boston letter, *supra* note 4.

[32] PSE response and Phlx response, *supra* note 4.

pricing for IPOs, contrary to the concerns voiced by the opposing comment letters.[33] The commenter also believes that only upward price volatility risk exists for early IPO trading, particularly because underwriters may place stabilizing bids in IPOs to limit declines in the prices of the securities.

The second response letter reiterates these points, and also notes that regional exchange opening, high, low, and closing prices in IPOs that were dually-listed among one regional exchange and the NYSE were consistent with NYSE comparable prints.[34] In addition to providing its reasons for believing that price volatility in early trading of IPOs is limited to upward movements in the price of the security, the commenter also concludes that price volatility is generated by supply and demand in securities and that, as a natural by-product of a free and open market, price volatility should never be used as a reason to exclude some equally-regulated competitors from the marketplace.[35]

C. Commission Response

The Commission is adopting a revised version of Rule 12f–2. Instead of requiring exchanges to wait until the listing exchange of an IPO reports the first trade in the security to the Consolidated Tape, as originally proposed, exchanges will be required to wait, before trading the security pursuant to a grant of UTP, until the opening of business on the day following the IPO. For the reasons discussed below, the Commission believes that this ''one-trading-day'' delay for UTP in listed IPOs is appropriate for the maintenance of fair and orderly markets, the protection of investors, and otherwise in furtherance of the purposes of the Exchange Act, as required by the UTP Act.

As a general matter, the Commission agrees with the regional exchanges that early UTP in IPO securities would enhance the ability of multiple markets to compete with the listing exchange for the substantial volume occurring on the initial trading days of IPOs. As discussed below, however, several commenters raise the possibility that virtually immediate UTP in IPO securities could complicate the pricing and orderly distribution of IPO securities by increasing the risk of price volatility as the securities are distributed immediately to the public. In light of these concerns, and in particular those raised by the underwriters who believe that IPO pricing may be at risk if there were no opportunity for early centralized trading, the Commission is adopting a rule to provide a one-trading-day delay for UTP in IPO securities.

The Commission believes that a one-trading-day delay to precede UTP in listed IPOs is appropriate at this time primarily because the Commission is concerned that the first day of trading in an IPO on an exchange presents special circumstances, including initial pricing, an attempt to effectuate an orderly distribution of securities, high trading volume, and the resulting potential for high price volatility in the securities, that could have a significant effect on pricing and distribution of IPOs. In light of the comments regarding the possible impact of immediate UTP for the IPO process, the Commission believes, therefore, that a one-trading-day delay is warranted in order to ensure the protection of investors as required by the UTP Act, and by the Exchange Act in general.

The Phlx Study and Phlx response discuss the five IPO securities that were dually-listed on one regional exchange and the NYSE, and state that regional trades virtually always occurred within the NYSE daily trading range on the first and second trading days of the IPO. The Commission considers this limited amount of data insufficient to show that immediate UTP will not increase price volatility across the markets. In addition to the limited number of occurrences reviewed, this information only addresses listings on one exchange competing with the listing exchange, rather than the effects of five markets trading the IPO simultaneously with the listing exchange.

The Commission also believes that there is insufficient evidence on the record to warrant a longer waiting period than the first trading day to precede UTP in listed IPOs. It appears that the risk of high price volatility for listed IPOs and the resultant impact on IPO distributions decreases after the first day of trading.

In light of the concerns raised and the limited nature of the trading data available, the Commission is adopting the one-trading-day delay for UTP in listed IPOs. The Commission currently believes that this one-day restriction is necessary and appropriate for the maintenance of fair and orderly markets and the protection of investors with respect to IPOs. This conclusion is premised on the importance of the initial trading of IPOs for the offering process, the concerns raised regarding orderly IPO distribution, and the limited data responding to those concerns.

The Commission is sympathetic to concerns that a one-trading-day delay for exchange extensions of UTP will restrict regional exchange trading, while OTC dealers will continue to be free to trade the securities upon effective registration. The evidence presented in the Phlx study, however, shows that in virtually all IPOs studied, OTC market makers trade the securities only in extremely small volume, if at all, on the first day of the IPO. The Commission believes, therefore, that any competitive advantage to OTC market makers is minimal, and is outweighed by the benefit to investors and the capital formation process that should be accrued by decreasing the risk of price volatility in the IPO securities.

The Commission will continue, of course, to monitor the experience with the trading of IPOs under the amended Rule. The Commission is willing to consider revisiting the question of the appropriate waiting period for UTP in listed IPOs after experience has been gained with the amended rules.

Two commenters who urged adoption of the proposed rule also responded to the Commission's solicitation of comments on any necessary enhancements to National Market Systems to facilitate operation of the UTP Act. One commenter suggested that all ITS Participants should be permitted to participate in the opening on the first day of trading on the listing exchange via the ITS.[36] Another commenter stated that the new UTP trading regimen necessitates more reactive procedures by the ITS Participants and the Securities Industry Automation Corporation (''SIAC''), the ITS facilities manager.[37] The commenter urged SIAC to make ITS automatically available for any UTP security on the day following a regional exchange's request that the security be available for ITS use.

The Commission urges the ITS Participants to enhance their procedures for ITS eligibility of securities. The Commission notes that the ITS Pre-Opening Application and the ITS Trade-Through Rule are designed, in part, to ensure orderly pricing of securities among the various Participant market centers. Thus, the Commission believes that the ITS Participants should move forward to ensure that the ITS is available for use by all interested

[33] PSE response, *supra* note 4.

[34] See Phlx response, *supra* note 4.

[35] As discussed in Section III.C., *infra*, the Phlx response and the Chx letter suggest enhancements to certain Intermarket Trading System (''ITS'') procedures in order to facilitate the extension of unlisted trading privileges pursuant to the new streamlined requirements for UTP under the UTP Act.

[36] See Chx letter, *supra* note 4.

[37] See Phlx response, *supra* note 4.

participant markets in time to participate in the opening trade of a listed IPO security on the second day the security trades.

IV. Exchange Rules for Securities to Which Unlisted Trading Privileges are Extended (Rule 12f–5)

Section 12(f)(1)(D) of the Exchange Act, as amended, authorizes the Commission to prescribe, by rule or regulation, such additional procedures or requirements for extending UTP to any security as the Commission deems necessary or appropriate for the maintenance of fair and orderly markets, the protection of investors and the public interest, or otherwise in furtherance of the purposes of the Exchange Act. Pursuant to this authority, the Commission proposed Rule 12f–5, which would prohibit an exchange from extending UTP to any security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP.

The Commission solicited comment on whether proposed Rule 12f–5 would help ensure that an exchange has the necessary rules in place to provide for fair and orderly markets in all securities to which the exchange extends UTP. The Commission received one response to this question.[38] This commenter supported the rule, and requested that the Commission, in this release, clarify that, prior to commencing UTP trading, an exchange should be required to have entered into appropriate information sharing agreements with foreign exchanges (or the Commission with foreign regulators), comparable to that required of the listing exchange for the particular product.[39]

The Commission is adopting Rule 12f–5, as proposed, as a means to ensure that exchanges meet their obligation under the Exchange Act to have these rules and oversight mechanisms in place on their exchanges for the relevant securities before extending UTP to the securities. As discussed in the Proposing Release, the rule is intended to preserve a benefit of Commission review of UTP applications that was required by Section 12(f) prior to the UTP Act. Previously, the Commission reviewed each UTP application to ensure that the applicant exchange had rules in place to cover the trading of the product class of the security for which the exchange applied. Now that the Commission will no longer review UTP applications, the Commission believes that the requirements set forth in Rule 12f–5 are appropriate because the rule confirms to exchanges their obligation to evaluate their extensions of UTP to determine that the exchanges are authorized to list the product class of securities before allowing their members to trade the securities. Finally, in regard to the comment that exchanges must enter into an appropriate information sharing agreement for all securities traded thereon, Rule 12f–5 will ensure that an exchange granting UTP in a security has secured previous Commission approval to trade the product class of security pursuant to Section 19(b) of the Exchange Act.[40] The Commission, in such approval process, will have determined the adequacy of information sharing arrangements for the particular exchange.

V. Amendments to Rules 12f–1 and 12f–3, and Rescission of Previous Rules 12f–2 and 12f–6

Several of the rules prescribed under former Section 12(f) concerned the application process for extensions of UTP. The Commission proposed to amend or rescind these rules to reflect statutory changes, and solicited comment on whether the proposed changes were appropriate. No comments were received on these proposals. The Commission is adopting the amendments to existing Rules 12f–1 and 12f–3, and is rescinding existing Rules 12f–2 and 12f–6, as proposed.

First, Rule 12f–1[41] is amended to limit its operation to an exchange's application to reinstate UTP after a Commission suspension. The amended rule will require essentially the same format for applications to reinstate UTP as was required by the rule under former Section 12(f) for applications to extend UTP. The Commission believes the amendment is an appropriate means to carry out the intention of the new Section 12(f)(2) requirement for exchange UTP applications in cases where exchanges seek to reinstate UTP for a security that was previously suspended by the Commission.

Second, Rule 12f–2 is rescinded and Form 27, referred to in previous Rule 12f–2, is removed.[42] This rule and form dealt with instances where an exchange might have been required to cease extending UTP, and to reapply for UTP, in a security that was ''changed'' (as described in the rule) immaterially for those purposes. The rule and form provide an exemption from reapplication for UTP in these cases. The Commission is rescinding these items because the application procedures, from which the rule provided an exemption, no longer exist.

Third, the Commission is rescinding the last sentence of paragraph (b) of Rule 12f–3.[43] Rule 12f–3 allows the issuer of a security that is traded pursuant to UTP, or any broker or dealer who makes a market in the security, or any other person having a bona fide interest in the question of termination or suspension of UTP in the security, to apply to the Commission for the termination or suspension of UTP in the security. The Rule also identifies the categories of information that should be provided in the application, which include the applicant's statement that it has sent a copy of the application to the exchange from which the suspension or termination is sought. Thereafter, the Rule provides that the exchange may terminate or suspend UTP in the security in accordance with its rules. The Rule also required the exchange, upon suspension or termination, promptly to file Form 28 with the Commission.

This final requirement no longer is necessary because exchanges are no longer required to apply to the Commission to extend UTP to a security. The Commission, therefore, is rescinding that last requirement from the Rule concerning Form 28 and is removing Form 28 to conform further with efforts to streamline the regulatory process concerning UTP.

Finally, the Commission is rescinding Rule 12f–6, which exempted a merged exchange from the UTP application process in certain circumstances.[44] The exemption no longer is necessary because the waiting period that restrained exchanges from extending UTP to most securities no longer exists.

VI. Effects on Competition and Regulatory Flexibility Act Considerations

Section 23(a)(2) of the Exchange Act[45] requires that the Commission, when adopting rules under the Exchange Act, consider the anticompetitive effects of those rules, if any, and balance any anticompetitive impact against the

[38] See Amex letter, *supra* note 4.

[39] The commenter also suggested that the Commission make clear that OTC transactions in exchange-listed securities must be subject to the same regulatory requirements as those imposed by the listing exchange and by other exchanges trading the security pursuant to UTP, which could be accomplished by a amendment to the rules of the National Association of Securities Dealers. The Commission believes that this recommendation is outside the scope of the present rulemaking, which deals specifically with exchange extensions of UTP.

[40] 15 U.S.C. 78s(b).

[41] 17 CFR 240.12f–1 (1991).

[42] 17 CFR 240.12f–2 (1991).

[43] 17 CFR 240.12f–3 (1991).

[44] 17 CFR 240.12f–6 (1991).

[45] 15 U.S.C. 78w(a)(2).

regulatory benefits gained in terms of furthering the purposes of the Exchange Act. The Commission believes that adoption of Rules 12f–2 and 12f–5, and the amendments to Rules 12f–1 and 12f–3, and the rescission of previous Rules 12f–2 (to be replaced with new Rule 12f–2) and 12f–6 will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. Specifically, as discussed in more detail above, the Commission believes that the new Rule 12f–2 one-trading-day delay for UTP in IPOs provides a minimal restraint on competition among market centers which is outweighed by the benefits associated with the resulting reduction of potential price volatility risk in IPO securities. In addition, the one-trading-day delay is shorter than the current temporary two-trading day delay.

The Commission has prepared a Final Regulatory Flexibility Analysis (''FRFA'') regarding the amendments and rescissions to the rules under Section 12(f), in accordance with 5 U.S.C. 604. The FRFA notes the minimal economic effect on the minimal number of small businesses, if any, that may be generated by these amendments to and rescissions of these rules under Section 12(f) of the Exchange Act. In addition, the FRFA notes that Rule 12f–2 should reduce the risk of high price volatility, and possible associated risk of loss to investors, in listed IPOs. The Commission believes that the benefits of reducing risk to investors outweigh the potential costs, if any, that might be incurred by, for example, small specialist firms on regional exchanges.

A copy of the FRFA will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549.

VII. Effective Date

The new rules and amendments to the Commission's rules and forms shall be effective immediately, in accordance with the Administrative Procedure Act, which allows effectiveness in less than 30 days after publication for, inter alia, ''a substantive rule which grants or recognizes an exemption or relieves a restriction.'' 5 U.S.C. 553(d)(1). Moreover, the Administrative Procedures Act allows for accelerated effectiveness ''as provided by the agency for good cause and published with the Rule.'' 5 U.S.C. 553(d)(3). Accelerated effectiveness of the rules and amendments is necessary in order to ensure compliance with the UTP Act, which requires the Commission to prescribe the duration of the waiting period, if any, for UTP in listed IPOs ''[n]ot later than 180 days after the date of enactment of the Unlisted Trading Privileges Act of 1994 * * *.''[46]

List of Subjects in 17 CFR Parts 240 and 249

Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, the Commission hereby amends title 17, chapter II of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78w, 78x, 78*ll*(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Section 240.12f–1 is amended by revising the section heading and introductory text of paragraph (a), redesignating paragraphs (a)(5) and (a)(6) as paragraphs (a)(6) and (a)(7), adding paragraph (a)(5), and revising newly designated paragraph (a)(6) to read as follows:

§ 240.12f–1 Applications for permission to reinstate unlisted trading privileges.

(a) An application to reinstate unlisted trading privileges may be made to the Commission by any national securities exchange for the extension of unlisted trading privileges to any security for which such unlisted trading privileges have been suspended by the Commission, pursuant to section 12(f)(2)(A) of the Act (15 U.S.C. 78*l*(2)(A)). One copy of such application, executed by a duly authorized officer of the exchange, shall be filed and shall set forth:

(1) * * *

(5) The date of the Commission's suspension of unlisted trading privileges in the security on the exchange;

(6) Any other information which is deemed pertinent to the question of whether the reinstatement of unlisted trading privileges in such security is consistent with the maintenance of fair and orderly markets and the protection of investors; and

* * * * *

3. Section 240.12f–2 is revised to read as follows:

§ 240.12f–2 Extending unlisted trading privileges to a security that is the subject of an initial public offering.

(a) *General Provision*—A national securities exchange may extend unlisted trading privileges to a subject security on or after such national securities exchange opens for trading on the day that follows the day on which the initial public offering of such subject security commences.

(b) The extension of unlisted trading privileges pursuant to this section shall be subject to all the provisions set forth in Section 12(f) of the Act (15 U.S.C. 78*l*(f)), as amended, and any rule or regulation promulgated thereunder, or which may be promulgated thereunder while the extension is in effect.

(c) *Definitions.* For the purposes of this section:

(1) The term *subject security* shall mean a security that is the subject of an initial public offering, as that term is defined in section 12(f)(1)(G)(i) of the Act (15 U.S.C. 78l(f)(1)(G)(i)), and

(2) An *initial public offering commences* at such time as is described in section 12(f)(1)(G)(ii) of the Act (15 U.S.C. 78l(f)(*1*)(G)(ii)).

4. Section 240.12f–3 is amended by revising paragraph (b) to read as follows:

§ 240.12f–3. Termination or suspension of unlisted trading privileges.

* * * * *

(b) Unlisted trading privileges in any security on any national securities exchange may be suspended or terminated by such exchange in accordance with its rules.

5. Section 240.12f–5 is added to read as follows:

§ 240.12f–5 Exchange rules for securities to which unlisted trading privileges are extended.

A national securities exchange shall not extend unlisted trading privileges to any security unless the national securities exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends unlisted trading privileges.

6. Section 240.12f–6 is removed and reserved.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

7. The authority citation for Part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted;

* * * * *

§§ 249.27 and 248.28 [Removed]

8. Sections 249.27 and 248.28 are removed.

[46] Section 12(f)(1)(C), as amended, 15 U.S.C. 78*l*(f)(1)(C).

Dated: April 21, 1995.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10487 Filed 4–27–95; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 210 and 211

[Docket No. 88N–0320]

Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Holding of Drugs; Revision of Certain Labeling Controls; Partial Extension of Compliance Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; partial extension of compliance date.

SUMMARY: The Food and Drug Administration (FDA) is announcing a continuation of the partial extension of the compliance date for a provision of the final rule, which was published in the **Federal Register** of August 3, 1993 (58 FR 41348). The document revised the current good manufacturing practice (CGMP) regulations for certain labeling control provisions. In the **Federal Register** of August 2, 1994 (59 FR 39255), FDA partially extended the compliance date for a provision of the regulation to August 3, 1995, and requested comments on the scope of this provision. The agency is further extending the compliance date to August 2, 1996. FDA is taking this action in order to adequately assess comments received on the scope of a particular provision of that rule.

DATES: The final rule published at 58 FR 41348, August 3, 1993, is effective August 3, 1994. The date for compliance with § 211.122(g) for items of labeling (other than immediate container labels) is extended to August 2, 1996. The date of compliance for all other provisions of the final rule remains August 3, 1994.

FOR FURTHER INFORMATION CONTACT:

Thomas C. Kuchenberg, Center for Drug Evaluation and Research (HFD–362), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1046, or

Paul J. Motise, Center for Drug Evaluation and Research (HFD–323), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1089.

SUPPLEMENTARY INFORMATION:

In the **Federal Register** of August 3, 1993 (58 FR 41348), FDA published a final rule that amended the CGMP regulations to require that certain special control procedures be instituted if cut labeling is used. One of these procedures requires the use of ''appropriate electronic or electromechanical equipment to conduct a 100-percent examination for correct labeling during or after completion of finishing operations'' (§ 211.122(g)(2)).

On May 4, 1994, FDA received a citizen petition from five trade associations requesting that the agency take a number of actions including, but not limited to, extending the August 3, 1994, effective date of this rule as it applies to labeling (other than the immediate container labels) as defined in section 201(m) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(m)). The petition stated that additional time was needed because of the unavailability of bar code or machine readers as well as other equipment necessary to orient the labeling codes properly, and requested that FDA reopen its administrative record to reassess the scope of a certain provision of the regulation, as discussed below in this document.

On May 6, 1994, the agency received an additional petition from a trade association that requested, among other things, a 1-year stay of the effective date; the petitioner stated that additional time was needed to locate, install, and validate scanning equipment and other necessary equipment to orient items properly for bar code scanning.

Appropriate electronic or electromechanical equipment primarily consists of systems that scan identity codes printed on labeling. If an incorrect code is detected, the defective labeling is ejected from the labeling line. FDA contacted vendors of this equipment and determined that while there was not a general shortage of system hardware, there was a possible shortage of contract engineering firms employed by some drug manufacturers to evaluate, select, purchase, install, qualify, and validate labeling verification systems.

In response to this situation, FDA extended the compliance date of § 211.122(g) as it applied to items of labeling (other than the immediate container label) to assess further the availability of equipment necessary for compliance with the final rule and to evaluate adequately other issues raised by petitioners.

The first petition also requested that the agency reopen the administrative record to receive additional comments on the application of § 211.122(g) to items of labeling (other than that of the immediate container label) as defined in section 201(m) of the act. Both citizen petitions contended that § 211.122(g) expanded the proposed scope of the provision from immediate container labels to all drug product labeling.

In response to the issues raised, FDA agreed to receive comments on this issue and to evaluate those comments in light of the existing language of § 211.122(g). The comment period ended on October 4, 1994, and since that time FDA has had a number of meetings with representatives of the labeling industry and others to determine control options available through current technology and to evaluate this information in light of comments received during the extended comment period.

In order to adequately assess this information, determine whether any possible revision of the regulation should result, and provide industry adequate time to fully comply with a final regulation, FDA is extending the compliance date of § 211.122(g) as its applies to items of labeling other than the immediate container label to August 2, 1996. Should FDA determine, after completing its assessment of the comments, that § 211.122(g) should be retained in its current state or revised, FDA will provide notice of that decision in a future issue of the **Federal Register**. The compliance date for the remainder of § 211.122, including § 211.122(g) as it applies to immediate container labels, was August 3, 1994. The agency emphasizes, however, that § 211.125 makes a waiver of labeling reconciliation conditional on a 100-percent examination for correct labeling performed in accordance with § 211.122(g)(2).

Dated: April 24, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–10461 Filed 4–27–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 310

[Docket No. 77N–334S]

RIN 0905–AA06

Topical Drug Products for Over-the-Counter Human Use; Products for the Prevention of Swimmer's Ear and for the Drying of Water-Clogged Ears; Final Rule; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of February 15, 1995 (60 FR 8916). The document established that any over-the-counter (OTC) drug product for the prevention of swimmer's ear or for the drying of water-clogged ears is not generally recognized as safe and effective and is misbranded. The document was published with a typographical error in the codified section. This document corrects that error.

EFFECTIVE DATE: August 15, 1995.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5000.

In FR Doc. 95–3803, appearing on page 8916, in the **Federal Register** of Wednesday, February 15, 1995, the following correction is made:

§ 310.545 [Corrected]

1. On page 8920, in the third column, under § 310.545, in paragraph (d)(1), in lines 2 and 3, ''(a)(1) through (a)(2)(i), (a)(3) through (a)(4)'' is corrected to read ''(a)(1) through (a)(4)''.

Dated: April 24, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–10542 Filed 4–27–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8594]

RIN 1545–AS97

Losses on Small Business Stock

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations amending regulations under section 1244 relating to losses on small business stock. The final regulations remove the requirement that a taxpayer claiming a section 1244 ordinary loss file an information statement with the taxpayer's income tax return.

DATES: These regulations are effective April 27, 1995.

For dates of applicability of these regulations, see ''Effective Date'' under **SUPPLEMENTARY INFORMATION** portion of preamble.

FOR FURTHER INFORMATION CONTACT: Kirsten L. Simpson, (202) 622–7790 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 1545–1447. The estimated annual burden per recordkeeper varies from .10 hours to .30 hours, depending on individual circumstances, with an estimated average of .20 hours.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, PC:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Background

On November 15, 1994, a notice of proposed rulemaking (CO–46–94), amending regulations under section 1244 of the Internal Revenue Code relating to losses on small business stock, was published in the **Federal Register** (59 FR 58800). No public hearing was requested or held.

One written comment responding to the notice was received. The comment was favorable. The regulations proposed by CO–46–94 are adopted without revision by this Treasury decision.

Explanation of Provision

Section 1.1244(e)–1(b) of the Income Tax Regulations is revised to eliminate the requirement that a taxpayer file an information statement with the taxpayer's income tax return. However, because a taxpayer who claims an ordinary loss under section 1244 still bears the burden of establishing that the deduction is proper, § 1.1244(e)–1(b) is revised to state that a person who claims an ordinary loss with respect to stock under section 1244 must have records sufficient to establish that the taxpayer is entitled to the loss and satisfies the requirements of section 1244.

Effective Date

These regulations are effective for open taxable years beginning after December 31, 1953, the effective date of Treasury Decision 6495, which prescribed regulations under section 1244.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Kirsten L. Simpson, Office of Assistant Chief Counsel (Corporate), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * * Section 1.1244(e)–1 also issued under 26 U.S.C. 1244(e). * * *

Par. 2. Section 1.1244(e)–1 is amended as follows:

1. The section heading is revised.
2. In paragraph (a)(1), the reference in the second sentence to ''paragraph (c)(2) of § 1.1244(c)–2'' is removed and ''§ 1.1244(c)–2(b)(2)'' is added in its place.
3. Paragraph (b) is revised.

The revisions read as follows:

§ 1.1244(e)–1 Records to be kept.

* * * * *

(b) *By the taxpayer.* A person who claims an ordinary loss with respect to

stock under section 1244 must have records sufficient to establish that the taxpayer is entitled to the loss and satisfies the requirements of section 1244. See also section 6001, requiring records to be maintained.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. In § 602.101, paragraph (c) is amended by revising the entry in the table for § 1.1244(e)–1 to read as follows:

1.1244(e)–1	1545–0123 1545–1447

Margaret Milner Richardson,

Commissioner of the Internal Revenue.

Dated: March 27, 1995.

Leslie Samuels,

Assistant Secretary for the Treasury.

[FR Doc. 95–10424 Filed 4–27–95; 8:45 am]

BILLING CODE 4830–01–U

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26 CFR Part 301

[TD 8595]

RIN 1545–AI24

Payment of Internal Revenue Tax by Check or Money Order and Liability of Financial Institutions for Unpaid Taxes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations regarding payments with respect to internal revenue taxes and internal revenue stamps by check or money order. Changes to the applicable tax law were made by the Tax Reform Act of 1984 (TRA). The amendments, which are intended to conform the regulations to the change in the statute, apply to persons making payments with respect to internal revenue taxes or stamps by check or money order and to financial institutions that issue or guarantee payment of checks or money orders.

EFFECTIVE DATE: August 19, 1994.

FOR FURTHER INFORMATION CONTACT: Robert A. Walker, 202–622–3640 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

These final regulations contain changes to § 301.6311–1 to reflect amendments made to section 6311 by section 448(a) of the Tax Reform Act of 1984, Pub. L. 98–369 (TRA). The IRS published a notice of proposed rulemaking in the **Federal Register** on August 22, 1994, (59 FR 43073) providing proposed rules under section 6311 of the Internal Revenue Code (Code). No public comments were received, and the final regulations are identical to the proposed regulations.

Explanation of Provisions

Section 6311(a) of the Code provides that the IRS may receive for internal revenue taxes, or in payment for internal revenue stamps, checks or money orders, to the extent and under the conditions specified in the regulations. The regulations relating to payment by check refer only to checks drawn on a domestic bank or trust company.

If money orders or certain kinds of checks tendered in payment are not duly paid, then section 6311(b)(2) provides the United States with a lien against all the assets of the drawee or issuer for the amount of the check or money order. Before its amendment, this rule applied, in the case of checks, only with respect to certified, treasurer's or cashier's checks drawn on a bank or trust company. Section 448(a) of TRA expanded section 6311(b)(2) to include guaranteed drafts drawn on financial institutions other than banks and trust companies.

The amendments to the regulations reflect the TRA change and clarify that payment may be made by check or draft drawn on any domestic financial institution. In addition, the regulations provide a definition of ''financial institution.'' Since the Bureau of Alcohol, Tobacco, and Firearms has issued, under 27 CFR, its own separate regulations governing payment by check or money order, provisions of these regulations referring to the Bureau of Alcohol, Tobacco, and Firearms have been removed.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these final regulations is Robert A. Walker, Office of Assistant Chief Counsel (General Litigation). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 301.6311–1 is amended by:

1. Revising the first, second, and last sentences of paragraph (a)(1)(i).
2. Revising paragraph (a)(2).
3. Removing paragraph (a)(3).
4. Revising paragraph (b).
5. Adding paragraphs (d) and (e).

The additions and revisions read as follows:

§ 301.6311–1 Payment by check or money order.

(a) * * *

(1) * * *

(i) District directors, Service Center directors, and Compliance Center directors (director) may accept checks or drafts drawn on any financial institution incorporated under the laws of the United States or under the laws of any State, the District of Columbia, or any possession of the United States, or money orders in payment for internal revenue taxes, provided the checks, drafts, or money orders are collectible in United States currency at par, and subject to the further provisions contained in this section. The director may accept the checks, drafts, or money orders in payment for internal revenue stamps to the extent and under the conditions prescribed in paragraph (a)(2) of this section. * * * However, the director may refuse to accept any personal check whenever he or she has good reason to believe that such check will not be honored upon presentment.

* * * * *

(2) *Payment for internal revenue stamps.* The director may accept checks, drafts, and money orders described in paragraph (a)(1) of this section in payment for internal revenue stamps. However, the director may refuse to accept any personal check whenever he or she has good reason to believe that such check will not be honored upon presentment.

(b) *Checks or money orders not paid*—(1) *Ultimate liability.* The person who tenders any check (whether certified or uncertified, cashier's, treasurer's, or other form of check or draft) or money order in payment for taxes or stamps is not released from his or her liability until the check, draft, or money order is paid; and, if the check, draft, or money order is not duly paid, the person shall also be liable for all legal penalties and additions, to the same extent as if such check, draft, or money order had not been tendered.

(2) *Liability of financial institutions and others.* If any certified, treasurer's, or cashier's check, or other guaranteed draft, or money order, is not duly paid, the United States shall have a lien for the amount of such check or draft upon all assets of the financial institution on which drawn, or for the amount of such money order upon the assets of the issuer thereof. The unpaid amount shall be paid out of such assets in preference to any other claims against such financial institution or issuer except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution. In addition, the Government has the right to exact payment from the person required to make the payment.

* * * * *

(d) *Financial institution.* For purposes of section 6311 and this section, *financial institution* includes but is not limited to—

(1) A bank or trust company (as defined in section 581);

(2) A domestic building and loan association (as defined in section 7701(a)(19));

(3) A mutual savings bank (including but not limited to a mutual savings bank as defined in section 591(b));

(4) A credit union (including both state and federal credit unions, and including but not limited to a credit union as defined in section 501(c)(14)); and

(5) A regulated investment company (as defined in section 851(a)).

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: April 5, 1995.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 95–10410 Filed 4–27–95; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 4 and 116

[CGD 91–063]

RIN 2115–AE15

Alteration of Obstructive Bridges

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the regulations which set out and describe the procedures for determining whether a bridge unreasonably obstructs the free navigation of navigable waters of the United States and, if it does, the procedures for ordering its alteration under the Truman-Hobbs Act, the Bridge Act of 1906, or the Rivers and Harbors Appropriation Act of 1899. The amendments clarify and provide additional details to the description of these procedures.

DATES: This rule becomes effective on May 30, 1995.

ADDRESSES: Documents referenced in this preamble are available for inspection and copying at the office of the Executive Secretary, Marine Safety Council, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, Room 3406, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477 for more information.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Tyssens, Alterations, Drawbridges, and Systems Branch (G-NBR–1), at (202) 267–0376.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Mr. Larry R. Tyssens, Project Manager, Office of Navigation Safety and Waterway Services, and LT Rachel Goldberg, Project Counsel, Office of the Chief Counsel.

Regulatory History

On March 22, 1994, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled ''Alteration of Obstructive Bridges'' in the **Federal Register** (59 FR 13588). Opportunity for comment on the proposal was provided until May 23, 1994.

Discussion of Comments and Changes

Four letters were received in response to the NPRM. Two of the comments were submitted by railroad trade associations, one by a private individual, and one comment was from the U.S. Department of Interior.

The Department of Interior reminded the Coast Guard that in the process of ordering the alteration of unreasonably obstructive bridges, the Coast Guard must comply with the requirements of section 4(f) of the Department of Transportation Act and section 106 of the National Historic Preservation Act. Interior also commented that the Coast Guard should take into consideration the implementation of section 147 of the Federal Aid Highway Act of 1976 (Pub. L. 94–280). Section 4(f) of the Department of Transportation Act ensures that Department of Transportation agencies, including the Coast Guard, make a special effort to preserve the natural beauty of public lands and parks. The act includes a requirement for an agency determination that every project undertaken does not adversely impact these lands unless no feasible alternative exists and that any harm which may result is minimized. The Coast Guard has procedures to ensure compliance with this requirement. Internal Coast Guard instructions, found in Chapter 2 of the *Bridge Administration Manual* (COMDTINST M16590.5A), detail the procedures to be followed by a District Commander to determine if a bridge alteration will result in any impact on 4(f) property and, if such impact is anticipated, procedures for evaluating the planned impact and consideration of alternatives.

Section 106 of the National Historic Preservation Act (16 U.S.C. 470) requires that Federal agencies identify and help preserve historic and cultural resources. To meet this requirement, internal Coast Guard instructions, also detailed in Chapter 2 of the *Bridge Administration Manual*, require a Coast Guard official to review the National Register of Historic Places to determine if any listed properties are within one-half mile of an alteration project. If there are any listed properties in the area, the Coast Guard must document any effects on such property and prepare an Environmental Impact Statement if one is warranted. In the development of any

bridge project, the Coast Guard also works closely with state and national agencies with expertise in historic resources. In addition, if an alteration project will affect Indian lands, the Coast Guard will invite the governing body of the Indian tribe to be a consulting party and to concur in any decision.

In regard to Interior's suggestion as to the implementation of Section 147 of the Federal Aid Highway Act of 1976 (Pub. L. 94–280), the Coast Guard has a memorandum of understanding with the Federal Highway Administration (FHWA) concerning the preparation of environmental documents. Through this agreement, the Coast Guard and the FHWA have agreed that when a highway section requires an action by both FHWA and Coast Guard, the FHWA will normally serve as the lead agency for the preparation and processing of environmental documents.

A comment was received from a publisher of marine education textbooks who objected to proposed § 116.10 on the grounds that it is permissive in nature and fails to require the District Commander to review files, or to conduct an investigation relative to a formal complaint that a bridge unreasonably obstructs navigation. Coast Guard policy is to place requirements on its District Commanders in internal directives, such as Commandant Instructions and program manuals, and not in the Code of Federal Regulations. The procedures for the District Commander's Preliminary Review of a written complaint, including a mandatory requirement that a District Commander conduct a Preliminary Review any time a written complaint is received, are contained in Chapter 6 of the *Bridge Administration Manual*. Section 116.10 of the final rule now describes the procedures a District Commander will use to review any written complaint received about a bridge.

Two comments were also received from railroad trade associations. One of the association's member railroads operates 75 percent of the line-haul mileage, employs 89 percent of the workers, accounts for 91 percent of the freight revenue of all railroads in the United States, and operates almost all of the nation's inter-city passenger trains. The other is a national association of railroad professionals involved in the construction and maintenance of railroad bridges. Both of these comments objected to the omission in the proposed rule of language, found in the bridge statutes and the previous codification of part 116, that the Coast Guard consider the needs of rail and highway traffic, as well as the needs of navigation, in determining what alterations to a bridge must be undertaken by the bridge owner. The Coast Guard agrees with the comments. This language appears in the final rule in § 116.01(e)(1).

The comment from the trade association representing railroad professionals involved in the construction and maintenance of railroad bridges also expressed concern with the language of proposed § 116.20(b). The association raised the issue of the railroad bridge owner's responsibility to totally fund alterations if the railroad bridge does not meet the benefit/cost ratio criteria used to determine eligibility for funding under the Truman-Hobbs Act. Using a benefit/cost ratio to determine eligibility for Truman-Hobbs funding and as justification before Congress for this funding is not new. It is contained in the *Bridge Administration Manual* and is now being mentioned in 33 CFR 116.30 for purposes of clarification. Before a bridge alteration is ordered and funded under the Truman-Hobbs Act, a thorough study and analysis relevant to the unreasonableness of the bridge in question must be undertaken. The study must clearly demonstrate that the navigational benefits which would accrue as a result of the alteration would at least equal the cost of the alteration and, therefore, warrant such a public expenditure for an Order to Alter to be issued. If a bridge falling under the auspices of the Truman-Hobbs Act is statutorily declared to be an unreasonable obstruction to navigation, an Order to Alter will be issued whether the bridge meets the benefit/cost ratio criteria or not. The United States will pay a proportionate share of the cost of the alterations.

The Coast Guard is also making a number of changes in wording to the final rule as a result of its internal review and input from the bridge program's field and Headquarters personnel in response to the NPRM. These changes are not substantive. They merely clarify, reword, and provide additional details of the Coast Guard's procedures and are discussed below.

Section 116.01 has been expanded from the NPRM to provide an introduction and overview of the process the Coast Guard uses to determine whether a bridge is an unreasonable obstruction to navigation and, if it is, the process leading up to the issuance of an Order to Alter. The differences in the process between railroad or publicly owned highway bridges which are covered by the Truman-Hobbs Act (33 U.S.C. 511 *et. seq.*), and all other bridges are highlighted. Additionally, the note referring the public to chapter 6 of the *Bridge Administration Manual*, COMDTINST M16590.5A, has been deleted.

The contents of proposed § 116.05 remains the same, but the section was reworded to make it clear that the Coast Guard only has authority to alter bridges over navigable waters of the United States.

The subject matter discussed in proposed § 116.10, *Preliminary Review*, has been separated into two separate sections in the final rule, § 116.10 *Preliminary Review*, and § 116.15 *Preliminary Investigation*. Section 116.10 of the final rule now discusses in greater detail the type of information used, and procedures followed, by a District Commander during the Preliminary Review stage. Section 116.15 of the final rule now more clearly sets out the type of information which will be gathered by the District Commander during a Preliminary Investigation as well as the procedures used to decide whether the investigation goes forward.

A new § 116.20, *Detailed Investigation*, has been added to the final rule to explain this phase of a Coast Guard investigation conducted by a District Commander. This section sets out the type of information examined at the Detailed Investigation stage and procedures followed to determine if an Order to Alter should be issued. The section expands upon the more general guidance which was contained in paragraph (a) of proposed § 116.25.

Proposed § 116.15, *Public hearings*, has been expanded to provide greater detail concerning the public hearing and appears in the final rule as § 116.25. This section now clearly states that a public hearing takes place both as part of an internal Coast Guard investigation to determine if a bridge unreasonably obstructs navigation, and when there has been a Congressional determination that a bridge is unreasonably obstructive, to determine what alterations to the bridge are necessary.

A new § 116.30, *Chief, Bridge Administration Division Review and Evaluation*, has also been added to describe the information used by the Chief, Bridge Administration Division in making a final determination of whether a bridge unreasonably obstructs navigation and, if so (or in the case of a bridge declared unreasonably obstructive by Congress), what alterations will be required. Language from proposed § 116.20, discussing the navigational benefit/cost ratio prepared by the Coast Guard, has been

incorporated into this section. This benefit/cost ratio is calculated to document the economic feasibility of an alteration under the Truman-Hobbs Act. The section also includes information about the ''60-Day Letter'' the Coast Guard issues to provide notice and opportunity for a bridge owner to request reevaluation, prior to the issuance of an Order to Alter, of the determination that a bridge is an unreasonable obstruction to navigation or of the required alterations to the bridge.

The Order to Alter which was discussed in the NPRM in proposed § 116.25 is discussed in the final rule in § 116.35. As a result of this change, paragraphs (b) and (d) of proposed § 116.25 are in § 116.35 of the final rule. Paragraph (c) of proposed § 116.25, which discussed service of the Order to Alter has been deleted as unnecessary. No special service procedures are needed. The requirements for an equitable contribution for alterations with non-navigational effects as a prerequisite to the issuance of an Order to Alter, which in the proposed rule was in the section concerning apportionment of costs, proposed § 116.35, has been moved to paragraph (c) of § 116.35 in the final rule as well.

Minor editorial changes were made to proposed § 116.30, *Plans and specifications,* which has been renumbered as § 116.40 in the final rule; proposed § 116.35, *Apportionment of cost under the Truman-Hobbs Act,* which has been renumbered as § 116.50; and proposed § 116.40, *Submission of bids, approval of award, guaranty of cost, and partial payments for bridges eligible to be altered under the Truman-Hobbs Act,* which has been renumbered as § 116.45 in the final rule. These sections have been reworded and renumbered to clarify that the procedures in these sections only apply to bridges being altered under the Truman-Hobbs Act. The order of the sections describing the apportionment of costs and submission of bids, proposed § 116.35 and § 116.40, respectively, was changed to properly reflect the order of events during a bridge alteration project.

Proposed § 116.45, *Appeals,* now appears as § 116.55 with the clarification that the decision to issue an Order to Alter can not be appealed through the administrative process. This clarification was made because issuing the Order constitutes final agency action.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significantunder the ''Department of Transportation Regulatory Policies and Procedures'' (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rulemaking to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures is unnecessary. This rulemaking is intended to revise the regulations which describe the administrative process used to declare and order the alteration of unreasonably obstructive bridges. There is no new expense to the general public. On average, the Coast Guard orders one bridge to be altered under the Truman-Hobbs Act a year, and orders one alteration of a bridge under the Bridge Act of 1906 every thirty years.

Small Entities

This rulemaking is intended to clarify the circumstances under which a bridge may be declared unreasonably obstructive and the procedures taken to affect changes allowing the reasonably unimpeded passage of navigation. It imposes no special expense on small entities. Small entities may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. Therefore, because it expects the economic impact of this final rule to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*) that this will not have a significant economic impact on a substantial number of small entities. On average, the Coast Guard orders one bridge to be altered under the Truman-Hobbs Act a year, and orders one alteration of a bridge under the Bridge Act of 1906 every thirty years.

Collection of Information

This rule contains collection of information requirements. The Coast Guard has submitted the requirements to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*), and OMB approved them. The part number is part 116, and the corresponding OMB approval number is OMB Control Number 2115–0614.

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rulemaking and concluded that under section 2.B.2. of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994), this final rule is categorically excluded from further environmental documentation because it is a Bridge Administration Program action involving the promulgation of procedures, process, and guidance for alteration of unreasonably obstructive bridges. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects

33 CFR Part 4

Coast Guard, Reporting requirements.

33 CFR Part 116

Bridges, Coast Guard.

For the reasons set out in the preamble, the Coast Guard is amending parts 4 and 116 of Title 33, Code of Federal Regulations, as follows:

PART 4—[AMENDED]

1. The authority citation for part 4 continues to read as follows:

Authority: 44 U.S.C. 3507; 49 CFR 1.45(a).

2. The table in § 4.02 is amended by adding, in the appropriate columns, between the entries for ''Part 115'' and ''Part 125'', an entry for Part 116 to read as follows:

§ 4.02 Display.

33 CFR part or section where identified and described	Current OMB control No.
* * * * *	
Part 116	2115–0614
* * * * *	

3. Part 116 is revised to read as follows:

PART 116—ALTERATION OF UNREASONABLY OBSTRUCTIVE BRIDGES

Sec.
116.01 General.
116.05 Complaints.
116.10 Preliminary review.

116.15 Preliminary investigation.
116.20 Detailed investigation.
116.25 Public hearings.
116.30 Chief, Bridge Administration Division review and evaluation.
116.35 Order to Alter.
116.40 Plans and specifications under the Truman-Hobbs Act.
116.45 Submission of bids, approval of award, guaranty of cost, and partial payments for bridges eligible for funding under the Truman-Hobbs Act.
116.50 Apportionment of costs under the Truman-Hobbs Act.
116.55 Appeals.

Authority: 33 U.S.C. 401, 521; 49 U.S.C. 1655(g); 49 CFR 1.4, 1.46(c).

§ 116.01 General.

(a) All bridges are obstructions to navigation and are tolerated only as long as they serve the needs of land transportation while allowing for the reasonable needs of navigation.

(b) This part describes the general procedures by which the U.S. Coast Guard determines a bridge to be an unreasonable obstruction to navigation and issues an Order to Alter under the authority of the following statutes, as appropriate: Section 18 of the Rivers and Harbors Appropriations Act of 1899, 33 U.S.C. 502; Section 4 of the Bridge Act of 1906, 33 U.S.C. 494; or the Truman-Hobbs Act of 1940, as amended, 33 U.S.C. 511–524.

(c) A bridge constructed across a navigable water of the United States shall not unreasonably obstruct the free navigation of the water over which it was constructed, either due to insufficient height or width of the navigation span, or because of difficulty in passing through the draw opening. If any bridge unreasonably obstructs navigation, the Commandant, U.S. Coast Guard, will order the alteration of that bridge. Alterations may include structural changes, replacement, or removal of the bridge.

(d) Whenever the Coast Guard has good reason to believe that a bridge across any of the navigable waters of the United States is an unreasonable obstruction to navigation, the Coast Guard will give notice to the owner of the bridge and other interested parties, and hold a public hearing at which the interested parties will have a full opportunity to be heard and to offer evidence on the question of whether alterations to the bridge are necessary and, if so, the extent of alterations needed.

(e) If the Coast Guard determines that alterations to a bridge are necessary, the Commandant, U.S. Coast Guard, will issue to the bridge owner an Order to Alter containing details of the alterations necessary to render navigation through or under the bridge reasonably free, easy, and unobstructed.

(1) In the case of a railroad or publicly owned highway bridge, an Order to Alter is issued to the bridge owner under the provisions of the Truman-Hobbs Act (33 U.S.C. 511 *et seq.*). In ordering these alterations, the Coast Guard will give due regard to the necessities of free and unobstructed navigation and of rail and highway traffic. For alterations to bridges governed by the Truman-Hobbs Act, the Coast Guard must approve general plans, specifications, and contracts for the alteration project, as well as approving the apportionment of the total cost of the alterations between the United States and the bridge owner.

(2) For all other bridges, the Order to Alter will contain the required alterations for the bridge and will prescribe a reasonable time in which to accomplish the required alterations. The bridge owner is responsible for the entire cost of the required alterations.

§ 116.05 Complaints.

Any person, company, or other entity may submit to the District Commander of the Coast Guard district in which a bridge over a navigable water of the United States is located, a complaint that a bridge unreasonably obstructs navigation. The complaint must be in writing and include specific details to support the allegation.

§ 116.10 Preliminary review.

(a) Upon receipt of a written complaint, the District Commander will review the complaint to determine if, in the District Commander's opinion, the complaint is justified and whether a Preliminary Investigation is warranted.

(1) The District Commander's opinion as to whether or not the complaint warrants a Preliminary Investigation will be formed through informal discussions with the complainant, users of the affected waterway, the owner of the bridge, and other interested parties.

(2) In forming an opinion, the District Commander may also review the district files, records of accidents, and details of any additional written complaints associated with the bridge in question.

(b) In the absence of any written complaint, the District Commander may decide, based on a bridge's accident history or other criteria, to conduct a Preliminary Investigation.

(c) The District Commander will inform the complainant and the Chief, Bridge Administration Division of the determination of any Preliminary Review. If the District Commander decides that the bridge in question is not an unreasonable obstruction to navigation, the complainant will be provided with a brief summary of the information on which the District Commander based the decision and will be informed of the appeal process described in § 116.55. There will be no further investigation, unless additional information warrants a continuance or reopening of the case.

§ 116.15 Preliminary investigation.

(a) During the Preliminary Investigation, the District Commander will prepare a written report containing all pertinent information and submit the report, together with a recommendation for or against the necessity of a Detailed Investigation, to the Chief, Bridge Administration Division.

(b) The Preliminary Investigation Report will include a description of the nature and extent of the obstruction, the alterations to the bridge believed necessary to meet the reasonable needs of existing and future navigation, the type and volume of waterway traffic, and a calculation of the benefits to navigation which would result from the proposed bridge alterations.

(c) The Chief, Bridge Administration Division will review the Preliminary Investigation Report and make a Preliminary Decision whether or not to undertake a Detailed Investigation and a Public Hearing.

(d) If after reviewing the Preliminary Investigation Report, the Chief, Bridge Administration Division decides that further investigation is not warranted, the complainant will be notified of the decision. This notification will include a brief summary of information on which the decision was based and details of the appeal process described in § 116.55.

§ 116.20 Detailed investigation.

(a) When the Chief, Bridge Administration Division determines that a Detailed Investigation should be conducted, the District Commander will initiate an investigation that addresses all of the pertinent data regarding the bridge, including information obtained at a public hearing held under § 116.25. As part of the investigation, the District Commander will develop a comprehensive report, termed the ''Detailed Investigation Report'', which will discuss: the obstructive character of the bridge in question; the impact of that bridge upon navigation; navigational benefits derived; whether an alteration is needed to meet the needs of navigation; and, if alteration is recommended, what type.

(b) The District Commander will forward the completed Detailed Investigation Report to the Chief, Bridge

Administration Division for review together with a recommendation of whether the bridge should be declared an unreasonable obstruction to navigation and, if so, whether an Order to Alter should be issued.

§ 116.25 Public hearings.

(a) Any time the Chief, Bridge Administration Division determines that a Detailed Investigation is warranted, or when Congress declares a bridge unreasonably obstructive, the District Commander will hold a public hearing near the location of the bridge to provide the bridge owner, waterway users, and other interested parties the opportunity to offer evidence and be heard, orally or in writing, as to whether any alterations are necessary to provide reasonably free, safe, and unobstructed passage for waterborne traffic. The District Commander will issue a public notice announcing the public hearing stating the time, date, and place of the hearing.

(b) When a bridge is statutorily determined to be an unreasonable obstruction, the scope of the hearing will be to determine what navigation clearances are needed.

(c) In all other cases, the scope of the hearing will be to address issues bearing on the question of whether the bridge is an unreasonable obstruction to navigation and, if so, what alterations are needed.

(d) The hearing will be recorded. Copies of the public hearing transcript will be available for purchase from the recording service.

§ 116.30 Chief, Bridge Administration Division Review and Evaluation.

(a) Upon receiving a Detailed Investigation Report from a District Commander, the Chief, Bridge Administration Division will review all the information and make a final determination of whether or not the bridge is an unreasonable obstruction to navigation and, if so, whether to issue an Order to Alter. This determination will be accompanied by a supporting written Decision Analysis which will include a Benefit/Cost Analysis, including calculation of a Benefit/Cost Ratio.

(b) The Benefit/Cost ratio is calculated by dividing the annualized navigation benefit of the proposed bridge alteration by the annualized government share of the cost of the alteration.

(c) Except for a bridge which is statutorily determined to be an unreasonable obstruction, an Order to Alter will not be issued under the Truman-Hobbs Act unless the ratio is at least 1:1.

(d) If a bridge is statutorily determined to unreasonably obstruct navigation, the Chief, Bridge Administration Division will prepare a Decision Analysis to document and provide details of the required vertical and horizontal clearances and the reasons alterations are necessary.

(e) If the Chief, Bridge Administration Division decides to recommend that the Commandant issue an Order to Alter, or a bridge is statutorily determined to unreasonably obstruct navigation, the Chief, Bridge Administration Division will issue a letter to the bridge owner (''The 60-Day Letter'') at least 60 days before the Commandant issues an Order to Alter. This letter will contain the reasons an alteration is necessary, the proposed alteration, and, in the case of a Truman-Hobbs bridge, an estimate of the total project cost and the bridge owner's share.

(f) If the bridge owner does not agree with the terms proposed in the 60-Day Letter, the owner may request a reevaluation of the terms. The request for a reevaluation must be in writing, and identify the terms for which reevaluation is requested. The request may provide additional information not previously presented.

(g) Upon receipt of the bridge owner's response, the Chief, Bridge Administration Division will reevaluate the situation based on the additional information submitted by the bridge owner. If after the Chief, Bridge Administration Division reviews the determination, there is no change, the Commandant may issue an Order to Alter as set out in § 116.35. The Chief, Bridge Administration Division's determination based on the reevaluation will constitute final agency action.

§ 116.35 Order to Alter.

(a) If the bridge owner agrees with the contents of the 60-Day Letter, if no reply is received by 60 days after the issuance of the letter, or if after reevaluation a bridge is determined to be an unreasonable obstruction to navigation, the Commandant will issue an Order to Alter.

(1) If a bridge is eligible for funding under the Truman-Hobbs Act, the Order to Alter will specify the navigational clearances to be accomplished in order to meet the reasonable needs of navigation.

(2) An Order to Alter for a bridge that is not eligible for Truman-Hobbs funding will specify the navigational clearances that are required to meet the reasonable needs of navigation and will prescribe a reasonable time in which to accomplish them.

(b) If appropriate, the Order to Alter will be accompanied by a letter of special conditions setting forth safeguards needed to protect the environment or to provide for any special needs of navigation.

(c) If a proposed alteration to a bridge has desirable, non-navigational benefits, the Chief, Bridge Administration Division may require an equitable contribution from any interested person, firm, association, corporation, municipality, county, or state benefiting from the alteration as a prerequisite to the making of an Order to Alter for that alteration.

(d) Failure to comply with any Order to Alter issued under the provisions of this part will subject the owner or controller of the bridge to the penalties prescribed in 33 U.S.C. 495, 502, 519, or any other applicable provision.

§ 116.40 Plans and specifications under the Truman-Hobbs Act.

(a) After an Order to Alter has been issued to a bridge owner under the Truman-Hobbs Act, the Chief, Bridge Administration Division will issue a letter to the bridge owner outlining the owner's responsibilities to submit plans and specifications to the Chief, Bridge Administration Division for the alteration of the bridge. The plans and specifications, at a minimum, must provide for the clearances identified in the Order to Alter. The plans and specifications may also include any other additional alteration to the bridge that the owner considers desirable to meet the requirements of railroad or highway traffic. During the alteration process, balanced consideration shall be given to the needs of rail, highway, and marine traffic.

(b) The Chief, Bridge Administration Division will approve or reject the plans and specifications submitted by the bridge owner, in whole or in part, and may require the submission of new or additional plans and specifications.

(c) When Chief, Bridge Administration Division has approved the submitted plans and specifications, they are final and binding upon all parties, unless later changes are approved by the Chief, Bridge Administration Division. Any changes to the approved plans will be coordinated with the District Commander.

§ 116.45 Submission of bids, approval of award, guaranty of cost, and partial payments for bridges eligible for funding under the Truman-Hobbs Act.

(a) Once the plans and specifications for a bridge eligible for funding under the Truman-Hobbs Act have been

approved, the bridge owner must take bids for the alteration of the bridge consistent with the approved plans and specifications. Those bids must then be submitted to the Chief, Bridge Administration Division for approval.

(b) After the bridge owner submits the guaranty of cost required by 33 U.S.C. 515, the Chief, Bridge Administration Division authorizes the owner to award the contract.

(c) Partial payments of the government's costs are authorized as the work progresses to the extent that funds have been appropriated.

§ 116.50 Apportionment of costs under the Truman-Hobbs Act.

(a) In determining the apportionment of costs, the bridge owner must bear such part of the cost attributable to the direct and special benefits which will accrue to the bridge owner as a result of alteration to the bridge, including expected savings in repairs and maintenance, expected increased carrying capacity, costs attributable to the requirements of highway and railroad traffic, and actual capital costs of the used service life. The United States will bear the balance of the costs, including that part attributable to the necessities of navigation.

(b) ''Direct and special benefits'' ordinarily will include items desired by the owner but which have no counterpart or are of higher quality than similar items in the bridge prior to alteration. Examples include improved signal and fender systems, pro rata share of dismantling costs, and improvements included, but not required, in the interests of navigation.

(c) During the development of the Apportionment of Costs, the bridge owner will be provided with an opportunity to be heard. Proportionate shares of cost to be borne by the United States and the bridge owner are developed in substantially the following form:

Total cost of project _____ $_____
Less salvage _____ $_____
Less contribution by third party _____ $_____
Cost of alteration to be apportioned _____ $_____
Share to be borne by the bridge owner:
Direct and Special Benefits:
a. Removing old bridge _____ $_____
b. Fixed charges _____ $_____
c. Betterments _____ $_____
Expected savings in repair or maintenance costs:
a. Repair _____ $_____
b. Maintenance _____ $_____
Costs attributable to requirements of railroad and/or highway traffic _____ $_____
Expenditure for increased carrying capacity _____ $_____
Expired service life of old bridge _____ $_____
Subtotal _____ $_____
Share to be borne by the bridge owner _____ $_____
Contingencies _____ $_____
Total _____ $_____
Share to be borne by the United States _____ $_____
Contingencies _____ $_____
Total _____ $_____

(d) The Order of Apportionment of Costs will include the guaranty of costs.

§ 116.55 Appeals.

(a) Except for the decision to issue an Order to Alter, if a complainant disagrees with a recommendation regarding obstruction or eligibility made by a District Commander, or the Chief, Bridge Administration Division, the complainant may appeal that decision to the Chief, Office of Navigation Safety and Waterway Services.

(b) The appeal must be submitted in writing to the Chief, Office of Navigation Safety and Waterway Services, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, within 60 days after the District Commander's or the Chief's, Bridge Administration Division decision. The Chief, Office of Navigation Safety and Waterway Services will make a decision on the appeal within 90 days after receipt of the appeal. The Chief's, Office of Navigation Safety and Waterway Services decision of this appeal shall constitute final agency action.

(c) Any Order of Apportionment made or issued under section 6 of the Truman-Hobbs Act, 33 U.S.C. 516, may be reviewed by the Court of Appeals for any judicial circuit in which the bridge in question is wholly or partly located, if a petition for review is filed within 90 days after the date of issuance of the order. The review is described in section 10 of the Truman-Hobbs Act, 33 U.S.C. 520. The review proceedings do not operate as a stay of any order issued under the Truman-Hobbs Act, other than an order of apportionment, nor relieve any bridge owner of any liability or penalty under other provisions of that act.

Dated: April 20, 1995.

R.C. Houle,

Acting Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 95–10538 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–14–P

33 CFR Part 165

[CGD01–95–014]

RIN 2115–AA97

Safety Zone: Parade of Ships, Fleet Week '95, Port of New York and New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on May 24, 1995, for the Fleet Week '95 Parade of Ships. A moving safety zone is established 500 yards fore and aft, and 200 yards on each side of the designated column of vessels in this parade as it transits from the Verrazano Narrows Bridge to the George Washington Bridge on the Hudson River. As the vessels make their turns and proceed southbound in the Hudson River, the moving safety zone continues to encompass all waters within a 200 yard radius of each vessel until safely berthed.

EFFECTIVE DATE: This rule is effective from 9:30 a.m. until 4 p.m. on Wednesday, May 24, 1995, unless extended or terminated sooner by the Coast Guard Captain of the Port, New York.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) K. Messenger, Maritime Planning Staff Chief, Coast Guard Group, New York, (212) 668–7934.

SUPPLEMENTARY INFORMATION:

Drafting Information: The drafters of this notice are LTJG K. Messenger, Project Manager, Coast Guard Group New York and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

On March 16, 1995, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (60 FR 14246) concerning this regulatory action. Interested persons were requested to submit comments on or before April 17, 1995. No comments were received. A public hearing was not requested and one was not held. The proposed rule stated that the vessel column would transit from the Verrazano Narrows Bridge to the waters west of the 79th Street Boat Basin, Manhattan, New York. The Coast Guard has since determined that this would not be practical due to the assigned mooring and anchoring locations of the parade vessels. While the vessel column will transit approximately 8,300 yards north of the 79th Street Boat Basin, the parameters of the moving safety zone

around this column remain the same as published in the NPRM. The proposed rule also stated that the effective period would be from 8:45 a.m. until 3 p.m. Due to a change in the arrival time of the last parade vessel, the USS AMERICA, and the increase in the length of this parade, the effective period was changed.

The effective period of the safety zone will start at 9:30 a.m. instead of 8:45 a.m. and will continue until 4 p.m. instead of 3 p.m. The net result is that the effective period is a total of 15 minutes longer in duration than originally expected. The impact of these changes are minimal. The Captain of the Port, New York is promulgating the temporary final rule as proposed with the exception of these changes. Good cause exists for making this regulation effective less than 30 days after **Federal Register** publication. Due to the NPRM comment period deemed necessary to give the public adequate notice, there was insufficient time to publish this temporary final rule 30 days prior to the event. The delay that would be encountered to allow for a 30 day publication period would cause the cancellation of this event. Cancellation of this event is contrary to the public interest.

Background and Purpose

On March 1, 1995, the Intrepid Museum Foundation submitted a request to hold a parade of U.S. Coast Guard and U.S. and foreign naval ships through the Port of New York and New Jersey on May 24, 1995. This section will be effective from 9:30 a.m. until 4 p.m. on May 24, 1995, unless extended or terminated sooner by the Coast Guard Captain of the Port, New York. This section establishes a moving safety zone within all waters 500 yards forward of the lead parade vessel, 500 yards aft of the last parade vessel, and 200 yards to each side of the designated column as it transits north from the Verrazano Narrows Bridge to the George Washington Bridge, in the Hudson River. The vessels will then proceed to their berths. This section also provides for a moving safety zone in all waters within a 200 yard radius around each vessel from the time the vessel breaks off from the parade until it is safely moored. No vessel will be permitted to enter or move within these safety zones unless authorized by the Captain of the Port, New York.

This section is needed to protect the maritime public from possible hazards to navigation associated with a parade of naval vessels transiting the waters of New York Harbor in close proximity. These vessels have limited maneuverability and require a clear traffic lane in order to safely navigate.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. Although there is a regular flow of traffic through this area, there is not likely to be a significant impact on recreational or commercial traffic for several reasons. Due to the moving nature of the safety zone, no single location will be affected for a prolonged period of time. Therefore, commercial traffic should not be significantly delayed. Additionally, recreational traffic can transit the river on either side of the safety zone. Alternate routes are also available to commercial and recreational vessel traffic that can safely transit the Harlem and East Rivers, Kill Van Kull, Arthur Kill, and Buttermilk Channel. Similar safety zones have been established for the previous Fleet Week parades of ships with minimal or no disruption to vessel traffic or other interests in the port. In addition, extensive, advance advisories will be made to the maritime community so that they can adjust their plans accordingly. For all the above reasons, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons given in the Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, July 29, 1994, the promulgation of this regulation is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of the parade under the National Environmental Policy Act will be conducted in conjunction with the marine event permitting process.

List of Subjects in 33 CFR Part 165

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

Final Regulation

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

PART 165—[AMENDED]

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

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

2. A temporary § 165.T01–014 is added to read as follows:

§ 165.T01–014 Safety Zone; Parade of Ships, Fleet Week '95, Port of New York and New Jersey.

(a) *Location*. This moving safety zone includes all waters within 500 yards forward of the lead parade vessel, 500 yards aft of the last parade vessel, and 200 yards on each side of the designated column as it transits north from the Verrazano Narrows Bridge to the George Washington Bridge on the Hudson River. The moving safety zone continues to include 200 yards around each vessel

as it breaks from the parade formation and transits southbound in the Hudson River until safely berthed.

(b) *Effective period.* This section is effective from 9:30 a.m. until 4 p.m. on May 24, 1995, unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations.*

(1) The general regulations contained in 33 C.F.R. 165.23 apply to this safety zone.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: April 20, 1995.

J. Rutkovsky,

Commander, U.S. Coast Guard, Captain of the Port, New York Acting.

[FR Doc. 95–10536 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[Docket No. CGD01–95–023]

RIN 2115–AA97

Safety Zone: USS AMERICA, Fleet Week '95, Port of New York and New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a safety zone on May 24, 1995, and May 31, 1995, for the arrival and departure of the USS AMERICA for Fleet Week '95. This moving safety zone is established 500 yards fore and aft, and 200 yards on each side of the USS AMERICA as it transits the Port of New York and New Jersey between Ambrose Channel Lighted Whistle Buoy ''A'' and its berth at Pier 88, Manhattan, on the Hudson River.

EFFECTIVE DATE: This rule is effective on May 24, 1995, from 9:15 a.m. until 3 p.m., and on May 31, 1995, from 7:30 a.m. until 1 p.m., unless extended or terminated sooner by the Captian of the Port, New York.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) K. Messenger, Maritime Planning Staff Chief, Coast Guard Group, New York, (212) 668–7934.

SUPPLEMENTARY INFORMATION:

Drafting Information: The drafters of this notice are LTJG K. Messenger, Project Manager, Coast Guard Group New York and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

On March 16, 1995, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (60 FR 14242) concerning this regulatory action. Interested persons were requested to submit comments on or before April 17, 1995. No comments were received. A public hearing was not requested and one was not held. The NPRM stated that the safety zone would be in effect while the USS AMERICA transited to and from its berth at an unknown location. This location is now known to be Pier 88, Manhattan, in the Hudson River. The Coast Guard is promulgating this final rule as proposed with the exception of this addition. Good cause exists for making this regulation effective less than 30 days after **Federal Register** publication. Due to the NPRM comment period deemed necessary to give the public adequate notice, there was insufficient time to publish this temporary final rule 30 days prior to the event. The delay that would be encountered to allow for a 30 day publication period would cause the cancellation of this event.

Cancellation of this event is contrary to the public interest.

Background and Purpose

The Intrepid Museum Foundation is sponsoring Fleet Week '95. The USS AMERICA has been designated as the Fleet Week Flagship and will be entering the Port of New York and New Jersey on May 24, 1995, to participate in the various activities associated with this celebration. USS AMERICA intends to depart the Port of New York and New Jersey following the completion of Fleet Week on May 31, 1995. This regulation is effective during the arrival and departure of the USS AMERICA on May 24, 1995, from 9:15 a.m. until 3:00 p.m., and on May 31, 1995, from 7:30 a.m. until 1:00 p.m. unless extended or terminated sooner by the Coast Guard Captain of the Port, New York. The regulation establishes a moving safety zone within 500 yards fore and aft and 200 yards to each side of the USS AMERICA, as it transits the Port of New York and New Jersey between Ambrose Channel Lighted Whistle Buoy ''A'', at or near 40° 28.8′ N latitude, 73° 53.7′ W longitude, and its berth at Pier 88, Manhattan, on the Hudson River. No vessels are permitted to enter or move within this moving safety zone unless authorized by the Captain of the Port, New York.

This regulation is needed to protect the maritime public from possible hazards to navigation associated with a large naval vessel transiting the Port of New York and New Jersey with limited maneuverability in restricted waters, and requiring a clear traffic lane in order to safely navigate to and from its berth.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. Although there is a regular flow of traffic through this area, there is not likely to be a significant impact on recreational or commercial traffic for several reasons. Due to the moving nature of the safety zone, no single location will be affected for a prolonged period of time. This safety zone prevents vessels from approaching within 500 yards fore and aft and 200 yards on either side of the aircraft carrier USS AMERICA. These distances are less than the typical safe passage distances normally required for large vessels and aircraft carriers. Additionally, recreational traffic can transit on either side of the safety zone or on other major waterways within the port. Alternate routes are also available to commercial and recreational vessel traffic that can safely transit the Harlem and East Rivers, Kill Van Kull, Arthur Kill, and Buttermilk Channel. Similar safety zones have been established for large naval vessels with minimal or no disruption to vessel traffic or other interests in the port. In addition, extensive, advance advisories will be made to the maritime community so that they can adjust their plans accordingly. For all the above reasons, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this regulation

will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632).

For reasons given in the Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, July 29, 1994, the promulgation of this regulation is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of the transit under the National Environmental Policy Act will be conducted in conjunction with the marine event permitting process.

List of Subjects in 33 CFR Part 165

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

Final Regulation

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

PART 165—[AMENDED]

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

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

2. A temporary § 165.T01–023 is added to read as follows:

§ 165.T01–023 Safety Zone; USS AMERICA, Fleet Week '95, Port of New York and New Jersey.

(a) *Location*. This moving safety zone includes all waters within 500 yards fore and aft and 200 yards to each side of the USS AMERICA, as it transits the Port of New York and New Jersey between Ambrose Channel Lighted Whistle Buoy ''A'', at or near 40°28.8′ N latitude, 73°53.7′ W longitude, and its berth at Pier 88, Manhattan, on the Hudson River.

(b) *Effective period*. This section is effective on May 24, 1995, from 9:15 a.m. until 3 p.m., and on May 31, 1995, from 7:30 a.m. until 1 p.m., unless extended or terminated sooner by the Captain of the Port, New York.

(c) *Regulations*. (1) The general regulations contained in 33 CFR 165.23 apply to this safety zone.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: April 20, 1995.

J. Rutkovsky,

Commander, U.S. Coast Guard, Captain of the Port, New York, Acting.

[FR Doc. 95–10535 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD13–95–014]

Safety Zone Regulations; Cinco De Mayo Fireworks Display, Willamette River, Portland OR

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Cinco De Mayo Fireworks Display which is scheduled to be held in Portland, Oregon, on May 5, 1995. The safety zone will be located on the Willamette River between the Morrison and Hawthorne Bridges from river mile 12.8 to river mile 13.1. This safety zone is needed to protect persons, facilities, and vessels from safety hazards associated with a fireworks display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on May 5, 1995, at 8:30 p.m (PDT) and terminates on May 5, 1995, at 11:30 p.m. (PDT), unless sooner terminated by the Captain of the Port. If the fireworks display is not held on May 5, 1995, because of inclement weather or otherwise, this regulation will become effective on May 6, 1995, at 8:30 p.m. (PDT) and will terminate on May 6, 1995, at 11:30 p.m. (PDT), unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LTJG C. A. Roskam, c/o Captain of the Port Portland, 6767 N. Basin Ave, Portland, Oregon 97217–3992, (503) 240–9338.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is necessary to ensure the safety of structures and vessels operating in the area of the fireworks display. Due to the complex planning and coordination involved, the event sponsor, Amusement Consulting, Inc., was unable to provide the Coast Guard with notice of the final details until 30 days prior to the date of the event. Therefore, sufficient time was not available to publish the proposed rule in advance of the event or to provide a delayed effective date. Following normal rulemaking procedures in this case would be impracticable.

Drafting Information: The principal persons involved in drafting this document are LTJG C. A. Roskam, project officer for the Captain of the Port of Portland, OR, and LCDR J.C. Odell, project counsel, Thirteenth Coast Guard District Legal Office.

Background and Purpose

The event requiring this regulation is a fireworks display sponsored by Amusement Consulting, Inc., as part of the Cinco De Mayo celebration in the Portland, Oregon, area. The fireworks display is scheduled to begin on May 5, 1995, at 9:30 p.m. (PDT). If the fireworks display cannot be held on May 5 1995, because of inclement weather or otherwise, it will be rescheduled for May 6, 1995, at 9:30 p.m. (PDT).

During the fireworks display, spectator vessels may attempt to approach the fireworks launching barge at close range. If allowed to do so, these vessels and the persons onboard them will be exposed to potential damage, fire, and personal injury due to sparks, falling debris, and unexploded fireworks.

In order to protect the safety of life and property on the navigable waters during this event, the Coast Guard is establishing a safety zone around the fireworks launching barge on the waters of the Willamette River from river mile 12.8 to river mile 13.1 between the Morrison and Hawthorne Bridges. Entry into this zone will be prohibited unless authorized by the Captain of the Port. This safety zone will be enforced by representatives of the Captain of the Port Portland. The Captain of the Port may be assisted by other federal agencies.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that the entry into the safety zone will only be restricted for 3 hours on the day of the event. The entities most likely to be affected by this action are commercial tug and barge operators on the Willamette River. Most of these entities are aware of the fireworks display and the safety zone, and they can schedule their transits accordingly. If safe to do so, the representative of the Captain of the Port assigned to enforce this safety zone may authorize commercial vessels to pass through the safety zone on a case-by-case basis.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this final rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons outlined in the Regulatory Evaluation above, the Coast Guard expects the impact of this final rule to be minimal on all entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environmental Assessment

The Coast Guard has considered the environmental impact of this final rule and has concluded that, under section 2.B.2.c. of Commandant Instruction M16475.1B, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

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

Final Regulation

For the reasons set out in the preamble, the Coast Guard amends Part 165 of Title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

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

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

2. A temporary section 165.T13–013 is added to read as follows:

§ 165.T13–013 Safety Zone; Willamette River, Portland, OR

(a) *Location.* The following area is a safety zone: All waters on the Willamette River between the Morrison and Hawthorne Bridges from river mile 12.8 to river mile 13.1, Portland, Oregon.

(b) *Definitions.* The *designated representative of the Captain of the Port* is any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Portland, to act on his behalf. The following officers have or will be designated by the Captain of the Port: The Coast Guard Patrol Commander, the senior boarding officer on each vessel enforcing the safety zone, and the Duty Officer at Coast Guard Group Portland, Oregon.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Captain of the Port or his designated representatives.

(2) A succession of sharp, short signals by whistle, siren, or horn from vessels patrolling the area under the direction of the Patrol Commander shall serve as a signal to stop. Vessels or persons signalled shall stop and comply with the orders of the patrol vessels; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) *Effective Dates.* This section is effective on May 5, 1995, at 8:30 p.m. (PDT) and terminates on May 5, 1995, at 11:30 p.m. (PDT), unless sooner terminated by the Captain of the Port. If the fireworks display is not held on May 5, 1995, because of inclement weather or otherwise, this section will become effective on May 6, 1995, at 8:30 p.m. (PDT) and will terminate on May 6, 1995, at 11:30 p.m. (PDT), unless sooner terminated by the Captain of the Port.

Dated: April 18, 1995.

C.E. Bills,

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

[FR Doc. 95–10534 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 91–280; FCC 95–114]

Mobile-Satellite Service at 148–149.9 MHz

AGENCY: Federal Communications Commission.

ACTION: Final Rule; Petition for Reconsideration.

SUMMARY: By this action, we deny a Petition for Reconsideration filed by STARSYS, Inc. (STARSYS). In its petition, STARSYS requests either that the Commission increase the permissible duty cycle from 0.25% to 1.0% per 15 minute interval for those systems in the low-Earth orbit (LEO) mobile-satellite service (MSS) operating in the 148–149.9 MHz band that use code division multiple access (CDMA) spread spectrum systems and which do not utilize a system that avoids frequencies used by other services in

this band, or in the alternative, that the Commission exempt from the duty cycle limitation CDMA systems operating below a certain power density. We are taking this action because we continue to believe that the power density and duty cycle requirements we adopted are necessary to prevent interference to incumbent government fixed and mobile operations that will share this band with LEO MSS on a co-primary basis.

EFFECTIVE DATE: May 30, 1995.

FOR FURTHER INFORMATION CONTACT: Ray LaForge, Office of Engineering and Technology, telephone (202) 739–0598.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order* in ET docket No. 91–280, adopted March 14, 1995 and released March 30, 1995. The complete text of this *Memorandum Opinion and Order* is available for inspection and copying during normal business hours in the FCC Public Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this *Memorandum Opinion and Order* also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., 2100 M Street, NW, Suite 140, Washington DC 20036, (202) 857–3800.

Summary of Memorandum Opinion and Order

1. STARSYS argued that the Commission has created redundant and excessive interference protection criteria by adopting both maximum power density and duty cycle limitations. It contends that either limitation alone is sufficient to provide protection to existing fixed and mobile government users. STARSYS requested that the Commission exempt LEO MSS systems using CDMA spread spectrum that operate with E.I.R.P. power densities below −16 dBW/4kHz from compliance with the 0.25% per 15 minute transmission duty cycle limitation. Alternatively, STARSYS requests that the Commission modify the 0.25% per 15 minute transmission time limit for CDMA systems to 1.0% per 15 minute period.

2. STARSYS stated that the duty cycle limit of 0.25% per 15 minute interval was intended to accommodate a data transmission rate of 4800 bits per second (bps) that was specified in its 1990 license application to construct and operate a system using CDMA spread spectrum. However, it now claims that unanticipated interference in the 148–149.9 MHz band may force it to use a lower data transmission rate of 1200 bps, which, with a duty cycle of 0.25% per 15 minute interval, will result in an intolerably low data throughput. It argued that with a duty cycle of 1.0% per 15 minute period, its system would achieve throughput approximately equivalent to the throughput achieved with a data rate of 4800 bps when used with a duty cycle of 0.25% per 15 minute period. Accordingly, STARSYS requested that the duty cycle be increased to 1.0% to accommodate its lowering of the transmission rate to 1200 bps.

3. NTIA, as representative of the government users of the 148–149.9 MHz band, opposed STARSYS' request for relaxation of the duty cycle requirement. NTIA submitted a report to the Commission through the Interdepartment Radio Advisory Committee. The report concludes that in cases in which multiple earth stations exist within range of specific government mobile systems, the duty cycle limitation adopted by the Commission is necessary to protect these government systems.

4. We recognize that the power and duty cycle requirements will impose limitations on satellite operations in the 148–149.9 MHz band. However, we must ensure that adequate protection is afforded to the incumbent government users of the band. The regulations adopted in the *Report and Order*, ET Docket 92–28, 8 FCC Rcd 812, 58 FR 16360 (March 26, 1993), to provide this protection were developed through lengthy negotiations between the Commission and NTIA and in consultation with potential LEO MSS users. Therefore, to the extent STARSYS is requesting a change of our rules that now impose both the power density and duty cycle limitations, we do not find an adequate basis in the petition or the comments to make such a change. Moreover, to the extent STARSYS is requesting a waiver of these rules, we find that STARSYS has failed to sustain its heavy burden for a waiver. STARSYS has not shown how exempting it from the duty cycle requirement will better serve the public interest, particularly in light of NTIA's report, with which we agree, that the duty cycle limitation is necessary to protect government users in this band.

5. We also deny STARSYS' request to modify the duty cycle limitation for CDMA systems. As we have stated above, NTIA's report indicates that the duty cycle limitation we adopted is necessary to protect government users in this band. The development and provision of LEO MSS must not result in unacceptable interference to those users. Therefore, we will not modify the duty cycle limitation for CDMA systems.

6. Accordingly, STARSYS' Petition for Reconsideration is DENIED. We are also republishing in the Amendatory Text a copy of the final rules since the original rules were not depicted accurately at the time of the *Report and Order*. This action is taken pursuant to Sections 4(i), 7(a), 303(c), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 303(c), 303(g) and 303(r).

List of Subjects in 47 CFR Part 2

Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amendatory Text

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

1. The authority citation in Part 2 continues to read:

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 154(i), 302, 303, 303(r), and 307, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations is amended as follows:

a. The entries for 137.0–138.0, 146.0–149.9, 149.9–150.05, 399.9–400.05, and 400.15–401.0 MHz are removed and new entries for 137–138.0, 146.0–148, 148–149.9, 149.9–150.05, 399.9–400.05, and 400.15–401 MHz are added in numerical order.

b. International Footnotes Nos. 599A, 599B, 608A, 608B, 608C, 609B, 647A, and 647B are added.

c. United States (US) Footnotes US318, US319, US320, US322, US323, US324, US325, and US326 are

The additions, and revisions read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

International Table			United States Table		FCC use designators	
Region 1 allocation MHz	Region 2 allocation MHz	Region 3 allocation MHz	Government allocation MHz	Non-Government allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
*	*	*	*	*	*	*
137.0–137.025	137.0–137.025	137.0–137.025	137.0–137.025	137.0–137.025		
SPACE OPERATION (space-to-Earth)	SPACE OPERATION (space-to-Earth)	SPACE OPERATION (space-to-Earth)	SPACE OPERATION (space-to-Earth)	SPACE OPERATION (space-to-Earth)	SATELLITE COMMUNICATIONS (25)	
METEOROLOGICAL-SATELLITE (space-to-Earth)	METEOROLOGICAL-SATELLITE (space-to-Earth)	METEOROLOGICAL-SATELLITE (space-to-Earth)	METEOROLOGICAL-SATELLITE (space-to-Earth)	METEOROLOGICAL-SATELLITE (space-to-Earth)		
SPACE RESEARCH (space-to-Earth)	SPACE RESEARCH (space-to-Earth)	SPACE RESEARCH (space-to-Earth)	SPACE RESEARCH (space-to-Earth)	SPACE RESEARCH (space-to-Earth)		
MOBILE-SATELLITE (space-to-Earth) 599B	MOBILE-SATELLITE (space-to-Earth) 599B	MOBILE-SATELLITE (space-to-Earth) 599B	MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320	MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320		
Fixed	Fixed	Fixed				
Mobile except aeronautical mobile (R)	Mobile except aeronautical mobile (R)	Mobile except aeronautical mobile (R)				
596 597 598 599 599A	596 597 598 599 599A	596 597 598 599 599A	599A	599A		
137.025–137.175	137.025–137.175	137.025–137.175	137.025–137.175	137.025–137.175		
SPACE OPERATION (space-to-Earth)	SPACE OPERATION (space-to-Earth)	SPACE OPERATION (space-to-Earth)	SPACE OPERATION (space-to-Earth)	SPACE OPERATION (space-to-Earth)	SATELLITE COMMUNICATIONS (25)	
METEOROLOGICAL-SATELLITE (space-to-Earth)	METEOROLOGICAL-SATELLITE (space-to-Earth)	METEOROLOGICAL-SATELLITE (space-to-Earth)	METEOROLOGICAL-SATELLITE (space-to-Earth)	METEOROLOGICAL-SATELLITE (space-to-Earth)		
SPACE RESEARCH (space-to-Earth)	SPACE RESEARCH (space-to-Earth)	SPACE RESEARCH (space-to-Earth)	SPACE RESEARCH (space-to-Earth)	SPACE RESEARCH (space-to-Earth)		
MOBILE-SATELLITE (space-to-Earth) 599B	MOBILE-SATELLITE (space-to-Earth) 599B	MOBILE-SATELLITE (space-to-Earth) 599B	MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320	MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320		
Fixed	Fixed	Fixed				
Mobile except aeronautical mobile (R)	Mobile except aeronautical mobile (R)	Mobile except aeronautical mobile (R)				
596 597 598 599 599A	596 597 598 599 599A	596 597 598 599 599A	599A	599A		
137.175–137.825	137.175–137.825	137.175–137.825	137.175–137.825	137.175–137.825		
SPACE OPERATION (space-to-Earth)	SPACE OPERATION (space-to-Earth)	SPACE OPERATION (space-to-Earth)	SPACE OPERATION (space-to-Earth)	SPACE OPERATION (space-to-Earth)	SATELLITE COMMUNICATIONS (25)	
METEOROLOGICAL-SATELLITE (space-to-Earth)	METEOROLOGICAL-SATELLITE (space-to-Earth)	METEOROLOGICAL-SATELLITE (space-to-Earth)	METEOROLOGICAL-SATELLITE (space-to-Earth)	METEOROLOGICAL-SATELLITE (space-to-Earth)		
SPACE RESEARCH (space-to-Earth)	SPACE RESEARCH (space-to-Earth)	SPACE RESEARCH (space-to-Earth)	SPACE RESEARCH (space-to-Earth)	SPACE RESEARCH (space-to-Earth)		
MOBILE-SATELLITE (space-to-Earth) 599B	MOBILE-SATELLITE (space-to-Earth) 599B	MOBILE-SATELLITE (space-to-Earth) 599B	MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320	MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320		
Fixed	Fixed	Fixed				
Mobile except aeronautical mobile (R)	Mobile except aeronautical mobile (R)	Mobile except aeronautical mobile (R)				
596 597 598 599 599A	596 597 598 599 599A	596 597 598 599 599A	599A	599A		
137.825–138.0	137.825–138.0	137.825–138.0	137.825–138.0	137.825–138.0		

International Table			United States Table		FCC use designators	
Region 1 allocation MHz	Region 2 allocation MHz	Region 3 allocation MHz	Government allocation MHz	Non-Government allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B Fixed Mobile except aeronautical mobile (R) 596 597 598 599 599A	SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B Fixed Mobile except aeronautical mobile (R) 596 597 598 599 599A	SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B Fixed Mobile except aeronautical mobile (R) 596 597 598 599 599A	SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320 599A	SPACE OPERATION (space-to-Earth) METEOROLOGICAL-SATELLITE (space-to-Earth) SPACE RESEARCH (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) 599B US318 US319 US320 599A	SATELLITE COMMUNICATIONS (25)	
*	*	*	*	*	*	*
146.0–148 FIXED MOBILE except aeronautical Mobile (R) 608	146.0–148 AMATEUR	146.0–148 AMATEUR FIXED MOBILE 607	146.0–148	146.0–148 AMATEUR	AMATEUR (97)	
148–149.9 FIXED MOBILE except aeronautical mobile (R) MOBILE-SATELLITE (Earth-to-space) 599B 608 608A 608C	148–149.9 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 599B 608 608A 608C	148–149.9 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 599B 608 608A 608C	148–149.9 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) 599B US319 US320 US323 US325 608 608A US10 G30	148–149.9 MOBILE-SATELLITE (Earth-to-space) 599B US319 US320 US323 US325 608 608A US10	SATELLITE COMMUNICATION (25)	
149.9–150.05 RADIO-NAVIGATION-SATELLITE LAND MOBILE-SATELLITE (Earth-to-space) 599 609B 608B 609 609A	149.9–150.05 RADIO-NAVIGATION-SATELLITE LAND MOBILE-SATELLITE (Earth-to-space) 599 609B. 608B 609 609A	149.9–150.05 RADIO-NAVIGATION-SATELLITE LAND MOBILE-SATELLITE (Earth-to-space) 599 609B. 608B 609 609A	149.9–150.05 RADIO-NAVIGATION-SATELLITE LAND MOBILE-SATELLITE (Earth-to-space) 599B US319 US322. 608B 609A	149.9–150.05 RADIO-NAVIGATION-SATELLITE LAND MOBILE-SATELLITE (Earth-to-space) 599B US319 US322. 608B 609A		
*	*	*	*	*	*	*
399.9–400.05 RADIO-NAVIGATION-SATELLITE 609 645B	399.9–400.05 RADIO-NAVIGATION-SATELLITE 609 645B	399.9–400.05 RADIO-NAVIGATION-SATELLITE 609 645B	399.9–400.05 RADIO-NAVIGATION-SATELLITE MOBILE-SATELLITE (Earth-to-space) US319 US326 645B	399.9–400.05 RADIO-NAVIGATION-SATELLITE MOBILE-SATELLITE (Earth-to-space) US319 US326 645B		
*	*	*	*	*	*	*
400.15–401	400.15–401	400.15–401	400.15–401	400.15–401		

International Table			United States Table		FCC use designators	
Region 1 allocation MHz	Region 2 allocation MHz	Region 3 allocation MHz	Government allocation MHz	Non-Government allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
METEOROLOGICAL AIDS	METEOROLOGICAL AIDS	METEOROLOGICAL AIDS	METEOROLOGICAL AIDS (radiosonde)	METEOROLOGICAL AIDS (radiosonde)	SATELLITE COMMUNICA- (25)	
METEORO-LOGICAL-SATELLITE (space-to-Earth)	METEORO-LOGICAL-SATELLITE (space-to-Earth)	METEORO-LOGICAL-SATELLITE (space-to-Earth)	METEOROLOGICAL-SATELLITE (space-to-Earth)	METEOROLOGICAL-SATELLITE (space-to-Earth)		
SPACE RESEARCH (space-to-Earth) 647A	SPACE RESEARCH (space-to-Earth) 647A	SPACE RESEARCH (space-to-Earth) 647A	SPACE RESEARCH (space-to-Earth) 647A	SPACE RESEARCH (space-to-Earth) 647A		
MOBILE-SATELLITE (space-to-Earth) 599B	MOBILE-SATELLITE (space-to-Earth) 599B	MOBILE-SATELLITE (space-to-Earth) 599B	MOBILE-SATELLITE (space-to-Earth) 599B US319 US320 US324	MOBILE-SATELLITE (space-to-Earth) 599B US319 US320 US324		
Space-Operation (space-to-Earth)	Space-Operation (space-to-Earth)	Space-Operation (space-to-Earth)	Space Operation (space-to-Earth)	Space Operation (space-to-Earth)		
647 647B	647 647B	647 647B	647 647B US70	647 647B US70		
*	*	*	*	*	*	*

International Footnotes

* * * * *

599A The use of the band 137–138 MHz by the mobile-satellite service is subject to the application of the coordination and notification procedures set forth in Resolution RES46 (WARC–92). However, coordination of a space station of the mobile-satellite service with respect to terrestrial services is required only if the power flux-density produced by the station exceeds −125 dB(W/m²/4 kHz) at the Earth's surface. The above power flux-density limit shall apply until such time as a competent world administrative radio conference revises it. In making assignments to the space stations in the mobile-satellite service in the above band, administrations shall take all practicable steps to protect the radio astronomy service in the 150.05–153 MHz band from harmful interference from unwanted emissions.

599B The use of the bands 137–138 MHz, 148–149.9 MHz and 400.15–401 MHz by the mobile-satellite service and the band 149.9–150.05 MHz by the land mobile-satellite service is limited to non-geostationary-satellite systems.

* * * * *

608A The use of the band 148–149.9 MHz by the mobile-satellite service is subject to the application of the coordination and notification procedures set forth in Resolution RES46 (WARC–92). The mobile-satellite service shall not constrain the development and use of fixed, mobile and space operation services in the band 148–149.9 MHz. Mobile earth stations in the mobile-satellite service shall not produce a power flux-density in excess of −150 dB(W/m²/4 kHz) outside national boundaries.

608B The use of the band 149.9–150.05 MHz by the land mobile-satellite service is subject to the application of the coordination and notification procedures set forth in Resolution RES46 (WARC–92). The land mobile-satellite service shall not constrain the development and use of the radionavigation-satellite service in the band 149.9–150.05 MHz. Land mobile earth stations of the land mobile-satellite service shall not produce power flux-density in excess of −150 dB(W/m²/4kHz) outside national boundaries.

608C Stations of the mobile-satellite service in the band 148–149.9 MHz shall not cause harmful interference to, or claim protection from stations of the fixed or mobile services in the following countries: Algeria, the Federal Republic of Germany, Saudi Arabia, Australia, Austria, Bangladesh, Belarus, Belgium, Brunei Darussalam, Bulgaria, Cameroon, Canada, Cyprus, Colombia, Congo, Cuba, Denmark, Egypt, the United Arab Emirates, Ecuador, Spain, Ethiopia, the Russian Federation, Finland, France, Ghana, Greece, Honduras, Hungary, Iran, Ireland, Iceland, Israel, Italy, Japan, Jordan, Kenya, Libya, Liechtenstein, Luxembourg, Malaysia, Mali, Malta, Mauritania, Mozambique, Namibia, Norway, New Zealand, Oman, Pakistan, Panama, Papua New Guinea, the Netherlands, Phillippines, Poland, Portugal, Qatar, Syria, Romania, the United Kingdom, Singapore, Sri Lanka, Sweden, Switzerland, Suriname, Swaziland, Tanzania, Chad, the Czech and Slovak Federal Republic, Thailand, Tunisia, Turkey, Ukraine, Yemen and Yugoslavia that operate in accordance with the Table of Frequency Allocations.

* * * * *

609B In the band 149.9–150.05MHz, the allocation to the land mobile-satellite service shall be on a secondary basis until 1 January 1997.

* * * * *

647A The band 400.15–401 MHz is also allocated to the space research service in the space-to-space direction for communications with manned space vehicles. In this application, the space research service will not be regarded as a safety service.

647B The use of the band 400.15–401 MHz by the mobile-satellite service is subject to the application of the coordination and notification procedures set forth in Resolution RES46 (WARC–92). However, coordination of a space station of the mobile-satellite service with respect to terrestrial services is required only if the power flux-density produced by the station exceeds −125 dB(W/m²/4kHz) at the Earth's surface. The above power flux-density limit shall apply until such time as a competent world administrative radio conference revises it. In making assignments to the space stations in the mobile-satellite service in the above band, administrations shall take all practicable steps to protect the radio astronomy service in the band 406.1–410 MHz from harmful interference from unwanted emissions.

* * * * *

United States (US) Footnotes

* * * * *

US318 Until January 1, 2000, the use of the 137–138 MHz band by the mobile-satellite service will be secondary to Government satellite operations in the subbands: 137.333–137.367, 137.485–137.515, 137.605–137.635 and 137.753–137.787 MHz.

US319 In the 137–138, 148–149.9, 149.9–150.05, 399.9–400.05, and 400.15–401 MHz bands, Government stations in the mobile-satellite service shall be limited to earth stations operating with non-Government satellites.

US320 Use of the 137–138, 148–149.9, and 400.15–401 MHz bands by the mobile-satellite service is limited to non-voice, non-geostationary satellite systems and may include satellite links between land earth stations at fixed locations.

* * * * *

US322 The 149.9–150.05 MHz band is allocated to the mobile-satellite service (Earth-to-space) on a primary basis after 1 January 1997 and shall be limited to non-

voice, non-geostationary satellite systems, including satellite links between land earth stations. Before 1 January 1997 use of this band on a secondary basis for the mobile satellite service is allowed for land earth stations at fixed locations.

US323 In the 148–149.9 MHz band, no individual mobile earth station shall transmit, on the same frequency being actively used by fixed and mobile stations and shall transmit no more than 1% of the time during any 15 minute period; except, individual mobile earth stations in this band that do not avoid frequencies actively being used by the fixed and mobile services shall not exceed a power density of −16 dBW/4kHz and shall transmit no more than 0.25% of the time during any 15 minute period. Any single transmission from any individual mobile earth station operating in this band shall not exceed 450 ms in duration and consecutive transmissions from a single mobile earth station on the same frequency shall be separated by at least 15 seconds. Land earth stations in this band shall be subject to electromagnetic compatibility analysis and coordination with terrestrial fixed and mobile stations.

US324 Government and non-Government satellite systems in the 400.15–401 MHz band shall be subject to electromagnetic compatibility analysis and coordination.

US325 In the band 148–149.9 MHz fixed and mobile stations shall not claim protection from land earth stations in the mobile-satellite service that have been previously coordinated; Government fixed and mobile stations exceeding 27 dBW EIRP, or an emission bandwidth greater than 38 kHz, will be coordinated with existing mobile-satellite service space stations.

US326 The 399.9–400.05 MHz band is allocated to the mobile-satellite service (Earth-to-space) on a primary basis after January 1, 1997 and shall be limited to non-voice, non-geostationary satellite systems, including satellite links between land earth stations.

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[FR Doc. 95–10427 Filed 4–27–95; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 94–79; RM–8493]

Radio Broadcasting Services; Pine Hill, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 244A to Pine Hill, Alabama, as that community's first local aural transmission service, in response to a petition for rule making filed by R. J. Miller. *See* 59 FR 35894, July 14, 1994. Coordinates used for Channel 244A at Pine Hill are North Latitude 32–01–38 and West Longitude 87–37–23. With this action, the proceeding is terminated.

DATES: Effective June 8, 1995. The window period for filing applications for Channel 244A at Pine Hill, Alabama, will open on June 8, 1995, and close on July 10, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process for Channel 244A at Pine Hill, Alabama, should be addressed to the Audio Services Division, FM Branch, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 94–79, adopted April 14, 1995, and released April 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, located at 1919 M Street, NW, Room 246, or 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments underAlabama, is amended by adding Pine Hill, Channel 244A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–10469 Filed 4–27–95; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

Radio Broadcasting Services; Various Communities

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the actual classes of channels allotted to various communities. The changes in channel classifications have been authorized in response to applications filed by licensees and permittees operating on these channels. This action is taken pursuant to *Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 54 FR 11953 (1989), and the *Amendment of the Commission's Rules to Permit FM Channel and Class Modifications [Upgrades] by Applications*, 58 FR 38534 (1993).

EFFECTIVE DATE: April 28, 1995.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* adopted April 12, 1995, and released April 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW, Suite 140, Washington, D.C. 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 297A and adding Channel 297C2 at Chinle; and by removing Channel 280A and adding Channel 280C3 at Coolidge; and by removing Channel 274C1 and adding Channel 274C3 at Window Rock.

3. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by removing Channel 226C1 and adding Channel 226C at Batesville.

4. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 277A and adding Channel 277B1 at Lindsay; and by removing Channel 239B1 and adding Channel 239A at Twentynine Palms.

5. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 249A and adding Channel 249C1 at Marathon.

6. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by removing Channel 267A and adding Channel 265C at Gooding.

7. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 237A and adding Channel 236A at Maquoketa.

8. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by removing Channel 240A and adding Channel 242C3 at Stanford.

9. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by removing Channel 253C and adding Channel 253C1 at New Orleans.

10. Section 73.202(b), the Table of FM Allotments under Maine, is amended by removing Channel 249A and adding Channel 249C3 at Caribou; and by removing Channel 261A and adding Channel 261C3 at Houlton.

11. Section 73.202(b), the Table of FM Allotments under Maryland, is amended by removing Channel 265A and adding Channel 263A at Hurlock.

12. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 265A and adding Channel 265C1 at Blooming Prairie; and by removing Channel 241C3 and adding Channel 242C2 at Glencoe; and by removing Channel 281C2 and adding Channel 281C3 at International Falls; and by removing Channel 261A and adding Channel 261C3 at Olivia.

13. Section 73.202(b), the Table of FM Allotments under Montana, is amended by removing Channel 261C3 and adding Channel 261A at Malta.

14. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by removing Channel 280C3 and adding Channel 280A at Superior.

15. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 289C and adding Channel 289C1 at Decatur.

16. Section 73.202(b), the Table of FM Allotments under Utah, is amended by removing Channel 244C3 and adding Channel 246C1 at Moab.

17. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by removing Channel 229C and adding Channel 229C1 at Chesapeake.

18. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by removing Channel 288A and adding Channel 289C3 at Chippewa Falls.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–10471 Filed 4–27–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 95–1; RM–8527]

Radio Broadcasting Services; Hamilton, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 251C3 to Hamilton, Montana, as that community's second FM service in response to a petition filed by Benedict Communications, Inc. *See* 60 FR 3613, January 18, 1995. Canadian concurrence has been obtained for this allotment at coordinates 46–14–36 and 114–09–30. Channel 251C3 is not site restricted. With this action, this proceeding is terminated.

DATES: Effective June 8, 1995. The window period for filing applications for Channel 251C3 at Hamilton will open on June 8, 1995, and close on July 10, 1995.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order,* MM Docket No. 95–1, adopted April 13, 1995, and released April 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW, Suite 140, Washington, D.C. 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Channel 251C3 at Hamilton.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–10468 Filed 4–27–95; 8:45 am]

BILLING CODE 6712–01–F

47 CFR Part 73

[MM Docket No. 94–141; RM–8544]

Radio Broadcasting Services; Dell Rapids, SD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Conway Broadcasting, allots Channel 239C3 at Dell Rapids, South Dakota, as the community's first local aural transmission service. *See* 59 FR 64382, December 14, 1994. Channel 239C3 can be allotted to Dell Rapids in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.1 kilometers (1.9 miles) southwest. The coordinates for Channel 239C3 at Dell Rapids are North Latitude 43–47–57 and West Longitude 96–43–01. With this action, this proceeding is terminated.

DATES: Effective June 8, 1995. The window period for filing applications for Channel 239C3 at Dell Rapids, South Dakota, will open on June 8, 1995 and close on July 10, 1995.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 94–141, adopted April 12, 1995, and released April 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under South Dakota , is amended by adding Dell Rapids, Channel 239C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–10467 Filed 4–27–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 676

[Docket No. 950206041–5041–01; I.D. 041395C]

Groundfish of the Gulf of Alaska; Foreign Fishing; Limited Access Management of Federal Fisheries In and Off of Alaska; Final 1995 Harvest Specifications of Groundfish; Correction

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

ACTION: Final 1995 harvest specifications of groundfish and associated management measures; correction.

SUMMARY: This document contains a correction to the final 1995 harvest specifications (I.D. 112894A), which was published Tuesday, February 14, 1995 (60 FR 8470). The rex sole species was inadvertently omitted from the list of the deep-water species complex for the trawl halibut prohibited species catch (PSC) limit allowances.

EFFECTIVE DATE: February 8, 1995, through 2400 Alaska local time, on December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, NMFS, (907) 586–7228.

SUPPLEMENTARY INFORMATION:

Under § 672.20(f), annual Pacific halibut PSC limits are established and apportioned to trawl and hook-and-line gear, and are established for pot gear. The Final 1995 Pacific Halibut PSC Limits, Allowances, and Apportionments are contained in Table 6 (page 8476) of the final 1995 harvest specifications. Regulations at § 672.20(f)(1)(i) authorize apportionments of the trawl halibut PSC limit allowance as bycatch allowances to the deep-water species complex and the shallow-water species complex. The final 1995 apportionment of Pacific halibut PSC trawl limits between the deep-water species complex and the shallow-water species complex is contained in Table 7 (page 8477) of the final 1995 harvest specifications. Rex sole is part of the deep-water species complex that is discussed in regulations at § 672.20(f)(1)(i)(B)(*2*). However, rex sole was inadvertently omitted from the list of the deep-water species complex contained on page 8476 of the final specifications.

Accordingly, the publication on February 14, 1995 (60 FR 8470), which was the subject of FR Doc. 95–3483, is corrected as follows:

On page 8476, in the third column, last line, and continuing to page 8477, in the first column, line one, the sentence ''The deep-water species complex consists of sablefish, rockfish, deep-water flatfish, and arrowtooth flounder.'' is corrected to read ''The deep-water species complex consists of sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder.''

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

Dated: April 21, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–10448 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 654

[Docket No. 950203034–5034–01; I.D. 092794B]

RIN 0648–AG23

Stone Crab Fishery of the Gulf of Mexico; Correction

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

ACTION: Final rule; correction.

SUMMARY: This rule corrects the final rule to implement Amendment 5 to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico, which was published on March 15, 1995.

EFFECTIVE DATE: April 14, 1995.

FOR FURTHER INFORMATION CONTACT: Peter Eldridge, 813–570–5305.

SUPPLEMENTARY INFORMATION: The final rule to implement Amendment 5, among other things, incorporated by reference certain sections of the Florida Administrative Code. One of the Florida citations that is in this rule, which originally appears at 60 FR 13918, March 15, 1995, was stated incorrectly.

Correction of Publication

Accordingly, the publication on March 15, 1995 (60 FR 13918) of the final regulations (I.D. 092794B), which was the subject of FR DOC. 95–6334, is corrected as follows:

§ 654.6 [Corrected]

On page 13919, in the third column of § 654.6, paragraph (a), line eight, correct the reference ''Rule 2N–8.001'' to read ''Rule 62N–8.001''.

Dated: April 24, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 95–10447 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 675

[Docket No. 950206040–5040–01; I.D. 042495A]

Groundfish of the Bering Sea and Aleutian Islands Area; Atka Mackerel in the Central Aleutian District

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Atka mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the final groundfish specification of Atka mackerel in that area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), April 25, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586–7228.

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

In accordance with § 675.20(a)(7)(ii) the Atka mackerel total allowable catch

(TAC) for the Central Aleutian District was established by the final 1995 initial groundfish specifications (60 FR 8479, February 14, 1995) as 42,500 metric tons (mt).

The Director, Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(a)(8), that the Atka mackerel TAC in the Central Aleutian District soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 41,500 mt after determining that 1,000 mt will be taken as incidental catch in directed fishing for other species in the Central Aleutian District. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian District. Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

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

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

Dated: April 24, 1995.

Richard W. Surdi,

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

[FR Doc. 95–10449 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 82
Friday, April 28, 1995

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

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

[Docket No. PRM–170–4]

American Mining Congress; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (''NRC'' or ''Commission'') received a petition for rulemaking submitted by the American Mining Congress (''petitioner'') concerning the licensing, inspection and annual fees assessed by the NRC. The petitioner requested that the NRC amend its regulations to alleviate what the petitioner claimed are inequitable impacts of NRC user and annual fees on its members, specifically for uranium recovery sites with conventional mills that have ceased operations and are awaiting NRC approval of their reclamation plans. The petitioner claimed that there is a lack of a rational relationship between fees and regulatory services. The petitioner requested that the fee be waived for any licensed facility serving solely as a cost center and not generating revenues; that licensees be given the ability to review and have input into the NRC's budget and fee development and that annual fees only be increased in proportion to normal inflation rates; that time limits be established for NRC's processing of amendment requests and cost sheets showing sample charges be provided to licensees; that more detailed information be provided to support the bills for licensing and inspection services; and that the Department of Energy (DOE) be assessed costs for NRC review of DOE sites under the Uranium Mill Tailings Radiation Control Act (UMTRCA). After careful consideration, the Commission has decided to deny the petition for rulemaking but notes that (1) the NRC will continue its current practice of providing available backup data to support Part 170 licensing and inspection billings upon request by the licensee or applicant and (2) petitioner's request that DOE be assessed fees for its UMTRCA actions was implemented in the final fee rule for FY 1994.

ADDRESSES: Copies of the petition for rulemaking, the public comments received, and the NRC's letter to the petitioner are available for public inspection or copying in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Glenda C. Jackson, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301–415–6057.

SUPPLEMENTARY INFORMATION:

I. Background
II. Responses to Comments

I. Background

On February 4, 1993, the American Mining Congress petitioned the NRC to amend 10 CFR Parts 170 and 171 to alleviate what the petitioner claimed are inequitable NRC fees assessed its members. Because the petition involved Commission fee policy, the NRC announced receipt of and solicited public comment on the petition in its April 19, 1993 (58 FR 21116), **Federal Register** notice requesting public comment on the NRC's fee policy as required by the Energy Policy Act of 1992. The Energy Policy Act of 1992 directed the NRC to review its policy for assessment of annual fees, to solicit public comment on the need for changes to this policy, and to recommend to the Congress changes needed in existing law to prevent placing an unfair burden on NRC licensees.

The petitioner requested that the NRC take the following four actions to ensure that the fee schedule bears a reasonable relationship to the benefits provided by NRC oversight and regulation.

1. Waive the annual fee for any licensed facility in a standby status and not generating revenue from use of licensed material, i.e., those facilities in standby status which still possess licenses authorizing operation. The petitioner claimed that current NRC policy violates the principle that there must be a reasonable relationship between the cost of the NRC's regulatory program and the benefits derived from the regulatory services. The petitioner also stated that the annual fee does not reflect NRC involvement with Class I (conventional mill) uranium recovery sites, particularly those that have ceased operations and are awaiting NRC approval of reclamation plans or are in standby status. The petitioner suggested that the fee regulations should take into account the NRC's own failure to complete review as the only reason these sites are assessed annual fees and should adjust those fees accordingly.

2. Institute a system that allows NRC licensees to have some control over their fees. The petitioner suggested that a licensee review board be established to (i) review NRC fees annually; (ii) monitor NRC inspection activities to prevent regulatory abuse; and (iii) propose revisions to the fee system to eliminate inequitable treatment of licensees. The petitioner stated that its central concern with the NRC fee system is the absence of built-in safeguards to prevent overzealous imposition of fees or to ensure that the fee schedule bears a reasonable relationship to the benefits provided by NRC. The petitioner believes that the current system lacks accountability, oversight, and quality control, as well as a provision for licensees to object to unreasonable costs. The petitioner also indicated that the annual fee should be increased only in proportion to normal inflation rates and stated that NRC's hourly rate is excessive for NRC staff as compared to hourly charges of a senior consultant, principal or project manager at a nationally recognized consulting firm.

3. Develop a consistent method for applying charges by setting standards for services provided by the Commission. For example, the petitioner indicated that comparable amounts should be charged for similar types of work (i.e., amendment requests), regardless of which licensee submits the request or which particular NRC employee completes the work. NRC should develop and distribute to its licensees a cost sheet describing sample charges for different types of work, establish time limits for processing amendment requests, and distribute response times to all licensees. In addition, the 10 CFR Part 170 licensing and inspection bills should show not only hours worked and hourly charges, but also a description of the work performed, the name(s) of

individual(s) who performed the work, and the dates on which the work was done.

4. Assess fees to the Department of Energy (DOE) for NRC review of DOE sites under the Uranium Mill Tailings Radiation Control Act (UMTRCA). The petitioner stated that it is inequitable and improper for DOE to receive NRC oversight and review of DOE mill tailings site reclamation activities without contributing anything to the NRC budget.

Of the 566 comments received on the fee policy review, 21 specifically addressed the AMC petition. Others who provided comments on the fee policy review addressed some of the same issues raised by the petitioner, such as inequities in the fee systems and assessment of Part 170 fees to Federal agencies because these issues were included in the overall review of NRC fee policy. Of the 21 comments, four were from fuel facility licensees, applicants, or their representatives; three were from facility licensees; one was from an Agreement State; nine were from materials licensees or medical associations; one was from two uranium recovery licensees; one was from an industry group representing fuel fabrication facilities, conversion facilities, uranium enrichment plants, material processing facilities, transporters, and other related service facilities; one was from a company holding materials, export and import, distribution, and non-power reactor licenses; and one was from the petitioner, who represents the mining and milling industry.

A majority of the commenters supported all or portions of the petition. After careful consideration of the comments, the Commission has decided to deny the petition for rulemaking for reasons stated below.

II. Responses to Comments

1. *Comment:* Although commenters did not support a full waiver of the annual fee for facilities that are not operating, several agreed that some relief should be provided in the form of reduced fees. One commenter suggested a tiered fee system that would result in full fees for operating facilities, reduced fees for facilities in shutdown or standby status, and minimal fees for licenses who have shut down and have submitted a decommissioning plan. Another commenter indicated that although the fee should not be waived, the NRC should consider the licensee's ability to pass the costs of the NRC fees to its customers—''cost passthrough''—to determine the fee level for facilities that require minimal NRC participation.

Response: The Commission acknowledges the concern raised by the petitioner regarding non-operating facilities and has carefully evaluated the comments received on this issue. The Commission has considered a range of options: (a) continuing the current policy of charging operating mills and those in standby status annual fees; (b) only charging operating mills annual fees; and (c) charging operating mills, facilities in standby status, and those with possession-only licenses annual fees. The Commission has concluded that the current policy represents the fairest option available under current legislation and therefore has denied petitioner's request. The NRC will continue to assess annual fees based on whether a licensee holds a valid license with the NRC that authorizes possession and use of radioactive material, independent of whether the facility is actively operating or in a standby status. The basic premise for this policy is that the benefit the NRC provides a licensee is the authority to use licensed material. The choice of whether or not to exercise that authority is a business decision of the licensee.

Because of the mandate that NRC recover approximately 100 percent of its budget through fees, to refrain from charging annual fees to mills in a standby status would increase the annual fees for the other licensees in the class because the number of licensees assessed annual fees would decrease. Such an approach would raise fairness concerns.

The Commission recognizes that some may perceive it to be unfair to charge a licensee an annual fee when the facility in question is not generating revenue. However, the Commission has previously considered the extent to which a licensee's economic status and ability to ''pass through'' its costs to its customers should be considered in establishing fees, and the Commission has declined to do so. As stated in the final rule published July 20, 1993 (58 FR 38666), the Commission concluded, after full consideration of the ''cost passthrough'' question, that it cannot set fees using passthrough considerations with reasonable accuracy and at reasonable costs even for classes of licensees with few members. The Commission has no new information that would cause it to change this policy. The Commission is also unable to use factors such as the revenue earned by a licensee or the licensee's profit from the use of licensed material in developing the fees because OBRA–90 requires that annual charges must, to the maximum extent practicable, have a reasonable relationship to the cost of providing regulatory services.

The Commission decided that it would not be appropriate to charge facilities who have received a POL an annual fee. While the NRC incurs generic costs relating to the decommissioning/reclamation of facilities with POLs, many POL holders were induced to relinquish their authority to operate by the Commission's policy of not charging annual fees to holders of POLs (56 FR 31485, July 10, 1991). It would be unjust at this date to change this policy with respect to these facilities. Primarily for this reason, the Commission has also decided not to implement a tiered approach recommended by some commenters, in which all licensees would pay an annual fee, including those no longer authorized to operate. In sum, the NRC will continue to waive the fee for licensees who have voluntarily relinquished the authority to operate and have ceased operations. This includes licensees who have voluntarily relinquished their authority to operate, but must continue to be licensed to possess nuclear materials, that is, possession-only licenses (POLs). In articulating our policy, we emphasize that, contrary to the petitioner's statement, reclamation or decommissioning plans do not have to be approved for the annual fee to be waived for these licensees. Therefore, petitioner's argument that some sites are charged annual fees because of the NRC's failure to complete review of reclamation plans is fallacious. The Commission's fee policy with respect to operating, standby, and POL status is consistently applied to all classes of licensees, including uranium recovery, fuel fabrication, and power reactor licensees.

2. *Comment:* A majority of the commenters supported the petitioner's request that licensees be given the ability to oversee and have input into the NRC budget and to review NRC fees annually. Commenters suggested that a review board, with at least some members representing the regulated parties, be established to review NRC activities to control costs, to ensure that maximum benefits and effectiveness are achieved, and to monitor NRC activities to prevent the appearances of regulatory abuse. One commenter stated that such a review board could benefit NRC, citing as an example that the NRC incurred higher costs by using a government laboratory than the commenter incurred using a commercial laboratory for the same type of service. Another commenter suggested that the review board propose revisions to the fee

system and methods to eliminate inequities in the treatment of licensees. Another commenter sought a greater role in the development of regulatory programs that could have a substantial impact on the economic status of licensees or result in license termination. On the other hand, one commenter disagreed with the petitioner, stating that a scheme whereby licensees would directly control the agency's activities would be inappropriate for a regulatory program. Another commenter was skeptical that the petitioner's suggestions would simplify or otherwise lead to a more equitable allocation of Commission costs.

Several commenters agreed with the petitioner that the fees charged do not reflect the benefits derived and expressed concern with the fee amounts. One commenter stated that as fees increase and more licenses are terminated, it will create a disincentive for continuing their licensed activities, which include beneficial research. This commenter suggested that the fee be proportional to the number of pieces of equipment used, the small amounts of low energy radioisotopes in use, and the status of the licensee as a business or not-for-profit organization.

Other commenters maintained that the fee increases may be due to a lack of accountability by NRC; that the frequency and details covered in inspections is unnecessary and inefficient; and that a limited number of licensees are being billed to support NRC services to Federal agencies, Agreement States, and international organizations. Some commenters suggested that NRC's management structure be reviewed to streamline activities and reduce redundancy and unnecessary paperwork, that NRC review its mechanism for calculating fees, and that either costs be borne by the organization receiving the services or these costs should be recovered through tax dollars rather than fees.

Response: The Commission addressed many of these issues and similar comments regarding the NRC budget in the final rules published July 10, 1991 (56 FR 31482), July 23, 1992 (57 FR 32696), and July 20, 1993 (58 FR 38672). As stated in these final rules, the requirement for the NRC to recover 100 percent of its budget through fees does not exempt the NRC from the normal Government budget review and decisionmaking process. The Commission monitors and controls its operating costs and is tightening its financial operations by increasing the effectiveness and efficiency of its program financing. Notably, as a result of its initial efforts, the Commission proposed, and Congress approved, a $12.7 million recision to the original appropriation for FY 1994. The NRC is committed to making its regulatory programs more efficient wherever it can do so without diminishing its ability to protect the public health and safety.

In addition to its own rigorous budget review, the NRC must submit its budget to the Office of Management and Budget for review. The NRC budget is then sent to the Congress for approval. The bases for requested NRC resources are thoroughly addressed by the Congress through hearings and written submissions. This budget process, combined with the internal NRC review process, ensures that the approved budget resources are those necessary for NRC to implement its statutory responsibilities and to carry out an effective regulatory program. The fees established by NRC must be consistent with its annual budget in order to comply with OBRA–90. As in the past, the NRC will continue to base its fees on its Congressionally approved budget authority and provide the public and licensees with detailed supporting information concerning the bases for its fees. This information will continue to be available at the activity level, the lowest level for budgeting purposes.

As a result of the very extensive review of the NRC budget, the Commission opposes the establishment of a review board to oversee the NRC budget. In 1994 testimony before Congress on the NRC's fee policy review, Chairman Selin reiterated the Commission's position that it would be inappropriate to have the regulated community make recommendations which the NRC would have to accept or rebut on how it carries out its regulatory function. The Commission also believes that there are other avenues for licensees to communicate with the NRC concerning the efficiency of the NRC's regulatory program.

Additionally, the NRC complies with legislation such as the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) that require the agency to analyze the economic effects of new regulations on licensees. The NRC staff also prepares detailed cost-benefit analyses to justify any new regulatory requirements. These analyses are carefully reviewed by the Commission. The Commission has seen nothing either in the petition or comments on the petition that would lead it to change its approach in this area. The Commission would like to emphasize, however, that licensees are always welcome and expected to comment on and propose revisions to proposed rulemakings, including the accompanying cost-benefit analyses, and that such comments, along with the day-to-day interaction between licensees and the agency, in the Commission's view provide an adequate and successful method of keeping each group apprised of the other's concerns.

For the foregoing reasons, the Commission is denying the petitioner's request that a licensee review board be established to oversee and make recommendations about NRC's budget and fees.

The Commission has also carefully considered the petitioner's concerns and the comments received regarding the annual fee increases and the hourly rate, issues which have been raised by commenters in previous rulemakings. As previously stated in the Commission's response to commenters on the FY 1993 rule (58 FR 38674), the NRC is unable to use the CPI or other indices in the development of the hourly rate or fees charged under 10 CFR Part 170 and 171 because these increases may not allow the NRC to meet the statutory requirement of OBRA–90 to recover approximately 100 percent of the NRC budget authority through fees. The NRC's Congressionally-approved budget is determined on the basis of the resources needed to carry out the agency mission. The NRC professional hourly rate is established to recover approximately 100 percent of the budget authority, less the appropriation from the Nuclear Waste Fund, as required by OBRA–90. The method and budgeted costs used by NRC in the development of the hourly rate are discussed in Part IV, Section-by-Section Analysis, of 10 CFR 170.20 in each proposed and final fee rule. The NRC budgeted costs for salaries and benefits, administrative support, travel, and program support (excluding contract or other services in support of the line organization's direct program), less offsetting receipts, are allocated uniformly to the direct FTEs. The hourly rate is calculated by dividing the budget allocated to the direct FTEs by the number of direct FTEs and the number of productive hours in one year (1,744 hours) as indicated in OMB Circular A–76, ''Performance of Commercial Activities.'' The Commission continues to believe that this cost allocation is appropriate and represents a practical and equitable way of allocating these costs to NRC licensees and applicants in order to meet the 100 percent recovery requirement of OBRA–90.

The Commission has explained in the past why it does not believe that basing

fees on factors such as number of sources, the size of the facility, and market competitive positions, as suggested by commenters, would result in a fairer allocation of the 100 percent recovery requirement. (See FY 1991 Final Rule, 56 FR 31472; July 10, 1991, and Appendix A to that Final Rule; and Limited Revision of Fee Schedules, 57 FR 13625; April 17, 1992). The Commission has seen no evidence in the petition or comments on the petition which would lead it to change its current approach of charging fees by class of license.

3. *Comment:* Most commenters supported the petitioner's request that the NRC establish standards for its activities, such as a schedule for response intervals for processing licensing actions, and provide licensees with a cost sheet indicating these schedules in order to assure licensees that services will be provided in a reasonably stated time period. However, one commenter stated that licensees should not be in a position of dictating things such as time limits for processing applications. Several commenters also supported the petitioner's request that NRC provide more detailed information with the bills. Some commenters indicated that bills should be itemized to show hours spent, a description of the work performed (specifically work performed by contractors), the name(s) of the individual(s) who completed the work, and the dates on which the work was performed.

Response: The petitioner's requests that review standards be established, that cost sheets describing sample charges be developed, and that additional information be provided on the bills pertain to NRC practices and procedures which should not be codified in a rule. The Commission cannot establish fixed costs for completing licensing actions and inspections for major fuel cycle licensees since the cost varies for such activities. License and inspection fees, established by 10 CFR Part 170 under the authority of the Independent Offices Appropriation Act (IOAA) and the Atomic Energy Act (AEA), as amended, recover the NRC's cost of providing individually identifiable services to specific applicants and licensees. The NRC's principal concern is public health and safety and thus the NRC must spend the appropriate resources to accomplish this, not a predetermined amount. While the Commission is committed to the expeditious review of each application and uses all reasonable means of keeping costs as low as feasible, its responsibility for ensuring the public health and safety and environmental protection cannot be compromised. The Commission is committed to the effective use of its increasingly limited resources and therefore cannot afford to use these resources unwisely if it is to successfully perform its mission.

In response to the request for one standard fee for the same type of action, the Commission notes that full-cost recovery fees based on the actual professional staff hour and contractual services costs expended for the review were established in 1984 for the NRC's larger licensees (reactor and major fuel cycle facilities). Previously, the IOAA fees for amendment actions and inspections of these licensees were ''flat'' fees based on the average number of hours to process the same type of licensing action or to conduct similar inspection. Commenters on the fee system at that time complained about the inequities of such a fee system for larger licensees. They pointed out that NRC's response time for applications filed by licensees could vary significantly, depending upon the quality and completeness of the information submitted by the applicant or licensee and the extent and complexity of the licensing action requested. The NRC agreed with the commenters and changed its method of assessing fees for larger licensees based on the fact that there were differences in the types and complexity of the applications being filed and the fact that the NRC maintained a system whereby employees processing applications and conducting inspections reported, on a periodic basis, the professional time expended to process an application or to conduct an inspection.

To ensure that applications are processed in a timely and cost-effective manner, each NRC office in the licensing process develops and works in accordance with an approved operating plan. Upon receipt of applications, schedules are established and resources allocated for each review based on the amount of time and professional staff effort determined necessary to complete the particular type of application or activity. Because the total assigned workload must be completed with limited resources, management is continuously challenged and, indeed, evaluated on its ability to balance workload and assigned resources in the most efficient and effective manner. Similarly, management is expected to adhere to established review schedules, and changes are approved only with suitable justification. The NRC staff's success in meeting schedules is monitored continuously and critically by both NRC management and the Commission to ensure that projects are completed expeditiously and efficiently.

For the foregoing reasons, the Commission is denying the petitioner's request that standards be established, that costs sheets describing sample charges be developed for different types of work, and that response times be established by NRC and distributed to all licensees.

With regard to the petitioner's request that additional details be provided on the bills, the NRC believes that sufficient information is currently provided to licensees or applicants on which to base payment of the invoice. NRC's invoices for full-cost licensing actions and inspections currently contain information detailing the type of service for which the costs are being billed, the date or date range the service was performed, the number of professional staff-hours expended in providing the service, the hourly rate, and the contractual costs incurred. Additionally, the Inspection Report number is provided on inspection fee bills, and the date of the application, NRC's completion date, and the subject of the application or the amendment number, if appropriate, are provided on bills for licensing actions.

A licensee or applicant who does not understand the charges or who feels they need more information to understand a bill may request additional information from the NRC regarding the specific bill in question. The NRC will turn over all available data used to support the bill upon request of the licensee or applicant.[1] Additionally, if requested, the NRC program staff will provide a best estimate of the hours required to complete a specific licensing action, with the caveat that the actual hours expended may differ from that estimate. However, OMB Circular A–25, which provides guidelines for Federal agencies to assess fees for Government services, provides that new cost accounting systems need not be established solely for the purpose of determining or estimating full cost. Therefore, the NRC does not plan to develop additional systems solely to provide additional information on its fee invoices at this time.

4. *Comment:* Several commenters agreed with the petitioner that all Federal agencies should be assessed fees to recover their share of NRC's costs.

The Commission agrees that, where legally permissible, Federal agencies should pay for services rendered,

[1] At the request of uranium recovery industry representatives in a meeting with the NRC staff on October 24, 1994, this additional information will be provided with all Part 170 bills issued to uranium recovery licensees and applicants.

including the Department of Energy for NRC review of DOE sites under UMTRCA. However, as stated in response to similar comments (See FY 1992 Final Rule, 57 FR 32695) NRC is currently precluded under the Independent Offices Appropriation Act (IOAA) from assessing Part 170 fees to Federal agencies for specific services rendered. The NRC currently assesses annual fees under 10 CFR Part 171 to Federal agencies if those agencies have a license or approval/certificate from the NRC; however, OBRA–90 limits annual fee assessments to NRC *licensees*. In September 1993, DOE became a general licensee of the NRC because post-reclamation closure of the Spook, Wyoming, site had been achieved. Therefore, effective with the FY 1994 final rule published July 20, 1994, DOE is being assessed for costs associated with DOE facilities under the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). These costs were previously recovered from operating reactors because DOE was not an NRC licensee prior to September 1993 and therefore could not be billed under 10 CFR Part 171.

The Commission has recommended in its report submitted to Congress on February 23, 1994, that either OBRA–90 be modified to remove costs from the fee base for services to other Federal agencies or the Atomic Energy Act be modified to permit the NRC to assess application and other fees for specific services rendered to all Federal agencies.

For the reasons stated above, the NRC has denied this petition.

Dated at Rockville, Maryland, this 24th day of April, 1995.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 95–10477 Filed 4–27–95; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[INTL–0065–93]

RIN 1545–AS46

Exceptions to Passive Income Characterization for Certain Foreign Banks and Securities Dealers

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document provides guidance concerning the application of the exceptions to passive income contained in section 1296(b) for foreign banks, securities dealers and brokers. This document affects persons who own direct or indirect interests in certain foreign corporations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by August 10, 1995. Outlines of oral comments to be presented at the public hearing scheduled for August 31, 1995 at 10 a.m. must be received by August 10, 1995.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (INTL–0065–93), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (INTL–0065–93), Courier's Desk, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Ramon Camacho at (202) 622–3870; concerning submissions and the hearing, Ms. Christina Vasquez, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

A passive foreign investment company (PFIC) is any foreign corporation that satisfies either the income test or asset test in section 1296(a) of the Internal Revenue Code (Code). Under the income test, a foreign corporation is a PFIC if 75 percent or more of its gross income for the year is passive income. Sec. 1296(a)(1). Alternatively, a foreign corporation is a PFIC if 50 percent or more of the average value of its assets for the taxable year produce passive income or are held for the production of passive income. Sec. 1296(a)(2). Under section 1296(b)(1), passive income is foreign personal holding company income as defined in section 954(c) of the Code, and includes dividends, interest, certain rents and royalties, and gain from certain property transactions, including gain from the sale of assets that produce passive income.

Under section 1296(b)(2)(A), income earned in the active conduct of a banking business by a foreign corporation licensed to do business as a bank in the United States and, to the extent provided in regulations, by other corporations engaged in the banking business is not passive. Notice 89–81, 1989–2 CB 399, (Notice) described rules to be incorporated into subsequent regulations that would expand this exception to certain foreign banks not licensed to do a banking business in the United States. The rules contained in § 1.1296–4 of the proposed regulations would implement section 1296(b)(2)(A) for banking activities conducted by foreign corporations.

In 1993, Congress added section 1296(b)(3)(A) to the Code, effective for taxable years beginning after September 30, 1993. See Omnibus Budget Reconciliation Act of 1993 (1993 Act), Pub. L. 103–66, section 13231(d), 107 Stat. 312, 499. The provision treats as nonpassive any income derived in the active conduct of a securities business by a controlled foreign corporation (CFC) if the CFC is a U.S. registered dealer or broker and, to the extent provided in regulations, a CFC not so registered. The rules contained in § 1.1296–6 would implement section 1296(b)(3)(A).

Section 956A, added by the 1993 Act, requires each U.S. shareholder of a CFC to include in income its pro rata share of the CFC's excess passive assets. Under section 956A(c)(2), a passive asset is any asset that produces passive income as defined in section 1296(b). An asset that generates nonpassive income under § 1.1296–4 or § 1.1296–6 of the proposed regulations will be nonpassive for purposes of section 956A.

Explanation of Provisions

I. Description of Proposed Rules for Foreign Banks

A. General Rule

Section 1.1296–4(a) of the proposed regulations provides generally that, for purposes of section 1296(a)(1), passive income does not include banking income earned by an active bank or by a qualified affiliate of such a bank. For this purpose, an active bank is either a corporation that possesses a license issued under federal or state law to do business as a bank in the United States, or a foreign corporation that meets the licensing, deposit-taking, and lending requirements of paragraphs (c), (d), and (e), respectively, of § 1.1296–4.

The proposed rules generally adopt the deposit, lending, and licensing standards contained in the Notice. These standards are consistent with the provisions of the Code that define a bank as an institution that accepts deposits from and makes loans to the public and is licensed under state or federal law to conduct banking activities. See e.g., sec. 581. The IRS and Treasury believe that Congress intended

to grant the banking exception only to corporations that conform to a traditional U.S. banking model.

However, the proposed rules liberalize the approach taken in the Notice in several ways. Most significantly, the proposed rules adopt subjective tests to measure whether the corporation meets the deposit-taking and lending requirements. The IRS and Treasury rejected reliance on objective tests such as those in the Notice after learning, through several ruling requests pursuant to the Notice, that objective standards may cause legitimate banks to be treated as nonbanks.

Because of the rigidity of the objective tests, the Notice permitted the IRS to rule in rare and unusual circumstances that a foreign corporation was an active bank even though it failed to satisfy the requirements of the Notice. The proposed regulations do not adopt this procedure because the IRS and Treasury believe that the enhanced flexibility of the proposed rules should permit all foreign corporations actively conducting a licensed banking business (whether directly or through affiliates) to qualify for the bank exception.

B. Licensing Requirement

A foreign corporation that is not licensed in the United States satisfies the licensing requirements of § 1.1296–4(c) if it is licensed or authorized to accept deposits from residents of the country in which it is chartered or incorporated, and to conduct, in such country, any of the banking activities described in the proposed regulations. However, a corporation fails this licensing test if one of the principal purposes for its obtaining a license was compliance with the requirements of this section.

The IRS and Treasury believe that being licensed as a bank by a bank regulatory authority is strong evidence that a corporation is a bank. The proposed regulations therefore adopt a licensing test to distinguish banks from investment funds.

C. Deposit-Taking Test

A foreign corporation satisfies the deposit-taking test of § 1.1296–4(d) if it regularly accepts deposits in the ordinary course of its trade or business from customers who are residents of the country in which it is licensed or authorized. In addition, the amount of deposits shown on the corporation's balance sheet must be substantial. Section 1.1296–4(d)(3) provides that whether the amount of deposits on a corporation's balance sheet is substantial depends on all the facts and circumstances, including whether the capital structure and funding of the bank as a whole are similar to that of comparable banking institutions engaged in the same types of activities and subject to regulation by the same banking authorities.

The proposed regulations adopt this deposit-taking test in part to distinguish banks from finance companies, which do not accept deposits. This distinction between finance companies and banks is required by Congress. H.R. Conf. Rep. No. 213, 103d Cong., 1st Sess. 641 (1993) (noting that the banking, insurance, and securities exemptions ''do not apply to income derived in the conduct of financing and credit services businesses''). Although the IRS and Treasury believe that deposit-taking is a key attribute of all active banks, they also recognize that subjective tests will better accommodate the various types of banks that have developed as a result of different banking systems and regulatory frameworks.

The proposed regulations introduce flexibility to the deposit-taking requirements in several ways. First, the requirement that the amount of deposits be substantial is more flexible than the Notice requirement that deposits constitute at least 50 percent of the total liabilities of the bank. The IRS and Treasury recognize that a bank's funding preferences may be affected by market conditions and regulatory requirements and believes that an institution may be properly treated as an active bank even if deposits do not constitute the institution's primary source of funding.

Second, unlike the Notice, the proposed regulations do not include any special rules for interbank deposits but treat them like any other deposit, regardless of whether they are received from persons who are members of a related group as defined in § 1.1296–4(i)(4). The IRS and Treasury believe this change is appropriate because the acceptance of interbank deposits from related or unrelated persons on an arm's length basis is a banking activity normally engaged in by banks. In addition, the impact of a rule that distinguishes between interbank deposits received from related persons and those received from unrelated persons is diminished where deposit-taking activity is not measured with a bright-line test.

Finally, the proposed rules change the Notice requirement that a corporation must hold deposits from at least 1,000 persons who are bona fide residents of the country that issued the corporation's banking license because this requirement proved troublesome for certain private banks with clientele from several countries. The requirement was intended to address cases where a bank is licensed by a country but not allowed to accept deposits from its residents. In the IRS and Treasury's view, such an entity should not be treated as an active bank for purposes of section 1296 because it is not accorded full bank status by the bank authorities that issued its banking license. However, the IRS and Treasury believe that a bright-line deposit standard is not necessary to address this concern. Instead, the proposed regulations require that a corporation regularly accept deposits from residents of the country in which it is licensed.

D. Lending Test

A foreign corporation satisfies the lending test of § 1.1296–4(e) if it regularly makes loans to customers in the ordinary course of its trade or business. This is a change from the Notice's requirement that loans to unrelated persons make up more than 50 percent of the corporation's loan portfolio. The lending test is necessary to distinguish banks, which extend credit to customers, from corporations that merely invest. However, such a distinction can be drawn without relying on a bright-line standard such as that contained in the Notice.

In order to distinguish loans from investments for purposes of these rules, the proposed regulations provide that a note, bond, debenture or other evidence of indebtedness is a loan only if it is received by the corporation on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of the corporation's banking business. Debt instruments treated as securities for purposes of the corporation's financial statements generally are not loans.

E. Banking Income and Activities

Section 1.1296–4(f)(1) provides that banking income is gross income derived from the active conduct of any banking activity as defined in § 1.1296–4(f)(2). These activities include all of the activities treated as banking activities in the Notice, with no material changes, except that finance leasing is included as a banking activity.

The proposed regulations do not adopt the Notice's rule that all of the U.S. effectively connected income earned by a foreign corporation in the active conduct of a trade or business pursuant to a U.S. bank license automatically is nonpassive. One effect of this rule was that effectively connected income earned by a U.S.-licensed bank from transactions with related parties would have been banking income, while income earned by non-

U.S.-licensed banks from similar related-party transactions would not have been banking income. Because the proposed regulations generally do not differentiate between related party and non-related party transactions in the same way as the Notice, the only effect of the rule would have been to treat, in the case of U.S. licensed banks only, as banking income the income earned on transactions with related parties who are not customers and income earned from activities (such as securities activities) that are not banking activities described in § 1.1296–4(f). The IRS and Treasury believe that the standards for determining whether income is derived in the active conduct of a banking business should be the same for all corporations that are either active banks or qualified bank affiliates.

The IRS and Treasury are aware that many bank activities may also be considered securities activities. Under the proposed regulations, an entity that performs an activity that is both a banking activity and a securities activity must satisfy only the requirements of the bank rules to treat income from such activity as nonpassive. For example, an entity that derives income from dealing in foreign exchange may treat such income as nonpassive if it is an active bank (or a qualified bank affiliate) even though it is not a controlled foreign corporation.

Dealing in securities, however, is not included as both a banking activity and a securities activity. The IRS and Treasury believe that Congress intended that income from dealing in securities should be nonpassive only if it is earned by a controlled foreign corporation that actively conducts a securities business and meets the other requirements of section 1296(b)(3)(A).

The IRS and Treasury have become aware that certain developing country economies impose high deposit reserve requirements as a tool for implementing monetary policy. Because the central banks of these countries require the maintenance of such reserves as a prerequisite to conducting a banking business, the earnings on such assets, if any, should appropriately be excluded from passive income.

F. Customer Relationship

Under the proposed regulations, a bank satisfies the deposit and lending tests only if it carries on such activities with customers. Moreover, only the income from its banking activities (and those of its qualified bank affiliates) conducted with, or for, customers will produce nonpassive income. This is a change from the Notice requirement, under which activities qualified only if they were conducted with unrelated parties. Under the proposed regulations, a customer may be any person, related or unrelated, if that person has a customer relationship with the bank. Whether such a relationship exists depends on all the facts and circumstances. However, persons who are related to, or who are shareholders, officers, directors, or other employees of, the corporation will not be treated as customers of the corporation if one of the principal purposes for the corporation's transacting business with such persons was to qualify the corporation as an active bank or qualified bank affiliate.

G. Affiliates of Active Banks

The IRS and Treasury recognize that many active banks conduct one or more banking activities through separately incorporated affiliates that may not individually qualify as active banks. Accordingly, the proposed regulations provide rules under which income from banking activities may be treated as nonpassive if earned by a corporation that does not qualify as an active bank but is a member of a related group of which an active bank is also a member. However, such income is nonpassive only for purposes of determining whether any member of the related group is a passive foreign investment company or for purposes of applying the excess passive asset rules of section 956A(c)(2)(A). In addition, such income remains passive with respect to persons who own stock in the affiliate but who are not members of the related group of which the affiliate is a member.

For purposes of these rules, a related group is any group of persons related within the meaning of section 954(d)(3), substituting person for controlled foreign corporation. This definition is a departure from the affiliated group definition of the Notice because it permits noncorporate entities (such as partnerships) to count as members of the group for purposes of satisfying the groupwide gross income test.

Section 1.1296–4(i)(2) requires the bank affiliate to generate more than 60 percent of its income from banking, insurance and securities activities (but not other financial services). For purposes of this test, the look-through rules of sections 1296(c) and 1296(b)(2)(C) do not apply. This requirement ensures that a bank affiliate's eligibility for the bank exception depends upon the business activities conducted directly by the affiliate, and is not influenced by activities conducted by related persons. However, a bank affiliate may nevertheless apply sections 1296(c) and 1296(b)(2)(A) to determine whether it is a PFIC under the income or asset tests of section 1296(a).

In addition, the related group must meet two gross income tests for the exception to apply. First, under § 1.1296–4(i)(3)(i), income from banking activities derived by active banks must constitute at least 30 percent of the financial services income earned by group members. Second, under § 1.1296–4(i)(3)(ii), income earned by group members from banking activities, securities activities, and insurance activities must constitute at least 70 percent of the financial services income earned by group members that are financial services entities. The regulations adopt the definition of financial services income contained in § 1.904–4(e), which includes only income earned by financial services entities.

These affiliate rules are structurally similar to the affiliate rules contained in the Notice, but have been modified in several respects to respond to taxpayer comments. For example, the 80 percent stock ownership threshold of the Notice caused many corporations to be treated as PFICs solely because the gross income of subsidiaries in which the group owned less than an 80 percent interest was excluded for purposes of the Notice's gross income tests, even though the group had voting control of such subsidiaries. The adoption of a lower 50 percent ownership threshold for group membership in the proposed regulations recognizes that international groups are not organized to meet the 80 percent threshold required for consolidation under U.S. tax law.

In addition, the gross income tests were changed in several ways to deal with problems encountered by diversified affiliated groups. First, the denominators of the fractions now include only financial services income, which by its terms includes only income earned by financial services entities. This change prevents foreign corporations that are part of a banking group from being disqualified solely because the group is a subgroup of a larger group that does not perform solely financial services.

Second, the numerator of the fraction for the groupwide gross income test now includes gross income from securities and insurance activities in addition to banking activities. This change prevents a foreign corporation engaged in banking activities that is part of a banking subgroup from being disqualified solely because it is part of a larger group that provides a broad range of financial services.

Finally, the proposed rules drop the Notice requirement that an active bank be a group member for 5 years before its income may count towards satisfaction of the gross income tests. Since PFIC status is determined annually, the IRS and Treasury believe that whether a group is a banking group should depend only on its status during the current taxable year.

H. Income From Nonbanking Activities

As in the Notice, § 1.1296–4(j) of the proposed regulations provides that income derived from the conduct of activities other than banking activities described in § 1.1296–4(f)(2) and income from assets held for the conduct of such activities are nonpassive only to the extent provided in section 1296.

J. Effective Date

Section 1.1296–4 is proposed to be effective for all taxable years beginning after December 31, 1994. However, taxpayers may apply § 1.1296–4 to a taxable year beginning after December 31, 1986, but must consistently apply § 1.1296–4 to such taxable year and all subsequent years. While application of § 1.1296–4 to a year beginning after December 31, 1986, cannot affect the tax liability of a taxpayer for any closed taxable year, a taxpayer may apply § 1.1296–4 to a closed taxable year for the purpose of determining whether a foreign corporation is a PFIC in calculating the taxpayer's liability for an open taxable year.

II. Exception for Income Earned in a Securities Business

A. General Rule

Section 1.1296–6(a) of the proposed regulations provides generally that securities income earned by an active securities dealer, active securities broker or qualified securities affiliate is nonpassive. As required by section 1296(b)(3)(C), the rules apply only for purposes of determining whether a controlled foreign corporation (as defined in section 957(a)) is a PFIC with respect to its United States shareholders (as defined in section 951(b)), or for purposes of determining whether an asset is passive under section 956A(c)(2).

B. Active Securities Dealer and Active Securities Broker

Under § 1.1296–6(b)(1), an active dealer or broker is a dealer or broker that meets certain licensing requirements.

Section 1.1296–6(c) defines a securities dealer as a dealer in securities within the meaning of section 475(c)(1). Under § 1.1296–6(d), a securities broker is a foreign corporation that stands ready to effect transactions in securities and other financial instruments for the account of customers in the ordinary course of its trade or business during the taxable year. A securities dealer or broker is licensed under § 1.1296–6(b) if it possesses a U.S. license to do business as a securities dealer or broker in the United States or if it is licensed or authorized in the country in which it is chartered or incorporated to conduct one or more securities activities described in § 1.1296–6(e)(2) with residents of that country. The conduct of such activities must be subject to bona fide regulation, including appropriate reporting, monitoring and prudential requirements, by a securities regulatory authority that regularly enforces compliance with such standards.

C. Securities Income & Securities Activities

Section 1.1296–6(e)(1) provides generally that securities income means the gross income derived from the active conduct of any securities activity that constitutes a trade or business. The list of securities activities contained in § 1.1296–6(e)(2) generally is consistent with the legislative history to section 1296(b)(3)(A). See H.R. Rep. No. 111, 103d Cong., 1st Sess. 704 (1993).

Section 1.1296–6(e)(2)(iv) includes as an additional securities activity the maintenance of a capital deposit required under foreign law as a prerequisite to acting as a broker in that jurisdiction. Without this rule, a broker that is not also a dealer could be a PFIC under section 1296(a)(2) even though the majority of its income is commission income. This rule applies only if significant restrictions exist on the use of its capital. Thus, working capital will not qualify as a deposit for purposes of this rule.

In general, only income from transactions entered into with, or on behalf of, persons with whom the corporation has a dealer-customer relationship may be treated as nonpassive. Section 1.1296–6(g) adopts without change the definition of dealer-customer relationship contained in the bank rules.

Under § 1.1296–6(h) of the proposed regulations, income and gain from a security identified as held for investment under section 475(b)(1)(A) or which is not held for sale within the meaning of section 475(b)(1)(B) is passive. Because the identification rules of sections 475(b) and 1.475(b)–1T and 1.475(b)–2T apply, the rules governing identification of inventory securities in Notice 88–22, 1988–1 CB 489 and Notice 89–81, 1989–2 CB 399 do not apply with respect to taxable years beginning after September 30, 1993. However, the inventory identification rules of Notice 89–81 and Notice 88–22 will continue to apply for taxable years beginning before October 1, 1993.

D. Matched Book Income

Section 1.1296–6(i) of the proposed regulations provides special rules for determining a securities dealer's income from certain matched transactions. These rules are adopted in order to eliminate a potential opportunity for abuse that arises from the manner in which a matched book repo business is conducted by securities dealers.

A matched transaction is defined as a sale and repurchase agreement with respect to the same security, entered into by the controlled foreign corporation in the active conduct of its trade or business and properly treated as offsetting agreements in a matched book. In a typical repurchase agreement a taxpayer sells a security and, at the same time, agrees to repurchase an identical security from the purchaser at a price in excess of the taxpayer's sales price. In a reverse repurchase agreement, a taxpayer purchases a security and concurrently agrees to sell an identical security to the seller at a price in excess of the taxpayer's purchase price. A taxpayer who keeps a matched book generally enters into offsetting repurchase and reverse repurchase agreements involving identical securities. Such taxpayers act as intermediaries by matching persons who need cash for a short period with those who need securities for the same period.

Under the proposed regulations, securities income includes only the net (not gross) income from matched transactions. Without the proposed regulation's netting rule, related groups that are predominantly engaged in passive activities could easily meet the gross income tests contained in the qualified affiliate rules because a CFC conducting a matched book business will earn large amounts of gross income, even though net economic income from matched book activities is comparatively small.

E. Affiliates of Dealers or Brokers

Like banks, securities dealers and brokers frequently operate through separately incorporated subsidiaries that may not qualify independently as active securities dealers or brokers but which form part of an integrated securities business conducted by an active dealer or broker. Accordingly, the proposed regulations contain rules that extend the

securities dealer/broker exception to certain qualified affiliates of active securities dealers or brokers. These rules generally mirror the qualified bank affiliate rules contained in § 1.1296–4(i), except that they extend the securities dealer/broker exception only to qualified securities affiliates that are CFCs, as required by section 1296(b)(3)(A).

F. Income From Nonsecurities Activities

Section 1.1296–6(k) of the proposed regulations provides that income derived from the conduct of activities other than securities activities described in § 1.1296–6(e)(2) and income from assets held for the conduct of such activities are nonpassive only to the extent provided in section 1296.

G. Effective Date

The rules contained in § 1.1296–6 are proposed to be effective for taxable years beginning after September 30, 1993.

III. Look-Through Rules

The proposed regulations do not contain guidance regarding the look-through rules of sections 1296(c) and 1296(b)(2)(C) or the grouping rules of section 956A(d). In general, the proposed regulations also do not address whether, and to what extent, look-through principles may apply to characterize income from a partnership as nonpassive and an interest in a partnership as a nonpassive asset, except to the extent that section 475 may treat a partnership as a securities dealer. Because these issues are not unique to financial institutions, the IRS and Treasury will address them in future regulations of more general application. The IRS and Treasury solicit comments on the proper scope and application of look-through and grouping concepts to banks, securities dealers and securities brokers.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for August 31, 1995, at 10 a.m., in the Internal Revenue Service Auditorium, 7400 corridor. Because of access restrictions, visitors will not be admitted beyond the Internal Revenue Building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by August 10, 1995.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Ramon Camacho, Office of the Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entry for Sections 1.1291–10T, 1.1294–1T, 1.1295–1T, and 1.1297–3T and adding entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.1291–10T also issued under 26 U.S.C. 1291(d)(2).
Section 1.1294–1T also issued under 26 U.S.C. 1294.
Section 1.1295–1T also issued under 26 U.S.C. 1295.
Section 1.1296–4 also issued under 26 U.S.C. 1296(b)(2)(A).
Section 1.1296–6 also issued under 26 U.S.C. 1296(b)(3)(A).
Section 1.1297–3T also issued under 26 U.S.C. 1297(b)(1). * * *

§ 1.1291–0T [Redesignated as § 1.1291–0]

Par. 2. Section 1.1291–0T is redesignated as § 1.1291–0.

Par. 3. Newly designated § 1.1291–0 is amended as follows:

1. The section heading for newly designated § 1.1291–0 is revised.
2. The introductory language for newly designated § 1.1291–0 is revised.
3. Entries for §§ 1.1296–4 and 1.1296–6 are added in numerical order.

The revisions and additions read as follows:

§ 1.1291–0 Passive foreign investment companies—table of contents.

This section lists headings under sections 1291, 1294, 1296 and 1297 of the Internal Revenue Code.

* * * * *

§ 1.1296–4 Characterization of certain banking income of foreign banks as nonpassive.

(a) General rule.
(b) Active bank.
(1) U.S. licensed banks.
(2) Other foreign banks.
(c) Licensing requirements.
(d) Deposit-taking requirements.
(1) General rule.
(2) Deposit.
(3) Substantiality of deposits.
(e) Lending activities test.
(f) Banking income.
(1) General rule.
(2) Banking activities.
(g) Certain restricted reserves.
(h) Customer relationship.
(i) Income earned by qualified bank affiliates.
(1) General rule.
(2) Affiliate income requirement.
(3) Group income requirements.
(4) Related group.
(j) Income from nonbank activities.
(k) Effective date.

§ 1.1296–6 Characterization of certain securities income.

(a) General rule.
(b) Active dealer or broker.
(1) General rule.
(2) U.S. licensed dealers and brokers.
(3) Other dealers and brokers.
(i) General rule.
(ii) Licensing requirements.
(c) Securities dealer.
(d) Securities broker.
(e) Securities income.
(1) General rule.
(2) Securities activities.
(f) Certain deposits of capital.
(g) Dealer-customer relationship.
(h) Investment income.

(i) Calculation of gross income from a matched book.
(j) Income earned by qualified securities affiliates.
(1) General rule.
(2) Affiliate income requirement.
(3) Group income requirements.
(4) Related group.
(5) Example.
(k) Income from nonsecurities activities.
(l) Effective date.

* * * * *

Par. 4. Section 1.1296–4 is added to read as follows:

§ 1.1296–4 Characterization of certain banking income of foreign banks as nonpassive.

(a) *General rule.* For purposes of section 1296, banking income earned by an active bank, as defined in either paragraph (b) (1) or (2) of this section, or by a qualified bank affiliate, as defined in paragraph (i) of this section, is nonpassive income.

(b) *Active bank*—(1) *U.S. licensed banks.* A corporation (whether domestic or foreign) is an active bank if it is licensed by federal or state bank regulatory authorities to do business as a bank in the United States. A foreign corporation will not satisfy the requirements of this paragraph (b)(1) if, under its federal or state license or licenses, the foreign corporation is permitted to maintain only an office, such as a representative office, that is prohibited by federal or state law from taking deposits or making loans.

(2) *Other foreign banks.* A foreign corporation is an active bank if it meets the licensing requirement of paragraph (c) of this section and it actively conducts, within the meaning of § 1.367(a)–2T(b)(3), a banking business that is a trade or business within the meaning of § 1.367(a)–2T(b)(2). In order for the business conducted by a foreign corporation to be considered a banking business, the foreign corporation must also meet the deposit-taking requirements of paragraph (d) of this section and the lending requirements of paragraph (e) of this section.

(c) *Licensing requirements.* To be an active bank under paragraph (b)(2) of this section, a foreign corporation must be licensed or authorized to accept deposits from residents of the country in which it is chartered or incorporated and to conduct, in that country, one or more of the banking activities described in paragraph (f)(2) of this section. However, in no case will a foreign corporation satisfy the requirements of this paragraph (c) if one of the principal purposes for its obtaining a license or authorization was to satisfy the requirements of this section.

(d) *Deposit-taking requirements*—(1) *General rule.* To be an active bank under paragraph (b)(2) of this section—

(i) A foreign corporation must, in the ordinary course of the corporation's trade or business, regularly accept deposits from customers who are residents of the country in which it is licensed or authorized; and

(ii) The amount of deposits shown on the corporation's balance sheet must be substantial.

(2) *Deposit.* Whether a liability constitutes a deposit for purposes of this paragraph (d) is determined by reference to the characteristics of the relevant instrument and does not depend solely on whether the instrument is designated as a deposit.

(3) *Substantiality of deposits.* Whether the amount of deposits (including interbank deposits) shown on a corporation's balance sheet is substantial depends on all the facts and circumstances, including whether the corporation's capital structure and funding sources as a whole are similar to that of banking institutions engaged in the same types of activities and subject to the jurisdiction of the same bank regulatory authorities.

(e) *Lending activities test.* To be an active bank under paragraph (b)(2) of this section, a corporation must regularly make loans to customers in the ordinary course of its trade or business. A note, bond, debenture or other evidence of indebtedness will be treated as a loan for purposes of this section only if the debt instrument is received by the corporation on an extension of credit made pursuant to a loan agreement entered into in the ordinary course of the corporation's banking business. Such debt instruments generally will not be considered loans for purposes of this section if the instruments are not treated as loans (but are classified as securities or other investment assets, for example) for purposes of the foreign corporation's financial statements.

(f) *Banking income*—(1) *General rule.* Banking income is the gross income derived from the active conduct (within the meaning of § 1.367(a)–2T(b)(3)) of any banking activity described in paragraph (f)(2) of this section.

(2) *Banking activities.* For purposes of this section, the following are banking activities—

(i) Lending activities described in paragraph (e) of this section;

(ii) Factoring evidences of indebtedness for customers;

(iii) Purchasing, selling, discounting, or negotiating for customers notes, drafts, checks, bills of exchange, acceptances, or other evidences of indebtedness;

(iv) Issuing letters of credit and negotiating drafts drawn thereunder for customers;

(v) Performing trust services, including activities as a fiduciary, agent or custodian, for customers, provided such trust activities are not performed in connection with services provided by a dealer in stock, securities or similar financial instruments;

(vi) Arranging foreign exchange transactions (including any section 988 transaction within the meaning of section 988(c)(1)) for, or engaging in foreign exchange transactions with, customers;

(vii) Arranging interest rate or currency futures, forwards, options or notional principal contracts for, or entering into such transactions with, customers;

(viii) Underwriting issues of stock, debt instruments or other securities under best efforts or firm commitment agreements for customers;

(ix) Engaging in finance leases, as defined in § 1.904–4(e)(2)(i)(V);

(x) Providing charge and credit card services for customers or factoring receivables obtained in the course of providing such services;

(xi) Providing traveler's check and money order services for customers;

(xii) Providing correspondent bank services for customers;

(xiii) Providing paying agency and collection agency services for customers;

(xiv) Maintaining restricted reserves (including money or securities) as described in paragraph (g) of this section; and

(xv) Any other activity that the Commissioner determines, through a revenue ruling or other formal published guidance (see § 601.601(d)(2) of this chapter), to be a banking activity generally conducted by active banks in the ordinary course of their banking business.

(g) *Certain restricted reserves.* A deposit of assets in a reserve is, for purposes of this section, a banking activity if the deposit is maintained in a segregated account in order to satisfy a capital or reserve requirement under the laws of a jurisdiction in which the corporation actively conducts (within the meaning of § 1.367(a)–2T(b)(3)) a banking business that is a trade or business (within the meaning of § 1.367(a)–2T(b)(2)). A deposit of assets into a reserve qualifies under this paragraph (g) if and only to the extent that the assets are not available for use in connection with the corporation's banking business because of significant

regulatory restrictions on the investment of such assets. This paragraph (g) does not apply to ordinary working capital, which is available for unrestricted use.

(h) *Customer relationship.* Whether a customer relationship exists is determined by reference to all the facts and circumstances. Such a relationship does not exist with respect to transactions between members of a related group, as defined in paragraph (i)(4) of this section, or transactions with any shareholders, officers, directors or other employees of any person that would otherwise be treated as an active bank or qualified bank affiliate if one of the principal purposes for such transactions was to satisfy the requirements of this section.

(i) *Income earned by qualified bank affiliates*—(1) *General rule.* A foreign corporation that is not an active bank but which derives banking income, as defined in paragraph (f)(1) of this section, is a qualified bank affiliate for purposes of this section if such corporation meets the requirements of paragraph (i)(2) of this section and the related group of which it is a member meets the requirements of paragraph (i)(3) of this section. Banking income earned by a qualified bank affiliate is nonpassive only for purposes of determining whether any member of the related group is a passive foreign investment company or holds stock in a passive foreign investment company or for purposes of applying section 956A(c)(2)(A). However, banking income of a qualified bank affiliate remains passive with respect to persons who own stock in that affiliate but who are not members of the related group of which the affiliate is a member.

(2) *Affiliate income requirement.* To be a qualified bank affiliate, at least 60 percent of the foreign corporation's total gross income for the taxable year must be banking income, securities income, as defined in § 1.1296–6(e)(1), or gross income described in section 1296(b)(2)(B) (relating to insurance activities). For purposes of applying this paragraph (i)(2), the look-through rules of sections 1296(b)(2)(C) and 1296(c) do not apply.

(3) *Group income requirements.* The related group qualifies under this paragraph (i) if—

(i) At least 30 percent of the aggregate gross financial services income, as defined in § 1.904–4(e)(1), earned during the taxable year by members of the related group is banking income earned by active banks who are members of the related group during the current taxable year; and

(ii) At least 70 percent of the aggregate gross financial services income earned during the taxable year by members of the related group is banking income, securities income, or gross income described in section 1296(b)(2)(B)(relating to insurance activities).

(4) *Related group.* The related group is the group of persons consisting of the entity being tested under this paragraph (i) and all entities that are related within the meaning of section 954(d)(3) to such entity, substituting ''person'' for ''controlled foreign corporation'' each time the latter term appears.

(j) *Income from nonbank activities.* Income derived from the conduct of activities other than banking activities described in paragraph (f)(2) of this section and income from assets held for the conduct of such other activities are nonpassive only to the extent otherwise provided in section 1296.

(k) *Effective date.* This section is effective for taxable years beginning after December 31, 1994. However, taxpayers may apply this section to a taxable year beginning after December 31, 1986, but must consistently apply this section to such taxable year and all subsequent years.

Par. 5. Section 1.1296–6 is added to read as follows:

§ 1.1296–6 Characterization of certain securities income.

(a) *General rule.* For purposes of section 1296, securities income earned by an active dealer or active broker, as defined in paragraph (b) of this section, or a qualified securities affiliate, as defined in paragraph (j) of this section, is nonpassive income. This section applies only for purposes of determining whether a controlled foreign corporation, as defined in section 957(a), is a passive foreign investment company with respect to its United States shareholders as defined in section 951(b), or for the purpose of determining whether an asset is passive under section 956A(c)(2)(A).

(b) *Active dealer or broker*—(1) *General rule.* A securities dealer, as defined in paragraph (c) of this section, or a securities broker, as defined in paragraph (d) of this section, is an active dealer or an active broker for purposes of this section if it meets the requirements of either paragraph (b) (2) or (3) of this section.

(2) *U.S. licensed dealers and brokers.* A securities dealer or securities broker (whether foreign or domestic) is an active dealer or an active broker if it is registered as a securities dealer or broker under section 15(a) of the Securities Exchange Act of 1934 or is registered as a Government securities dealer or broker under section 15C(a) of such Act.

(3) *Other dealers and brokers*—(i) *General rule.* A securities dealer or a securities broker is an active dealer or an active broker if it meets the licensing requirements of paragraph (b)(3)(ii) of this section and actively conducts, within the meaning of § 1.367(a)–2T(b)(3), one or more securities activities, as defined in paragraph (e)(2) of this section, as a trade or business within the meaning of § 1.367(a)–2T(b)(2).

(ii) *Licensing requirements.* To be an active dealer or an active broker under paragraph (b)(3) of this section, a securities dealer or securities broker must be licensed or authorized in the country in which it is chartered, incorporated or organized to conduct one or more of the securities activities described in paragraph (e)(2) of this section with residents of that country. The conduct of such activities must be subject to *bona fide* regulation, including appropriate reporting, monitoring and prudential (including capital adequacy) requirements, by a securities regulatory authority in that country that regularly enforces compliance with such requirements and prudential standards.

(c) *Securities dealer.* For purposes of this section, a securities dealer is a dealer (whether foreign or domestic) in securities within the meaning of section 475(c)(1).

(d) *Securities broker.* For purposes of this section, a securities broker is a corporation (whether domestic or foreign) that, during its taxable year, stands ready, in the ordinary course of its trade or business, to effect transactions in securities and other financial instruments for the account of customers, including the arrangement of loans of securities owned by customers.

(e) *Securities income*—(1) *General rule.* Securities income means the gross income (except as provided in paragraph (i) of this section) derived from the active conduct (within the meaning of § 1.367(a)–2T(b)(3)) of any securities activity described in paragraph (e)(2) of this section.

(2) *Securities activities.* For purposes of this section, the following are securities activities—

(i) Purchasing or selling stock, debt instruments, interest rate or currency futures or other securities or derivative financial products (including notional principal contracts) from or to customers and holding stock, debt instruments and other securities as inventory for sale to customers, unless the relevant securities or derivative financial products (including notional

principal contracts) are not held in a dealer capacity;

(ii) Effecting transactions in securities for customers as a securities broker;

(iii) Arranging futures, forwards, options, or notional principal contracts for, or entering into such transactions with, customers;

(iv) Arranging foreign exchange transactions (including any section 988 transaction within the meaning of section 988(c)(1)) for, or engaging in foreign exchange transactions with, customers;

(v) Underwriting issues of stocks, debt instruments, or other securities under best efforts or firm commitment agreements with customers;

(vi) Purchasing, selling, discounting, or negotiating for customers on a regular basis notes, drafts, checks, bills of exchange, acceptances or other evidences of indebtedness;

(vii) Borrowing or lending stocks or securities for customers;

(viii) Engaging in securities repurchase or reverse repurchase transactions with customers;

(ix) Engaging in hedging activities directly related to another securities activity described in this paragraph (e)(2);

(x) Repackaging mortgages and other financial assets into securities and servicing activities with respect to such financial assets (including the accrual of interest incidental to such activities);

(xi) Engaging in financing activities typically provided by an investment bank, such as—

(A) Project financing provided in connection with, for example, construction projects;

(B) Structured finance, including the extension of a loan and the sale of participations or interests in the loan to other financial institutions or investors; and

(C) Leasing activities to the extent incidental to financing activities described in this paragraph (e)(2)(xi) or to advisory services described in paragraph (e)(2)(xii) of this section;

(xii) Providing financial or investment advisory services, investment management services, fiduciary services, trust services or custodial services;

(xiii) Providing margin or any other financing for a customer secured by securities or money market instruments, including repurchase agreements, or providing financing in connection with any of the activities listed in paragraphs (e)(2)(i) through (e)(2)(xii) of this section;

(xiv) Maintaining deposits of capital (including money or securities) described in paragraph (f) of this section; and

(xv) Any other activity that the Commissioner determines, through a revenue ruling or other formal published guidance, to be a securities activity generally conducted by active dealers or active brokers in the ordinary course of their securities business.

(f) *Certain deposits of capital.* A deposit of capital is, for purposes of this section, a securities activity if the deposit is maintained in a segregated account in order to satisfy a capital requirement for registration as a securities broker or dealer under the laws of a jurisdiction in which the broker or dealer actively conducts (within the meaning of § 1.367(a)–2T(b)(3)) a trade or business (within the meaning of § 1.367(a)–2T(b)(2)) as a securities broker or dealer. A deposit of capital qualifies under this paragraph (f) if and only to the extent that the assets are not available for use in connection with the controlled foreign corporation's activities as a securities broker or dealer because of significant regulatory restrictions on the investment of such assets. This paragraph (f) does not apply to ordinary working capital, which is available for unrestricted use.

(g) *Dealer-customer relationship.* Whether a dealer-customer relationship exists is determined by reference to all the facts and circumstances. Such a relationship does not exist with respect to transactions between members of a related group, as defined in paragraph (j)(4) of this section, or transactions with any shareholders, officers, directors or other employees of any person that would otherwise be treated as an active dealer, active broker or qualified securities affiliate if one of the principal purposes for such transactions was to satisfy the requirements of this section.

(h) *Investment income.* Income earned on any securities held for investment within the meaning of section 475(b)(1)(A) or not held for sale within the meaning of section 475(b)(1)(B), is passive for purposes of sections 1296(a)(1), 1296(a)(2) and 956A(c)(2)(A).

(i) *Calculation of gross income from a matched book.* Securities income includes only the net (not gross) income from matched transactions. For purposes of this section, a matched transaction is a sale and repurchase agreement with respect to the same security properly treated as offsetting agreements in a matched book.

(j) *Income earned by qualified securities affiliates*—(1) *General rule.* A foreign corporation that is not an active dealer or an active broker but which derives securities income described in paragraph (e)(1) of this section is a qualified securities affiliate for purposes of this section if such corporation meets the requirements of paragraph (j)(2) of this section and is a member of a related group that meets the requirements of paragraph (j)(3) of this section. Securities income earned by a qualified securities affiliate is nonpassive only for purposes of determining whether any member of the related group is a passive foreign investment company or holds stock in a passive foreign investment company or for purposes of applying section 956A(c)(2)(A). However, securities income of a qualified securities affiliate remains passive with respect to persons who own stock in that affiliate but who are not members of the related group of which the affiliate is a member.

(2) *Affiliate income requirement.* To be a qualified securities affiliate, at least 60 percent of the foreign corporation's total gross income for the taxable year must be banking income, as defined in § 1.1296–4(f)(1), securities income, as defined in paragraph (e)(1) of this section, or gross income described in section 1296(b)(2)(B) (relating to insurance activities). For purposes of this paragraph (j)(2), the look-through rules of sections 1296(b)(2)(C) and 1296(c) do not apply.

(3) *Group income requirements.* The related group qualifies under this paragraph (j) if—

(i) At least 30 percent of the aggregate gross financial services income, as defined in § 1.904–4(e)(1), earned during the taxable year by members of the related group is securities income earned by active dealers or active brokers who are members of the related group during the current taxable year; and

(ii) At least 70 percent of the aggregate gross financial services income earned during the taxable year by members of the related group is banking income, securities income, or gross income described in section 1296(b)(2)(B) (relating to insurance activities).

(4) *Related group.* The related group is the group of persons consisting of the entity being tested under this paragraph (j) and all entities that are related within the meaning of section 954(d)(3) to such entity, substituting ''person'' for ''controlled foreign corporation'' each time the latter term appears.

(5) *Example.* The following example illustrates the rules of this paragraph (j).

Example. (i) Facts. SD is a country Y corporation that owns 85 percent of the stock of M, a country Z corporation. A, a U.S. person, owns the remaining 15 percent of the stock of M. B, C, and D, all unrelated U.S. persons, own 5, 15, and 36 percent, respectively, of the stock of SD. The rest of SD's stock is publicly held. SD is a securities dealer within the meaning of section

475(c)(1) and satisfies the licensing requirements of paragraph (b)(3)(ii) of this section. Because M's sole activity is conducting a matched book repo business, M is not a securities dealer within the meaning of section 475. For its taxable year ending December 31, 1994, SD earns $100 of gross income from trading profits and interest and dividends on inventory. For its taxable year ending December 31, 1994, M earns $50 of net interest income from its matched book repo business. SD and M earn no other income. All of SD and M's assets are held in connection with their securities businesses and none has been identified as having been held for investment.

(ii) *Securities income earned by SD.* SD is an active dealer under paragraph (b) of this section because it is a securities dealer under section 475 and satisfies the licensing requirements of paragraph (b)(3)(ii) of this section. Therefore, because SD is a controlled foreign corporation, SD's securities income is nonpassive under paragraph (a) of this section.

(iii) *Securities income earned by M.* (A) SD and M are financial services entities that are the only members of a related group as defined in paragraph (j)(4) of this section. The percentage of the SD–M related group's financial services income that is securities income earned by active dealers (SD), is 66.66 percent (($100/$150) X 100). The percentage of the SD–M related group's financial services income that is securities income, banking income (as defined in § 1.1296–4(f)), or insurance income (as defined in section 1296(b)(2)(B)) is 100 percent (($150/$150)×100). In addition, the percentage of M's income that is securities income is 100 percent (($50/$50)×100).

(B) M is a qualified securities affiliate because the gross income tests of paragraphs (j)(2) and (3) of this section are satisfied. Accordingly, because M is a controlled foreign corporation, M's securities income is nonpassive for purposes of determining whether C or D own an interest in a PFIC (whether SD or M). M is thus not a PFIC with respect to C or D because it does not meet the income or asset tests of section 1296(a). SD also is not a PFIC with respect to C or D because it does not meet the income or assets tests of section 1296(a), after applying the look-through rule of section 1296(c).

(C) However, because B owns less than 10 percent of the stock of SD, and is therefore not a United States shareholder with respect to SD under section 951(b), M's interest income is passive (even though it is securities income) for purposes of determining whether B's indirect interest in M is an interest in a PFIC. Moreover, M's interest income is passive for purposes of determining whether A owns an interest in a PFIC. As a result, M meets the income and asset tests of section 1296(a) and is therefore a PFIC with respect to A and B.

(k) *Income from nonsecurities activities.* Income derived from the conduct of activities other than securities activities described in paragraph (e)(2) of this section and income from assets held for the conduct of such other activities are nonpassive only to the extent otherwise provided in section 1296.

(l) *Effective date.* This section is effective for taxable years beginning after September 30, 1993.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 95–10174 Filed 4–27–95; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01–95–033]

Special Local Regulation: 1995 Special Olympics World Games, Long Island Sound, New Haven, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary special local regulation for the 1995 Special Olympics World Games. Maritime activities held as a part of the Special Olympics World Games will take place in the waters of Long Island Sound approaching New Haven, Connecticut. The dates for these maritime activities are July 1–July 10, 1995. This regulation is needed to allow the Special Olympics World Games Committee to hold the various maritime activities associated with the 1995 Special Olympics World Games without interference from the boating public, and to protect boaters, spectators, and participants from the dangers associated with these events.

DATES: Comments must be received on or before May 30, 1995.

ADDRESSES: Comments should be mailed to Commander (b), First Coast Guard District, Captain John Foster Williams Federal Building, 408 Atlantic Ave., Boston, MA 02110–3350, or may be hand delivered to Room 428 at the same address, between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Lieutenant (jg) B.M. Algeo, Chief, Boating Affairs Branch, First Coast Guard District, (617) 223–8311.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD01–95–033), the specific section of the proposal to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8½″ × 11″ unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Commander (b), First Coast Guard District at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it is determined that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Drafting Information

The drafters of this notice are Lieutenant(jg) Eric Doucette, Project Manager, Captain of the Port, Long Island Sound, and Lieutenant Commander F.J. Kenney, Project Counsel, First Coast Guard District Legal Office.

Background and Purpose

The 1995 Special Olympics World Games are scheduled to be held in New Haven, Connecticut, from July 1–July 10, 1995. As part of the schedule of events, various maritime activities are planned for the participants and the public. The Special Olympics World Games Committee has submitted three marine events permits to the U.S. Coast Guard. The maritime activities for which permits have been requested are to be held in the waters of Long Island Sound approaching New Haven, Connecticut. The activities include sailboat races, a Parade of Sail, and fireworks displays. Due to the inherent dangers of fireworks displays and the need for vessel control during the various races and the Parade of Sail, vessel traffic will be temporarily restricted to provide for the safety of the spectators and participants through the establishment of a proposed regulated area in New Haven Harbor and Long Island Sound.

The Coast Guard is establishing an operational order to provide for the effective coordination of the activities

associated with the 1995 Special Olympics World Games. The specific tasking given to the various Coast Guard resources will be included in this operational order. Due to the proximity of the participating vessels and large number of expected spectator craft, it is necessary to establish a special local regulation to control spectator vessel movement within this confined area.

Discussion of Proposed Amendments

The Coast Guard proposes to establish a special local regulation on specified waters of Long Island Sound and New Haven Harbor, New Haven, Connecticut. Because of the varied nature of the events planned during the Special Olympics World Games, and the length of time over which the events are scheduled to run, the Coast Guard believes the most effective way to meet all safety, security and vessel control objectives is to establish a one large regulated area, divided into 15 sectors. As events occur, individual sectors will open and close as the need arises. A chartlet illustrating each sector is available by writing to the address under **ADDRESSES** or by calling the telephone number in **FOR FURTHER INFORMATION CONTACT.** Provisions will be made, when possible, to allow escort by Coast Guard patrol craft for vessels desiring to transit a closed sector of the regulated area. Special anchorage and viewing areas for spectator craft have also been established. This regulation is needed to protect spectators and participants from the hazards associated with the fireworks displays, Parade of Sail, and to provide for vessel control in a confined area.

Regulatory Evaluations

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that closed sectors will remain closed for a limited amount of time, the extensive advisories that have been and will be made to the affected maritime community so that they may adjust their schedules accordingly, and the fact that the event schedule will allow commercial interests to coordinate their activities to allow minimal disruption to their enterprise.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their fields and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632).

For the reasons discussed in the Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environment

The Coast Guard is considering the environmental impacts of both these Special Local Regulations and the marine events that will be part of the 1995 Special Olympics World Games. It is anticipated that one Environmental Assessment (EA) will be written for all Special Olympics World Games events for which Coast Guard Marine Event Permits will be issued. Comments in this regard should be forwarded to the address listed under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

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

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

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

PART 33—[AMENDED]

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section, § 100.35T01–033, is added to read as follows:

§ 100.35T01–033 1995 Special Olympics World Games, New Haven, CT.

(a) *Regulated Area.* The regulated area will include all waters of New Haven Harbor within the following points:

Point	Latitude	Longitude	Reference
PT P	41°17′07.5″ N	072°56′15.8″ W	Kimberly Ave
PT E	41°14′48.0″ N	072°57′54.0″ W	Prospect Beach
PT K	41°12′14.9″ N	073°01′13.0″ W	Pond Point
PT Q	41°12′06.5″ N	072°53′50.0″ W	NH Channel
PT R	41°12′09.0″ N	072°53′43.0″ W	NH Channel
PT J	41°12′31.0″ N	072°51′46.0″ W	Townsend Ledge
PT A2	41°14′45.4″ N	072°51′46.0″ W	Bradford Cove
PT I	41°18′32.0″ N	072°53′15.0″ W	Grand Ave Bridge

(b) The following sectors have been designated within the Regulated Area:

(1) *Sector 1:* Sailing Area. This area encompasses the area in which the Special Olympics World Games sailing competitions will be held, and will include all waters within the following points:

PT A	41°15′35.0″ N	072°56′04.0″ W	Sail
PT B	41°15′01.5″ N	072°54′55.2″ W	Sail
PT C	41°14′23.5″ N	072°55′03.0″ W	Sail
PT D	41°13′43.5″ N	072°57′21.0″ W	Sail
PT E	41°14′48.0″ N	072°57′54.0″ W	Sail

(2) *Sector 2:* New Haven Entrance Channel, will include all waters within the following points:

PT Q	41°12′06.5″ N	072°53′50.0″ W	NH Channel
PT R	41°12′09.0″ N	072°53′43.0″ W	NH Channel
PT S	41°14′04.0″ N	072°54′59.0″ W	NH Channel
PT T	41°14′03.0″ N	072°55′06.0″ W	Buoy 7

(3) *Sector 3:* Lighthouse (LH) Point Reach, will include all waters within the following points:

PT S	41°14′04.0″ N	072°54′59.0″ W	NH Channel
PT T	41°14′03.0″ N	072°55′06.0″ W	Buoy 7
PT U	41°16′18.0″ N	072°54′39.0″ W	LH Pt Reach
PT V	41°16′19.0″ N	072°54′45.0″ W	Buoy 15

(4) *Sector 4:* New Haven Reach, will include all waters within the following points:

PT W	41°16′56.0″ N	072°54′39.0″ W	Buoy 20
PT U	41°16′18.0″ N	072°54′39.0″ W	LH Pt Reach
PT V	41°16′19.0″ N	072°54′45.0″ W	Buoy 15
PT X	41°16′45.5″ N	072°54′48.0″ W	Buoy 17
PT Y	41°17′49.0″ N	072°54′18.0″ W	NH Reach
PT Z	41°17′54.0″ N	072°54′36.0″ W	NH Reach

(5) *Sector 5:* New Haven Long Wharf, will include all waters within the following points:

PT L	41°17′33.0″ N	072°54′54.0″ W	Long Wharf
PT M	41°17′25.0″ N	072°54′41.0″ W	Long Wharf
PT N	41°17′29.0″ N	072°54′40.0″ W	Long Wharf
PT O	41°17′41.0″ N	072°55′00.0″ W	Long Wharf

(6) *Sector 6:* Barge Staging Operation Area, where barges carrying fireworks will loiter prior to fireworks events. This sector will include all waters within the following points:

PT F	41°13′33.0″ N	072°57′23.0″ W	West Break Wall
PT G	41°13′16.0″ N	072°56′32.0″ W	West Break Wall
PT T	41°14′03.0″ N	072°55′06.0″ W	Buoy 07
PT C	41°14′23.5″ N	072°55′03.0″ W	Sail
PT D	41°13′43.5″ N	072°57′21.0″ W	Sail

(7) *Sector 7:* Fireworks (Barge) Launch Area, will include all waters within the following points:

PT F5	41°16′13.0″ N	072°54′21.0″ W	Fireworks brg
PT F6	41°16′07.5″ N	072°54′51.0″ W	Fireworks brg
PT F7	41°16′52.0″ N	072°54′56.0″ W	Fireworks brg
PT F8	41°16′00.0″ N	072°54′22.0″ W	Fireworks brg

(8) *Sector 8:* Fireworks Launch (Bradley PT, West Haven CT) Area, will include all waters within the following points:

PT F1	41°15′06.0″ N	072°57′41.0″ W	Fireworks land
PT F2	41°14′49.0″ N	072°57′30.0″ W	Fireworks land
PT F3	41°14′59.0″ N	072°57′02.0″ W	Fireworks land
PT F4	41°15′17.0″ N	072°57′14.0″ W	Fireworks land

(9) *Sector 9:* Spectator Area, will include all waters within the following points:

PT Z	41°17′54.0″ N	072°54′36.0″ W	NH Reach
PT N	41°17′29.0″ N	072°54′40.0″ W	Long Wharf
PT O	41°17′41.0″ N	072°55′00.0″ W	Long Wharf

(10) *Sector 10:* Spectator Area, will include all waters within the following points:

PT A	41°17′54.0″ N	072°54′36.0″ W	NH Reach
PT B	41°17′29.0″ N	072°54′40.0″ W	Long Wharf
PT V	41°17′41.0″ N	072°55′00.0″ W	Long Wharf
PT F6	41°16′07.5″ N	072°54′51.0″ W	Fireworks brg
PT F7	41°16′52.0″ N	072°54′56.0″ W	Fireworks brg
PT F8	41°17′00.0″ N	072°54′22.0″ W	Fireworks brg
PT M	41°17′25.0″ N	072°54′41.0″ W	Long Wharf
PT L	41°17′33.0″ N	072°54′54.0″ W	Long Wharf

(11) *Sector 11:* Spectator Area, will include all waters within the following points:

PT H	41°14′32.0″ N	072°53′40.0″ W	Morgan Point
PT S	41°14′04.0″ N	072°54′59.0″ W	NH Channel
PT U	41°16′18.0″ N	072°54′39.0″ W	LH Pt Reach
PT F5	41°16′13.0″ N	072°54′21.0″ W	Fireworks brg

Note: Sector 11 has numerous shallow water areas within its boundaries. Spectator carft using this section should proceed with extreme caution.

(12) *Sector 12:* Spectator Area, will include all waters within the following points:

PT K	41°12′14.9″ N	073°01′13.0″ W	Pond Point
PT A1	41°12′14.9″ N	072°57′23.0″ W	37′ Depth
PT F	41°13′33.0″ N	072°57′23.0″ W	West Break Wall
PT D	41°13′43.5″ N	072°57′21.0″ W	Sail
PT E	41°14′48.0″ N	072°57′54.0″ W	Prospect Beach

(13) *Sector 13:* Spectator Area, will include all waters within the following points:

PT F	41°13′33.0″ N	072°57′23.0″ W	West Break Wall
PT G	41°13′16.0″ N	072°56′32.0″ W	West Break Wall
PT T	41°14′03.0″ N	072°55′06.0″ W	Buoy 07
PT Q	41°12′06.5″ N	072°53′50.0″ W	NH Channel
PT A1	41°12′14.9″ N	072°57′23.0″ W	37′ Depth

(14) *Sector 14:* Spectator Area, will include all waters within the following points:

PT H	41°14′32.0″ N	072°53′40.0″ W	Morgan Point
PT J	41°12′31.0″ N	072°51′46.0″ W	Townsend Ledge
PT R	41°12′09.0″ N	072°53′43.0″ W	NH Channel
PT S	41°14′04.0″ N	072°54′59.0″ W	NH Channel

(15) *Sector 15:* Spectator Area, will include all waters within the following points:

PT A2	41°14′45.4″ N	072°51′46.0″ W	Bradford Cove
PT J	41°12′31.0″ N	072°51′46.0″ W	Townsend Ledge
PT H	41°14′32.0″ N	072°53′40.0″ W	Morgan Point

(c) *Enforcement Schedule:* The Sectors in paragraph (b) will be enforced as set out in Table 100.35T01–033.

TABLE 100.35T01–033.—SECTOR ENFORCEMENT SCHEDULE

Date	Sector	Time	Status
July 1, 1995	ALL SECTORS	ALL DAY	OPEN.
July 2, 1995	1	Midnight–10:00 a.m	OPEN.
	1	10:00 a.m.–4:00 p.m	CLOSED to all traffic.
	1	4:01 p.m.–11:59 p.m	OPEN.
	2	Midnight–2:59 p.m	OPEN.
	2	3:00 p.m.–7:00 p.m	CLOSED to all traffic.
	2	7:01 p.m.–11:59 p.m	OPEN.
	3	Midnight–2:59 p.m	OPEN.
	3	3:00 p.m.–7:00 p.m	CLOSED to all traffic.
	3	7:01 p.m.–11:59 p.m	OPEN.
	4	Midnight–2:59 p.m	OPEN.
	4	3:00 p.m.–8:00 p.m	CLOSED to all traffic.
	4	8:01 p.m.–11:59 p.m	OPEN.
	5	Midnight–2:59 p.m	OPEN.
	5	3:00 p.m.–5:00 p.m	CLOSED to all traffic.
	5	5:01 p.m.–11:59 p.m	OPEN.
	6–15	ALL DAY	OPEN.
July 3, 1995	1	Midnight–11:59 a.m	OPEN.
	1	12:00 noon–5:00 p.m	CLOSED to all traffic.
	1	5:01 p.m.–11:59 p.m	OPEN.
	2–15	ALL DAY	OPEN.
July 4, 1995	3	Midnight–4:59 p.m	OPEN.
	3	5:00 p.m.–6:00 p.m	CLOSED to all traffic.
	3	6:01 p.m.–11:59 p.m	OPEN.
	6	Midnight–4:59 a.m	OPEN.
	6	5:00 a.m.–6:00 p.m	CLOSED to all traffic.
	6	6:01 p.m.–11:59 p.m	OPEN.
	7	Midnight–4:59 p.m	OPEN.
	7	5:00 p.m.–11:00 p.m	CLOSED to all traffic.
	7	11:01 p.m.–11:59 p.m	OPEN.
	8	Midnight–7:59 p.m	OPEN.
	8	8:00 p.m.–11:00 p.m	CLOSED to all traffic.
	8	11:01 p.m.–11:59 p.m	OPEN.
	1–2	ALL DAY	OPEN.
	4–5	ALL DAY	OPEN.
	9–15	ALL DAY	OPEN.
July 5, 1995	1	Midnight–11:50 p.m	OPEN.
	1	12:00 noon–5:00 p.m	CLOSED to all traffic.
	1	5:01 p.m.–11:59 p.m	OPEN.
	2–15	ALL DAY	OPEN.
July 6, 1995	1	Midnight–11:59 p.m	OPEN.
	1	12:00 noon–5:00 p.m	CLOSED to all traffic.
	1	5:01 p.m.–11:59 p.m	OPEN.
	2–15	ALL DAY	OPEN.

TABLE 100.35T01–033.—SECTOR ENFORCEMENT SCHEDULE—Continued

Date	Sector	Time	Status
July 7, 1995	1	Midnight–11:59 p.m	OPEN.
	1	12:00 noon–5:00 p.m	CLOSED to all traffic.
	1	5:01 p.m.–11:59 p.m	OPEN.
	2–15	ALL DAY	OPEN.
July 8, 1995	1	Midnight–11:59 p.m	OPEN.
	1	12:00 noon–5:00 p.m	CLOSED to all traffic.
	1	5:01 p.m.–11:59 p.m	OPEN.
	2–15	ALL DAY	OPEN.
July 9, 1995	1	Midnight–11:59 p.m	OPEN.
	1	12:00 noon–5:00 p.m	CLOSED to all traffic.
	1	5:01 p.m.–11:59 p.m	OPEN.
	2–15	ALL DAY	OPEN.
July 10, 1995	ALL SECTORS	ALL DAY	OPEN.

(d) *Special local regulations.*

(1) Commander, U.S. Coast Guard Forces Long Island Sound reserves the right to delay, modify, or cancel any marine event within the regulated area as conditions or circumstances require.

(2) No person or vessel may enter, transit, or remain in a closed sector of the regulated area unless participating in the event or unless authorized by the Coast Guard patrol commander. Spectator vessels are required to remain out of all closed sectors within the regulated area, in accordance with the established enforcement schedule. Commercial towing vessels will not be allowed to operate in any closed sector unless expressly authorized by the patrol commander.

(3) Vessels awaiting passage through the regulated area will be required to wait outside established sectors when closed. A Coast Guard patrol vessel will be stationed along each boundary of the closed sectors. Vessels will not be allowed to transit, enter, cross, or remain in sectors when closed.

(4) All persons and vessels shall comply with the instructions of the Commander, U.S. Coast Guard Forces Long Island Sound or the designated on-scene patrol personnel. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately, then proceed as directed. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective period.* This section is effective from 8 a.m. Thursday, July 1, 1995, to 8 p.m. Monday, July 10, 1995, unless otherwise specified in the Coast Guard Local Notice to Mariners and a notice in the **Federal Register**.

Dated: April 18, 1995.

J. L. Linnon,

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

[FR Doc. 95–10537 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[FRL–5199–3]

Notice of Open Meeting of the Negotiated Rulemaking Advisory Committee for Small Nonroad Engine Regulations

AGENCY: Environmental Protection Agency.

ACTION: FACA committee meeting—negotiated rulemaking on small nonroad engine regulations.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), EPA is giving notice of the next meeting of the Advisory Committee to negotiate a rule to reduce air emissions from small nonroad engines. Small nonroad engines are engines which are spark ignited gasoline engines less than 25 horsepower. The meeting is open to the public without advance registration. Agenda items for the meeting include reports from the task groups and discussions of the emissions standard and standard structure.

DATES: The committee will meet on May 22, 1995 from 10:00 a.m. to 6:00 p.m., and on May 23, 1995 from 8:00 a.m. to 4:00 p.m.

ADDRESSES: The location of the meeting will be the Courtyard by Marriott, 3205 Boardwalk, Ann Arbor, MI 48108; phone: (313) 995–5900.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on the substantive matters of the rule should contact Lisa Snapp, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Rd., Ann Arbor, Michigan 48105, (313) 668–4200. Persons needing further information on committee procedural matters should call Deborah Dalton, Consensus and Dispute Resolution Program, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 260–5495, or the Committee's facilitators, Lucy Moore or John Folk-Williams, Western Network, 616 Don Gaspar, Santa Fe, New Mexico, 87501, (505) 982–9805.

Dated: April 21, 1995.

Deborah Dalton,

Designated Federal Official.

[FR Doc. 95–10511 Filed 4–27–95; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 51

[FRL–5196–5]

Inspection/Maintenance Flexibility Amendments

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes revisions to the motor vehicle Inspection/Maintenance (I/M) Program Requirements. EPA announced its intent to amend the I/M Program Requirements in December 1994 and held stakeholders' meetings on January 24, 1995 and January 31, 1995. This proposed action would create a second, less stringent enhanced I/M performance standard that could be used in areas that can demonstrate an ability to meet the 1990 Clean Air Act deadlines for Reasonable Further Progress and attainment while implementing an I/M program that falls below the originally promulgated enhanced I/M performance standard.

Because the new low enhanced I/M performance standard eliminates the need for the special enhanced performance standard for El Paso, Texas, this proposed action would repeal that special performance standard. This proposed action would also revise the high enhanced I/M performance standard to include a visual inspection of the positive crankcase ventilation (PCV) valve on all light-duty vehicles and light-duty trucks from model years 1968 to 1971, inclusive, and of the exhaust gas recirculation (EGR) valve on all light-duty vehicles and light-duty trucks from model years 1972 through 1983, inclusive. The low enhanced performance standard contains similar requirements, which are necessary to ensure full compliance with the Clean Air Act's requirement that all federal performance standards for enhanced I/M programs be based upon a model program that includes, at a minimum, two inspections per subject vehicle: an emission inspection and a visual inspection. This proposed action would also change the waiver cost requirements by: Extending the deadline for implementing the minimum expenditure to qualify for a waiver specified in the Clean Air Act; allowing the application of pre-inspection repairs toward meeting the waiver expenditure requirements under limited circumstances; allowing repairs of primary emission control components performed by non-technicians to apply toward the waiver cost requirement; and removing the bar against issuing hardship exemptions more than once per vehicle lifetime. This proposal also solicits public comment on whether or not EPA should include revised regulatory language in its final rulemaking which change the population cutoff for basic I/M from 50,000 persons to 200,000 persons. Lastly, this proposal would make clarifying amendments to the I/M requirements for areas undergoing redesignation.

DATES: Written comments on this proposal must be received no later than May 15, 1995. A public hearing is scheduled for May 17, 1995.

ADDRESSES: Interested parties may submit written comments (in duplicate if possible) to Public Docket No. A–95–08. It is requested that a duplicate copy be submitted to Eugene J. Tierney at the address in the **FOR FURTHER INFORMATION CONTACT** section below. The docket is located at the Air Docket, Room M–1500 (6102), Waterside Mall S.W., Washington, DC 20460. The public hearing will be held at the National Fuel and Vehicle Emission Laboratory at 2565 Plymouth Road, Ann Arbor, Michigan, Conference Rooms C&D from 10:00 a.m. through 3:00 p.m. The docket may be inspected between 8:30 a.m. and 12 noon and between 1:30 p.m. until 3:30 p.m. on weekdays. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Eugene J. Tierney, Office of Mobile Sources, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. Telephone (313) 668–4456.

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II. Summary of Proposal

Under the Clean Air Act as amended in 1990 (the Act), 42 U.S.C. 7401 *et seq.*, the U.S. Environmental Protection Agency (EPA) published in the **Federal Register** on November 5, 1992 (40 CFR part 51) rules related to plans for Motor Vehicle Inspection and Maintenance (I/M) programs (hereafter referred to as the I/M rule, see 57 FR 52950). EPA is proposing today to revise this rule to provide greater flexibility to states required to implement I/M programs.

Section 182 of the Act was prescriptive regarding the various elements that are required as part of an enhanced I/M performance standard. It also required that EPA provide states with flexibility in meeting the requirement for enhanced or basic I/M programs. States have requested additional flexibility in two areas: the timing of the Act's mandated minimum expenditure required to qualify for a waiver and a lower performance standard for areas that do not need an enhanced I/M program as effective as the one EPA adopted in 1992 to meet the Act's Reasonable Further Progress and attainment demonstration requirements. (These two programs are hereafter referred to as low enhanced and high enhanced performance standards, respectively.)

EPA is today proposing to establish an alternate, low enhanced I/M performance standard for those areas that can meet the Act's requirements for Reasonable Further Progress and attainment of either the carbon monoxide (CO) and/or ozone ambient air quality standards without the benefits of the high enhanced I/M performance standard. This low enhanced performance standard is designed for areas that are required to implement enhanced I/M but do not have a major mobile source component to the air quality problem or can obtain adequate emission reductions from other sources to meet the 15% VOC emission reduction requirement and demonstrate attainment. With respect to states in the northeast ozone transport region (OTR), EPA believes that the low enhanced performance standard will provide needed reductions but still offers greater flexibility. Areas within the Northeast OTR are still subject to the enhanced I/M requirement and OTR states are required to submit plans for their nonattainment areas. However EPA believes that the states are in the best position to make decisions about the emphasis placed upon individual strategies within their borders as long as emission reduction opportunities needed for timely attainment are not irrevocably lost. Moreover, with respect to interstate pollution within the OTR, EPA has just oulined a phased attainment-process among states contributing to or affected by transport. See memorandum of March 2, 1995 from Mary D. Nichols, Assistant Administrator for Air and Radiation, entitled ''Ozone Attainment Demonstrations'' (available in the docket for this rulemaking). The desired outcome of that process is to reach consensus on the additional regionwide and national emission reductions needed to bring all areas in the OTR into attainment. EPA believes that the interstate consultative process provides the best forum for ascertaining and requiring those necessary additional emission reductions. The low enhanced performance standard meets the Act's requirement that it be based on centralized, annual testing of light duty cars and trucks, and checks for tampering and exhaust emissions. Nevertheless, this standard can be met with a comprehensive decentralized, test-and-repair program.

EPA is also proposing modifications to the requirements related to waivers. EPA is proposing to extend the deadline

for the full implementation of the minimum expenditure required to be eligible for a waiver for both basic and enhanced I/M programs until January 1998. This will allow states additional time to phase-in the higher expenditures required by the Act and the I/M rule. In the interim, a state can establish any minimum expenditure it chooses, as long as it accounts for the higher waiver rates that will occur between now and 1998 in its emission inventory forecasts in the Reasonable Further Progress plan.

EPA is proposing to allow states to include qualified repair cost expenditures that occur within 60 days of the initial test toward meeting the minimum waiver expenditure. EPA also proposes to delete language from the November 5, 1992 I/M rule barring motorists from qualifying for more than one hardship exemption during the lifetime of a vehicle.

Pursuant to the opinion of the Court of Appeals for the District of Columbia Circuit, *Natural Resource Defense Council* v. *EPA,* 22 F.3d 1125 (D.C. Cir. 1994), EPA is proposing today to revise the enhanced I/M performance standard to correct the omission of a visual check on pre-1984 vehicles in the high enhanced performance standard. EPA is proposing to include in the high enhanced performance standard a visual inspection of the positive crankcase ventilation (PCV) valve on all light-duty vehicles and light-duty trucks of model year 1968 through 1971, inclusive, and of the exhaust gas recirculation (EGR) valve on all light-duty vehicles and light-duty trucks of model year 1972 through 1983, inclusive. According to EPA's current guidance for estimating emission reductions from I/M programs, this change should not significantly increase the overall emission reduction requirements that must be met by states as they design programs to meet the enhanced I/M performance standard.

EPA is also requesting comment on whether or not it should change the minimum population cutoff for basic I/M programs. Currently, for areas outside an ozone transport region, basic I/M programs are required in moderate ozone and carbon monoxide nonattainment areas with 1990 Census-defined population of 50,000 or more. EPA is considering the possibility of including revised regulatory language in the final rulemaking that would increase this minimum threshold for basic I/M programs to 200,000 or more. If adopted, this proposed change would mark a return to the policy in effect prior to the 1990 Clean Air Act Amendments on minimum population requirements for basic I/M and would provide states further flexibility in meeting their Clean Air Act goals.

At the I/M Stakeholders meetings of January 24 and 31, 1995, EPA indicated its intent to establish additional I/M credits for the use of remote sensing. These credits will be published in a guidance document, similar to the one in which credits for retest-based hybrid programs. ASM2 testing, and mechanic training and certification were published. EPA intends to base these credits on data from the California I/M Pilot Program in Sacramento, since this is the most comprehensive study on remote sensing to date. The agency is interested in obtaining all available information on remote sensing. Therefore, EPA is requesting comments from anyone with data on the effectiveness remote sensing and on ways it might be used to supplement I/M programs.

Finally, EPA is proposing to clarify the requirements for basic I/M areas that are eligible for redesignation to attainment. On January 5, 1995, EPA published a final amendment to the I/M rule to address this issue (60 FR 1738). The rule was not completely clear with regard to EPA's intent in the event that an area that has been redesignated to attainment experiences a violation of the standard. EPA does not believe that a violation automatically requires the implementation or upgrade of an I/M program. EPA believes that, in the event of a violation, a state should have the flexibility to select whichever contingency measures are best suited to correcting the problem to bring the area to attainment as quickly as possible. The rule would continue to require, however, that such an upgraded basic I/M program be among the contingency measures from which the state will choose. Changes to remove extraneous language related to the requirements for an implementation schedule are being proposed, as well.

III. Authority

Authority for the action proposed in this notice is granted to EPA by section 182 of the Clean Air Act as amended (42 U.S.C. 7401, *et seq.*).

IV. Background of the Proposed Amendments

The features of the enhanced I/M performance standard model program are used to generate the minimum performance target that a state must meet. When programmed into the most current version of EPA's mobile source emission factor model (hereafter referred to as the MOBILE model), these features produce a target emission factor (emissions per mile of vehicle travel) which a state's proposed program must not exceed to be deemed minimally acceptable for purposes of state implementation plan (SIP) approval. This combination of features, however, does not constitute a recommended program design. For example, while the enhanced I/M performance standard, as required by the Act, includes annual vehicle inspections, EPA does not require or even recommend that state programs actually adopt annual testing. In fact, EPA has found biennial testing to be significantly less expensive while only marginally less effective at reducing fleet-wide vehicle emissions. This marginal loss in benefit can be easily accommodated by strengthening some other aspects of the program, for example, by increasing vehicle coverage, or increasing the number or stringency of the tests conducted on selected classes of vehicles. The use of the performance standard approach allows EPA to meet Congress's dual statutory requirements that the EPA develop a performance standard based on certain statutory features and that the standard provide states with maximum flexibility to design I/M programs to meet local needs.

A. Visual Inspections

During the Fall of 1992, the National Resources Defense Council (NRDC) filed three separate lawsuits against EPA in the Court of Appeals for the District of Columbia Circuit, challenging various aspects of EPA's policy on committal-based State Implementation Plans (SIP) and the I/M rule. Among other things, NRDC maintained that the enhanced I/M performance standard had been purposely weakened to justify a shift away from the statutory presumption of annual testing to EPA's preferred alternative, biennial testing. NRDC maintained that this was achieved by exempting older vehicles from the high-tech tailpipe test known as the IM240, visual inspections, and evaporative system checks. In responding to NRDC's claims, EPA maintained that it set the enhanced performance standard strict enough to net significant emission reductions while also being lenient enough to provide states with ''continued reasonable flexibility to fashion effective, reasonable, and fair programs for the affected consumer,'' as required by section 182(a)(2)(B)(ii) of the Act.

In its May 6, 1994 ruling, the Court of Appeals found that, ''each of the parties wins some and loses some on this issue.'' *NRDC* v. *EPA,* 22 F.3d 1125 (D.C. Cir. 1994). Agreeing with EPA, the court found that the Act did not require

EPA to set the most stringent annual performance standard possible. Nevertheless, the Court also agreed with NRDC's contention that the Act required EPA to establish an enhanced I/M performance standard that is ''the product of two different kinds of testing,'' including a visual and an emission test. Since EPA's current enhanced I/M performance standard only includes one test, a steady-state, idle-based tailpipe test, on vehicle model years 1968 through 1983 and does not require a visual inspection of those cars, the Court found that the current standard falls short of complying with the letter of the Act for those model years.

To correct this oversight, EPA is today proposing to amend the high enhanced I/M performance standard to include a minimum of two inspections per subject vehicle. Currently, the only vehicles included in the high enhanced I/M performance standard that are not covered by both tests are light-duty vehicles and light-duty trucks from model years 1968 through 1983. EPA therefore proposes to amend the current high enhanced I/M performance standard to include a visual inspection for the PCV valve on 1968 through 1971 light-duty vehicles and light-duty trucks up to 8,500 pounds Gross Vehicle Weight Rating (GVWR) and a visual inspection of the EGR valve on model year 1972 through 1983 light-duty vehicles and light-duty trucks. Tampering surveys have shown that these emission control devices are tampered or inadequately maintained. A visual check can identify such problems and emission reductions can occur on individual cars as a result of repairs to these devices.

B. Enhanced Performance Standards

The Court of Appeals ruling on the issue of performance standard stringency also clarifies EPA's authority to establish any enhanced I/M performance standard it deems reasonable, provided it incorporates the minimally required elements set forth by Congress in the Act. By requiring enhanced I/M, Congress gave states one mechanism to meet the required 15% reduction of VOC emissions and demonstrate attainment. Today, EPA is proposing to give states greater flexibility in choosing the enhanced I/M program which will work best with the 15% VOC emission reduction plan. States may elect to implement low enhanced I/M, or any program between low and high enhanced I/M, if that is all they need to meet the 15% VOC emission reduction requirement and attainment demonstration. EPA believes it is reasonable to require lower reductions from enhanced I/M where greater reductions are not needed to reduce VOC emissions by 15% or for attainment.

EPA maintains that the Act in no way bars it from establishing more than one enhanced I/M performance standard. EPA believes that precedent exists for the adoption of multiple enhanced I/M performance standards, tailored to the unique needs of certain areas, and points to the case of El Paso, Texas, for which a separate, enhanced I/M performance standard already exists [40 CFR Part 51.351(e)], as evidence of this interpretation. Today, EPA proposes to repeal § 51.351(e) which establishes the El Paso performance standard because the new low enhanced performance standard eliminates the need for that special enhanced performance standard.

C. Waivers

EPA also believes Section 182 (3)(C) of the Act provides flexibility in its waiver requirement, by not specifying a deadline by which such limits are to be fully implemented and determinative in the granting of waivers. To get the full emission reduction potential of an I/M program element, the statutory waiver requirement must be in full effect at least one full inspection cycle prior to evaluation (so that all subject vehicles will be held to that standard and found to comply). Since compliance with the performance standard is based on a modeling demonstration comparing the state's program to the performance standard using an initial evaluation date of January 1, 2000 for ozone nonattainment areas, and January 1, 2001 for carbon monoxide (CO) nonattainment areas, EPA believes it is possible to postpone full implementation of the enhanced I/M waiver requirements at least January 1, 1998 without jeopardizing the ability of states to meet the relevant enhanced I/M performance standards. EPA requests comment on whether this or a later date would be appropriate. EPA also requests comments as to the timing of application of the CPI adjustment in relation to the phase-in of the full waiver requirements.

Adoption of a January 1, 1998 date for full implementation of the waiver requirement would provide states with the continued flexibility necessary to allow for biennial testing. Furthermore, postponing full implementation of the waiver requirement provides the short term regulatory relief states have been requesting since passage of the Act, while at the same time allowing states to meet the long-term Clean Air Act goals. As mentioned previously, EPA requests comments on the need for and implications of postponing full implementation of the waiver requirements to a date beyond January 1, 1998. EPA hopes that states will use any additional time to develop programs to assist vehicle owners in fully repairing their vehicles; for example, by subsidizing or co-funding repairs out of revenues collected in any of a number of possible ways.

Today's proposed action would also allow motorists to apply the cost of pre-inspection repair of primary emission control devices toward meeting the minimum waiver expenditure requirement provided the repairs were made within 60 days of the inspection. When repairs correct obvious emission control problems, EPA believes it is appropriate to credit repair costs toward minimum waiver expenditures, provided the repairs occur shortly prior to testing.

Today's proposed action would limit the non-technician repairs that can be applied toward waiver limits to repairs of primary emission control components only. However, today's action also removes the language limiting application of non-technician repairs toward waiver expenditure requirements to pre-1980 model year vehicles. The result is that a non-technician repair to a primary emission control component may be applied toward the waiver expenditure requirement for any model year vehicle. EPA does not believe there is reason to distinguish between model years for non-technician repairs to primary emission controls. EPA believes it is appropriate to maintain the distinction for other types of repairs since these are not easily diagnosed or performed the way a missing catalyst, for example, may be diagnosed and repaired.

Today's action proposes to remove the language from the I/M rule which limits hardship extensions to one time in the lifetime of a vehicle. EPA believes it is in the interest of fairness to remove this limitation, especially in the case of used car buyers who may otherwise be deprived of the opportunity for such an extension because this ''right'' was already exercised by a previous owner. Instead, the proposed action would allow a vehicle that has already received a time extension and subsequently passed the applicable test standards to be eligible for another time extension. While EPA acknowledges that there is a potential for minuscule emission reduction losses as a result of changing this limitation, EPA believes that any potential abuses will be accounted for by the existing requirements that all such extensions be tracked by the state,

that the state commit to a maximum waiver limit as part of its SIP for modeling purposes, and that the state commit to program modifications should the actual waiver rate exceed that committed to in the SIP.

D. Redesignation

Today's action proposes to clarify the requirements for basic I/M areas that are eligible for redesignation to attainment. EPA believes these changes are necessary because the amendments to the I/M rule addressing redesignation, which were published on January 5, 1995 (60 FR 1738), were not clear with regard to EPA's intent in the event that an area that has been redesignated to attainment experiences a violation of the standard. EPA does not believe that a violation of the standard automatically requires the state to implement or upgrade an I/M program. If a violation or other air quality problem occurs, EPA believes that the state should have the flexibility to select the contingency measure(s) that will most quickly correct the problem and bring the area to attainment.

Today's proposed action also clarifies the timing of SIP submissions and program implementation in areas that select I/M to correct the air quality problem. SIPs must be submitted 18 months after EPA notifies the state that a violation has occurred and programs must be implemented 24 months after the date of notification. No particular date is specified as to when a state must make a selection, but clearly the selection must be made in time to submit a plan by the 18 month point and implement by the 24 month point.

E. Population Requirements

Under current EPA regulations, basic I/M programs are required in moderate ozone and carbon monoxide nonattainment areas with a 1990 Census-defined population of 50,000 or more. Today's proposal solicits public comment on whether revised regulatory language should be included in the final rulemaking to increase the minimum population threshold for basic I/M programs to 200,000 or more. If adopted, this proposed change would mark a return to the policy in effect prior to the 1990 Clean Air Act Amendments on minimum population requirements for basic I/M. This potential revision is proposed to grant states further flexibility in designing I/M programs to meet local needs, and to allow some areas with a population of less than 200,000 and without existing I/M programs to opt-out of I/M completely. Should public comment favor, or at least not overwhelmingly oppose, such a revision, EPA hereby proposes to set the urbanized area population threshold at 200,000 or more based on the 1990 Census. Under this proposed change, any area outside an ozone transport region classified as moderate ozone or carbon monoxide nonattainment would be required to implement a basic I/M program if its 1990 Census-defined population was equal to or exceeded 200,000. EPA believes that this change is authorized by the Act because Section 182 requires implementation in all moderate ozone nonattainment areas only of the program contained in pre-1990 guidance, which limited basic I/M applicability to areas with a population of 200,000 or more. EPA requests comments on whether this proposed change would have any implications on the states continued participation in the Northeast Ozone Transport Region.

V. Discussion of Major Issues

A. Emission Impact of the Proposed Amendments

The proposed low enhanced I/M performance standard was modeled using MOBILE5a and national average values for vehicle age mix, mileage accumulation, and other area and fleet related variables. Compared to a no I/M case, the proposed low enhanced performance standard yields a VOC emission reduction of about 9.3%, and a NOx emission reduction of about 1.5%, assuming an evaluation date of January 1, 2000; assuming a January 1, 2001 evaluation date, the low enhanced performance standard produces a CO emission reduction of about 14.2% compared to the no-I/M case. The low enhanced performance standard yields a 45% greater reduction in VOC emissions than the basic performance standard. Specifically, the basic performance standard programs yields a minimum VOC reduction of 6.4% compared to the minimum 9.3% reduction from the low enhanced standard.

The proposed low enhanced I/M performance standard would allow ozone nonattainment states to adopt a biennial decentralized, test-and-repair program that included idle tailpipe testing, full visual checks, and pressure testing of the evaporative emission control system on all gasoline powered vehicles. For areas needing to meet the Act's requirements for CO, the proposed low enhanced I/M performance standard can be met using a biennial, decentralized test and repair program including two-speed tailpipe testing and full visual checks on all gasoline powered vehicles in conjunction with a comprehensive training or certification program for vehicle repair technicians. If these CO areas also have an ozone requirement, pressure testing will need to be added to the scenario. Alternatively, if test-only, IM240, purge and pressure testing are adopted, states would be able to meet the new, low enhanced standard while exempting large portions of either the oldest or newest vehicles from the test.

The changes in the waiver criteria (e.g., the lower minimum expenditure for the interim years preceding 1998) could reduce emission reduction benefits achieved by I/M programs, depending on the degree to which particular states lower the minimum expenditure in the short term. If states establish lower minimum expenditures, waiver rates will be higher than under the $450 standard. Instead of waiver rates on the order of 3% of failed vehicles in enhanced programs, waiver rates could be as high as 20% or more if states were to lower the minimum to $100-$150. Prior to 1998, the first milestone that states have to meet is the Act's 15% reduction in VOC emissions by November 15, 1996. In states that require only a lower expenditure, the higher waiver rates will lower benefits for this milestone. This loss in emission reduction needs to be accounted for in calculating 15% plan benefits. As a result, states may have to increase emission reductions from other sources, such as stationary sources, to make up for the loss.

B. Impact on Existing and Future I/M Programs

Only states that choose to utilize the proposed flexibility will be affected by today's proposal. Modifications to a state's I/M program as a result of this rule change may require a SIP revision, if a plan has already been approved. Each case is likely to be different, depending upon the magnitude of the change. It is important to note that today's proposed flexibility in no way increases the existing burden on states. States that currently comply, or are in the process of complying, with the existing I/M rule would only be affected by today's rule if they so choose. Today's proposed amendments represent opportunities for those states that can meet the criteria set forth in today's proposal; under no circumstances are these proposed opportunities to be construed as mandatory obligations.

VI. Economic Costs and Benefits

Today's proposed revisions provide states additional flexibility that lessens rather than increases the potential burden on states. Furthermore, states are

under no obligation, legal or otherwise, to modify existing plans meeting the previously applicable requirements as a result of today's proposal.

VII. Public Participation

A. Comments and the Public Docket

EPA desires full public participation in arriving at final decisions in this Rulemaking action. EPA solicits comments on all aspects of this proposal from all parties. Wherever applicable, full supporting data and detailed analysis should also be submitted to allow EPA to make maximum use of the comments. All comments should be directed to the Air Docket, Docket No. A–95–08.

B. Public Hearing

If a hearing is requested, anyone wishing to present testimony about this proposal at the public hearing (see **DATES**) should, if possible, notify the contact person (see **FOR FURTHER INFORMATION CONTACT**) at least seven days prior to the day of the hearing. The contact person should be given an estimate of the time required for the presentation of testimony and notification of any need for audio/visual equipment. A sign-up sheet will be available at the registration table the morning of the hearing to schedule those wishing to present testimony who have not notified the contact earlier. This testimony will be scheduled on a first-come, first-serve basis following the previously scheduled testimony.

EPA requests that approximately 50 copies of the statement or material to be presented be brought to the hearing for distribution to the audience. In addition, EPA would find it helpful to receive an advanced copy of any statement or material to be presented at the hearing at least one week before the scheduled hearing date. This will give EPA staff adequate time to review such material before the hearing. Such advanced copies should be submitted to the contact person listed.

The official records of the hearing will be kept open for 15 days following the hearing to allow submission of rebuttal and supplementary testimony. All such submittals should be directed to the Air Docket, Docket No. A–95–08 (see **ADDRESSES**).

The hearing will be conducted informally, and technical rules of evidence will not apply. A written transcript of the hearing will be placed in the above docket for review. Anyone desiring to purchase a copy of the transcript should make individual arrangements with the court reporter recording the proceeding.

VIII. Administrative Requirements

A. Administrative Designation

It has been determined that these proposed amendments to the I/M rule is a significant regulatory action under the terms of Executive Order 12866 and are therefore subject to OMB review. Any impacts associated with these revisions do not constitute additional burdens when compared to the existing I/M requirements published in the **Federal Register** on November 5, 1992 (57 FR 52950).

However, it does not create an annual effect on the economy of $100 million or more or otherwise adversely affect the economy or the environment. It is not inconsistent with nor does it interfere with actions by other agencies. It does not alter budgetary impacts of entitlements or other programs, and it does not raise any new or unusual legal or policy issues.

B. Reporting and Recordkeeping Requirement

There are no information requirements in this proposed/final rule which require the approval of the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

C. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this proposal will not have a significant economic impact on a substantial number of small entities and, therefore, is not subject to the requirement of a Regulatory Impact Analysis. A small entity may include a small government entity or jurisdiction. A small government jurisdiction is defined as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' This certification is based on the fact that the I/M areas impacted by the proposed rulemaking do not meet the definition of a small government jurisdiction, that is, ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' Furthermore, the impact created by the proposed action does not increase the pre-existing burden which this proposal seeks to amend.

D. Unfunded Mandates

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

To the extent that the rules being proposed by this action would impose mandate as defined in Section 101 of the Unfunded Mandates Act upon the state, local, or tribal governments, or the private sector, as explained above, this proposed rule is not estimated to impose costs in excess of $100 million. Therefore, EPA has not prepared a statement with respect to budgetary impacts. As noted above, this rule offers opportunities to states that would enable them to lower economic burdens from those resulting from the currently existing I/M rule.

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: April 18, 1995.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 51 of title 40 of the Code of Federal Regulations is proposed to be amended to read as follows:

PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 740l–7671q.

2. Section 51.351 is amended by revising paragraphs (a) and (b), by removing and reserving paragraph (e), and by adding paragraphs (f) and (g) to read as follows:

§ 51.351 Enhanced I/M performance standards.

(a) Enhanced I/M programs shall be designed and implemented to meet or exceed a minimum performance standard, which is expressed as emission levels in area-wide average grams per mile (gpm), achieved from highway mobile sources as a result of the program. The emission levels achieved by the state's program design shall be calculated using the most current version, at the time of submittal,

of the EPA mobile source emission factor model or an alternative model approved by the Administrator, and shall meet the minimum performance standard both in operation and for SIP approval. Areas shall meet the performance standard for the pollutants which cause them to be subject to enhanced I/M requirements. In the case of ozone nonattainment areas subject to enhanced I/M and subject areas in the Ozone Transport Region, the performance standard must be met for both oxides of nitrogen (NO_X) and volatile organic compounds (VOCs), except as provided in paragraph (d) of this section.

(b) *On-road testing.* The performance standard shall include on-road testing of at least 0.5% of the subject vehicle population, or 20,000 vehicles whichever is less, as a supplement to the periodic inspection required in paragraphs (f) and (g) of this section. Specific requirements are listed in § 51.371 of this subpart.

* * * * *

(e) [Reserved].

* * * * *

(f) *High Enhanced Performance Standard.* Except as provided in paragraph (g) of this section, the model program elements for the enhanced I/M performance standard shall be as follows:

(1) *Network type.* Centralized testing.

(2) *Start date.* For areas with existing I/M programs, 1983. For areas newly subject, 1995.

(3) *Test frequency.* Annual testing.

(4) *Model year coverage.* Testing of 1968 and later vehicles.

(5) *Vehicle type coverage.* Light duty vehicles, and light duty trucks, rated up to 8,500 pounds Gross Vehicle Weight Rating (GVWR).

(6) *Exhaust emission test type.* Transient mass-emission testing on 1986 and later model year vehicles using the IM240 driving cycle, two-speed testing (as described in appendix B of this subpart S) of 1981–1985 vehicles, and idle testing (as described in appendix B of this subpart S) of pre-1981 vehicles is assumed.

(7) *Emission standards.* (i) Emission standards for 1986 through 1993 model year light duty vehicles, and 1994 and 1995 light-duty vehicles not meeting Tier 1 emission standards, of 0.80 gpm hydrocarbons (HC), 20 gpm CO, and 2.0 gpm NOx;

(ii) Emission standards for 1986 through 1993 light duty trucks less than 6000 pounds gross vehicle weight rating (GVWR), and 1994 and 1995 trucks not meeting Tier 1 emission standards, of 1.2 gpm HC, 20 gpm CO, and 3.5 gpm NOx;

(iii) Emission standards for 1986 through 1993 light duty trucks greater than 6000 pounds GVWR, and 1994 and 1995 trucks not meeting the Tier 1 emission standards, of 1.2 gpm HC, 20 gpm CO, and 3.5 gpm NOx;

(iv) Emission standards for 1994 and later light duty vehicles meeting Tier 1 emission standards of 0.70 gpm, 15 gpm CO, and 1.4 gpm NO_X;

(v) Emission standards for 1994 and later light duty trucks under 6000 pounds GVWR and meeting Tier 1 emission standards of 0.70 gpm, 15 gpm CO, and 2.0 gpm NO_X;

(vi) Emission standards for 1994 and later light duty trucks greater than 6000 pounds GVWR and meeting Tier 1 emission standards of 0.80 gpm, 15 gpm CO and 2.5 gpm NO_X;

(vii) Emission standards for 1981–1985 model year vehicles of 1.2% CO, and 220 gpm HC for the idle, two-speed tests and loaded steady-state tests (as described in appendix B of this subpart S); and

(viii) Maximum exhaust dilution measured as no less than 6% CO plus carbon dioxide (CO_2) on vehicles subject to a steady-state test (as described in appendix B of this subpart S); and

(ix) Maximum exhaust dilution measured as no less than 6% CO plus carbon dioxide (CO_2) on vehicles subject to a steady-state test (as described in appendix B of this subpart S).

(8) *Emission control device inspections.* (i) Visual inspection of the catalyst and fuel inlet restrictor on all 1984 and later model year vehicles.

(ii) Visual inspection of the positive crankcase ventilation valve on 1968 through 1971 model years, inclusive, and of the exhaust gas recirculation valve on 1972 through 1983 model year vehicles, inclusive.

(9) *Evaporative system function checks.* Evaporative system integrity (pressure) test on 1983 and later model year vehicles and an evaporative system transient purge test on 1986 and later model year vehicles.

(10) *Stringency.* A 20% emission test failure rate among pre-1981 model year vehicles.

(11) *Waiver rate.* A 3% waiver rate, as a percentage of failed vehicles.

(12) *Compliance rate.* A 96% compliance rate.

(13) *Evaluation date.* Enhanced I/M program areas shall be shown to obtain the same or lower emission levels as the model program described in this paragraph by 2000 for ozone nonattainment areas and 2001 for CO nonattainment areas, and for severe and extreme ozone nonattainment areas, on each applicable milestone and attainment deadline, thereafter. Milestones for NO_X shall be the same as for ozone.

(g) *Alternate Low Enhanced I/M Performance Standard.* An area either not subject to or able to meet the requirements of the Clean Air Act Amendments of 1990 for Reasonable Further Progress in 1996 and thereafter, and the relevant deadlines for attainment of the ambient air quality standards for ozone and CO without an enhanced I/M program meeting the performance standard described in paragraph (f) of this section, may select the alternate low enhanced I/M performance standard described below in lieu of the standard described in paragraph (f). The program elements for this alternate low enhanced I/M performance standard are:

(1) *Network type.* Centralized testing.

(2) *Start date.* For areas with existing I/M programs, 1983. For areas newly subject, 1995.

(3) *Test frequency.* Annual testing.

(4) *Model year coverage.* Testing of 1968 and newer vehicles.

(5) *Vehicle type coverage.* Light duty vehicles, and light duty trucks, rated up to 8,500 pounds GVWR.

(6) *Exhaust emission test type.* Idle testing of all covered vehicles (as described in Appendix B of Subpart S).

(7) *Emission standards.* Those specified in 40 CFR Part 85, Subpart W.

(8) *Emission control device inspections.* Visual inspection of the positive crankcase ventilation valve on all 1968 through 1971 model year vehicles, inclusive, and of the exhaust gas recirculation valve on all 1972 and newer model year vehicles.

(9) *Evaporative system function checks.* None.

(10) *Stringency.* A 20% emission test failure rate among pre-1981 model year vehicles.

(11) *Waiver rate.* A 3% waiver rate, as a percentage of failed vehicles.

(12) *Compliance rate.* A 96% compliance rate.

(13) *Evaluation date.* Enhanced I/M program areas subject to the provisions of this paragraph shall be shown to obtain the same or lower emission levels as the model program described in this paragraph by 2000 for ozone nonattainment areas and 2001 for CO nonattainment areas, and for severe and extreme ozone nonattainment areas, on each applicable milestone and attainment deadline, thereafter. Milestones for NO_X shall be the same as for ozone.

3. Section 51.360 is amended by revising the introductory text and paragraph (a)(1), *(a)(5), (a)(6), (a)(7) introductory text, (a)(7)(ii), (a)(9) and (b) to read as follows:*

§ 51.360 Waivers and compliance via diagnostic inspection.

The program may allow the issuance of a waiver, which is a form of compliance with the program requirements that allows a motorist to comply without meeting the applicable test standards, as long as the prescribed criteria described below are met.

(a) * * *

(1) Waivers shall be issued only after a vehicle has failed a retest performed after all qualifying repairs have been completed. Qualifying repairs include repairs of primary emission control components performed within 60 days of the test date.

* * * * *

(5) General repairs shall be performed by a recognized repair technician (i.e., one professionally engaged in vehicle repair, employed by a going concern whose purpose is vehicle repair, or possessing nationally recognized certification for emission-related diagnosis and repair) in order to qualify for a waiver. I/M programs may allow repairs of primary emission control components performed by non-technicians (e.g., owners) *to apply toward the waiver limit.*

(6) In basic programs, a minimum of $75 for pre-81 vehicles and $200 for 1981 and newer vehicles shall be spent in order to qualify for a waiver. These model year cutoffs and the associated dollar limits must be in full effect no later than January 1, 1998. Prior to January 1, 1998, states may adopt any minimum expenditure commensurate with the waiver rate committed to for the purposes of modeling compliance with the basic I/M performance standard.

(7) Beginning on January 1, 1998, enhanced I/M programs shall require the motorist to make an expenditure of at least $450 in repairs to qualify for a waiver. The I/M program shall provide that the $450 minimum expenditure shall be adjusted in January of each year by the percentage, if any, by which the Consumer Price Index for the preceding calendar year differs from the Consumer Price Index of 1989. Prior to January 1, 1998, states may adopt any minimum expenditure commensurate with the waiver rate committed to for the purposes of modeling compliance with the relevant enhanced I/M performance standard.

* * * * *

(ii) The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used. The first Consumer Price Index adjustment to the minimum $450 waiver expenditure shall go into effect on January 1, 1998.

* * * * *

(9) A time extension, not to exceed the period of the inspection frequency, may be granted to obtain needed repairs on a vehicle in the case of economic hardship when waiver requirements have not been met. After having received a time extension, a vehicle must fully pass the applicable test standards before becoming eligible for another time extension. The extension for a vehicle shall be tracked and reported by the program.

(b) *Compliance via diagnostic inspection.* Vehicles subject to a transient IM240 emission test at the cutpoints established in §§ 51.351 (f)(7) and (g)(7) of this subpart may be issued a certificate of compliance without meeting the prescribed emission cutpoints, if, after failing a retest on emissions, a complete, documented physical and functional diagnosis and inspection performed by the I/M agency or a contractor to the I/M agency show that no additional emission-related repairs are needed. Any such exemption policy and procedures shall be subject to approval by the Administrator.

* * * * *

4. Section 51.372 is amended by revising paragraph (c) introductory text, (c)(3) and (c)(4), and paragraph (e) to read as follows:

§ 51.372. State implementation plan submissions.

* * * * *

(c) *Redesignation requests.* Any nonattainment area that EPA determines would otherwise qualify for redesignation from nonattainment to attainment shall receive full approval of a State Implementation Plan (SIP) submittal under Sections 182(a)(2)(B) or 182(b)(4) if the submittal contains the following elements:

* * * * *

(3) A contingency measure consisting of a commitment by the Governor or the Governor's designee to adopt or consider adopting regulations to implement an I/M program to correct a violation of the ozone or CO standard or other air quality problem, in accordance with the provisions of the maintenance plan.

(4) A commitment that includes an enforceable schedule for adoption and implementation of the I/M program, and appropriate milestones. The schedule shall include the date for submission of a SIP meeting all of the requirements of this subpart. Schedule milestones shall be listed in months from the date EPA notifies the state that it is in violation of the ozone or CO standard or any earlier date specified in the state plan. Unless the state, in accordance with the provisions of the maintenance plan, chooses not to implement I/M, it must submit a SIP revision containing an I/M program no more than 18 months after notification by EPA.

* * * * *

(e) *SIP submittals to correct violations.* SIP submissions required pursuant to a violation of the ambient ozone or CO standard (as discussed in § 51.372(c)) shall address all of the requirements of this subpart. The SIP shall demonstrate that performance standards in either § 51.351 or § 51.352 shall be met using an evaluation date (rounded to the nearest January for carbon monoxide and July for hydrocarbons) seven years after the date EPA notifies the state that it is in violation of the ozone or CO standard or any earlier date specified in the state plan. Emission standards for vehicles subject to an IM240 test may be phased in during the program but full standards must be in effect for at least one complete test cycle before the end of the 5-year period. All other requirements shall take effect in within 24 months of the date EPA notifies the state that it is in violation of the ozone or CO standard or any earlier date specified in the state plan. The phase-in allowances of § 51.373(c) of this subpart shall not apply.

[FR Doc. 95–10505 Filed 4–27–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[ND–001; FRL–5199–8]

Clean Air Act Proposed Interim Approval, or in the Alternative Proposed Disapproval, of Operating Permits Program; State of North Dakota

AGENCY: Environmental protection Agency (EPA).

ACTION: Proposed interim approval.

SUMMARY: The EPA proposes interim approval of the Operating Permits Program submitted by the State of North Dakota for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources. In the alternative, EPA proposes disapproval of the North Dakota Operating Permits Program if the corrective action necessary for final interim PROGRAM approval is not

completed and submitted to EPA prior to the statutory deadline.

DATES: Comments on this proposed action must be received in writing by May 30, 1995.

ADDRESSES: Comments should be addressed to Laura Farris at the Region 8 address. Copies of the State's submittal and other supporting information used in developing the proposed rule are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 8, 999 18th Street, suite 500, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Laura Farris, 8ART–AP, U.S. Environmental Protection Agency, Region 8, Air Programs Branch, 999 18th Street, suite 500, Denver, Colorado 80202, (303) 294–7539.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

As required under title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act (''the Act'')), EPA has promulgated rules which define the minimum elements of an approvable State operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of State operating permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70 (part 70). Title V requires States to develop, and submit to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The Act requires that States develop and submit these programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

B. Federal Oversight and Sanctions

If EPA were to finalize this proposed interim approval, it would extend for two years following the effective date of final interim approval, and could not be renewed. During the interim approval period, the State would be protected from sanctions, and EPA would not be obligated to promulgate, administer and enforce a Federal permits program for the State. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of interim approval, as does the 3-year time period for processing the initial permit applications.

Following final interim approval, if the State failed to submit a complete corrective program for full approval by the date 6 months before expiration of the interim approval, EPA would start an 18-month clock for mandatory sanctions. If the State then failed to submit a corrective program that EPA found complete before the expiration of that 18-month period, EPA would apply sanctions as required by section 502(d)(2) of the Act, which would remain in effect until EPA determined that the State had corrected the deficiency by submitting a complete corrective program.

If, following final interim approval, EPA were to disapprove the State's complete corrective program, EPA would be required under section 502(d)(2) to apply sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the State had submitted a revised program and EPA had determined that it corrected the deficiencies that prompted the disapproval.

In addition, discretionary sanctions may be applied where warranted any time after the end of an interim approval period if a state has not timely submitted a complete corrective program or EPA has disapproved a submitted corrective program. Moreover, if EPA has not granted full approval to a state program by the expiration of an interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a Federal permits program for that state upon interim approval expiration.

II. Proposed Action and Implications

A. Analysis of State Submission

1. Support Materials

The Governor of North Dakota submitted an administratively complete title V Operating Permit Program (PROGRAM) for the State of North Dakota on April 28, 1994. EPA deemed the PROGRAM administratively complete in a letter to the Governor dated June 28, 1994. The PROGRAM submittal includes a legal opinion from the Attorney General of North Dakota stating that the laws of the State provide adequate legal authority to carry out all aspects of the PROGRAM, and a description of how the State intends to implement the PROGRAM. The submittal additionally contains evidence of proper adoption of the PROGRAM regulations, permit application forms, a data management system and a fee adequacy demonstration.

2. Regulations and Program Implementation

The North Dakota PROGRAM, including the operating permit regulation (Article 33–15, Section 33–15–14–06, of the North Dakota Administrative Code—Air Pollution Control Rules (NDAC)), substantially meets the requirements of 40 CFR parts 70.2 and 70.3 with respect to applicability; parts 70.4, 70.5, and 70.6 with respect to permit content including operational flexibility; part 70.5 with respect to complete application forms and criteria which define insignificant activities; part 70.7 with respect to public participation and minor permit modifications; and part 70.11 with respect to requirements for enforcement authority.

Sub-section 33–15–14–06.4.c of the NDAC defines the emissions units or activities that sources do not have to include in their operating permit application (insignificant activities). This definition includes an emission threshold of 5 tons per year (tpy) for particulates, 10 tpy for sulfur dioxide, 2.5 tpy for hydrogen sulfide, 25 tpy for carbon monoxide, 10 tpy for nitrogen oxides, 10 tpy for ozone, 2.5 tpy for reduced sulfur compounds and 10 tpy for volatile organic compounds (see PROGRAM deficiencies below). This provision also states that the applicant may not omit information needed to determine applicable requirements or to evaluate the fee amount required. These emission thresholds do not apply to hazardous air pollutants (HAPs) listed in section 112(b) of the Act. However, in a letter from the State to EPA dated October 18, 1994, the State discussed several proposed changes to their PROGRAM submittal. One of the proposed changes would establish an insignificant activities emission threshold of 0.5 tpy for HAPs, which is an acceptable level.

Part 70 of the operating permits regulations requires prompt reporting of deviations from the permit requirements. Section 70.6(a)(3)(iii)(B)

of the Federal permitting regulation requires the permitting authority to define ''prompt'' in relation to the degree and type of deviation likely to occur and the applicable requirements. Although the permit program regulations should define ''prompt'' for purposes of administrative efficiency and clarity, an acceptable alternative is to define ''prompt'' in each individual permit. The EPA believes that ''prompt'' should generally be defined as requiring reporting within two to ten days of the deviation. Two to ten days is sufficient time in most cases to protect public health and safety as well as to provide a forewarning of potential problems. For sources with a low level of excess emissions, a longer time period may be acceptable. However, prompt reporting must be more frequent than the semiannual reporting requirement, given that this is a distinct reporting obligation under section 70.6(a)(3)(iii)(A) of the Federal permitting regulation. Where ''prompt'' is defined in the individual permit but not in the program regulations, EPA may veto permits that do not contain sufficiently prompt reporting of deviations. Sub-section 33–15–14–06.5.a(3)(c)[2] of the NDAC states that ''prompt'' will be defined in the permit consistent with chapter 33–15–01 of the NDAC, ''General Provisions'', and the applicable requirements.

North Dakota has the authority to issue a variance from air pollution control requirements imposed by State law (*See* North Dakota Century Code 23–25–03.11 and North Dakota Administrative Code 33–15–01–07.) The EPA regards these provisions as wholly external to the PROGRAM submitted for approval under part 70, and consequently is proposing to take no action on these provisions of State law. The EPA has no authority to approve provisions of State law, such as the variance provisions referred to, which are inconsistent with the Act. The EPA does not recognize the ability of a permitting authority to grant relief from the duty to comply with a federally enforceable part 70 permit, except where such relief is granted through procedures allowed by part 70. The EPA reserves the right to enforce the terms of the part 70 permit where the permitting authority purports to grant relief from the duty to comply with a part 70 permit in a manner inconsistent with part 70 procedures.

Comments noting deficiencies in the North Dakota PROGRAM were sent to the State in a letter dated December 22, 1994. The deficiencies were segregated into those that require corrective action prior to interim PROGRAM approval, and those that require corrective action prior to full PROGRAM approval. In a letter dated January 5, 1995, the State committed to finalize and submit to EPA by February 15, 1995 all corrective actions required for interim PROGRAM approval. The State submitted these corrective actions in letters dated February 22, 1995, and March 20, 1995. EPA has reviewed these corrective actions and has determined them to be adequate to allow for interim PROGRAM approval with the following exception: Section IX of the PROGRAM submittal (Implementation of other Titles of the Act), part B.4 (Implementation Schedule) does not address case-by-case MACT under section 112(j) of the Act. The PROGRAM should require permit applications from sources subject to section 112(j) of the Act within 18 months after EPA fails to promulgate a MACT standard. Prior to final interim PROGRAM approval, the State must address how it will implement section 112(j) of the Act. The State's February 22, 1995 letter stated that it is currently in the process of adopting rules for implementation of section 112(j) of the Act which were promulgated under 40 CFR part 63, subpart B. These rules, which are being adopted by reference, are expected to be finalized by June, 1995. EPA must receive the final, adopted copy of these rules and determine them to be adequate before proceeding with final interim PROGRAM approval.

Areas in which the North Dakota PROGRAM is deficient and requires corrective action prior to full PROGRAM approval are as follows: (1) EPA believes that the insignificant emission levels listed in sub-section 33–15–14–06.4.c of the NDAC for various air contaminants are too high (emission levels are set at approximately 25% of the PSD major modification significant levels). It is possible that the total emissions from such ''insignificant'' emissions units may indeed be greater than the major modification significance levels or even greater than the major source threshold. EPA has issued informal guidance stating that a State's emissions caps for defining insignificant activities should generally be no more than 1–2 tons per year for criteria pollutants. Prior to full PROGRAM approval, the State must revise sub-section 33–15–14–06.4.c of the NDAC to lower the insignificant emissions unit threshold for criteria pollutants to more reasonable levels. (2) Sub-section 33–15–14–06.5.a.(1)(c) of the NDAC states, ''Where the state implementation plan [SIP] or this article allows a determination of an alternative emission limit at a title V source, equivalent to that contained in the plan, to be made in the permit issuance, renewal, or significant modification process * * *.'' In order to implement this provision, the State must adopt specific provisions which detail how to determine that an alternative mission limit is equivalent to that in the SIP, and EPA must approve the provisions as part of the SIP. Until this can be accomplished, and prior to full PROGRAM approval, the State must delete the words ''or this article'' from the first line of sub-section 33–15–14–06.5.a.(1)(c) of the NDAC. (3) Sub-section 33–15–14–06.5.a.(11) of the NDAC does not include the requirements of 40 CFR 70.4(b)(12). Specifically, prior to full PROGRAM approval, sub-section 33–15–14–06.5.a(11) of the NDAC must be revised to state that changes in emissions are allowed by this sub-section provided that they are not modifications under title I of the Act and the changes do not exceed the emissions allowed under the permit. (4) Sub-section 33–15–14–06.5.f.(1) of the NDAC states that ''* * * as of the date of permit issuance, the source is considered to be in compliance with any applicable requirements * * *.'' EPA's permit shield provision in 40 CFR 70.6(f) requires such considerations to be dependent on compliance with the conditions of the permit. Thus, prior to full PROGRAM approval, the State must revise sub-section 33–15–14–06.5.f.(1) of the NDAC to read ''* * * the department shall include in a title V permit to operate a provision stating *that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance * * *.''* (5) Subsection 33–15–14–06.5.a.(8) of the NDAC states that, ''No permit revision shall be required, under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit and the state implementation plan or this article.'' Sub-sections 33–15–14–06.5.a.(10) and 33–15–14–06.6.e.(1)(a)[2] of the NDAC are related. Currently, the State does not have an economic incentives, marketable permits or generic emissions trading program approved in its SIP, and these provisions cannot be implemented by the State. Prior to full PROGRAM approval, the State must delete ''or this article'' from sub-section 33–15–14–06.5.a(8) of the NDAC, and ''this article'' from sub-sections 33–15–14–06.5.a.(10)

and 33–15–14–06.6.e.(1)(a)[2] of the NDAC to clarify that, in order to implement these provisions, the State must have an economic incentives, marketable permits or generic emissions trading program approved in its SIP. (6) Section IV of the PROGRAM submittal (Attorney General's Legal Opinion), part XX (Limitations on Judicial Review), does not cite to relevant State laws or regulations or to State case law, and, instead of discussing the provisions of North Dakota laws, largely discusses Federal regulations. The opinion should discuss and reference North Dakota law which ensures that the provisions for judicial review in North Dakota Century Code (N.D.C.C.) Chapter 28–23–14 and 15 and in NDAC Article 33–22 are the exclusive means for obtaining judicial review of the terms and conditions of permits and that petitions for judicial review must be filed within the 90-day periods discussed in 40 CFR 70.4(b)(3)(xii), Prior to full PROGRAM approval, the State must augment the Attorney General's opinion, providing discussion of and citation to case law, statutes, and regulations which address the requirements of 40 CFR 70.4(b)(3)(xii), or, if such an opinion cannot be rendered, the State must change its statutes and/or regulations to ensure that the requirements of 40 CFR 70.4(b)(3)(xii) are met. (7) Section IV of the PROGRAM submittal (Attorney General's Legal Opinion), part XVII (Final Agency Action on Permits), indicates that under State law, ''final permit action'' includes the failure of the State to take final action on an application for a permit, permit renewal, or permit revision within the time specified in the regulations. It also indicates that the State's failure to take final action within 90 days of receipt of an application for a minor permit modification (or 180 days for minor modifications subject to group processing) is subject to judicial review. For support of these assertions, the opinion cites to N.D.C.C. 28–32 and NDAC Article 33–22. EPA could not determine whether these provisions support a right to judicial review in cases where the State fails to act in a timely way on a permit application. Prior to full PROGRAM approval, the State must augment the Attorney General's opinion, providing discussion of and citation to case law and/or specific statutory or regulatory provisions which provide for judicial review in cases of State inaction, consistent with the requirements of 40 CFR 70.4(b)(3)(xi), or if such an opinion cannot be rendered, the State must change its statutes and/or regulations to ensure that the requirements of 40 CFR 70.4(b)(3)(xi) are met. (8) Section IV of the PROGRAM submittal (Attorney General's Legal Opinion), part XIV (Enforcement of Permits Program Requirements), states that State law provides civil and criminal enforcement authority consistent with 40 CFR 70.11. EPA was unable to determine from the opinion whether North Dakota's PROGRAM is consistent in all respects with 40 CFR 70.11, and in particular with the requirement for maximum fines of not less than $10,000 per day per violation. Prior to full PROGRAM approval, the State must augment the Attorney General's opinion, providing citation to and discussion of case law indicating that the PROGRAM meets the penalty requirements contained in 40 CFR 70.11, or, if such an opinion cannot be rendered, the State must change its statutes and/or regulations to ensure that the requirements of 40 CFR 70.11 are met.

Refer to the technical support document accompanying this rulemaking for a detailed explanation of each comment and the corrective actions required of the State.

3. Fee Adequacy Demonstration

The North Dakota PROGRAM includes a fee structure that collects in the aggregate fees that are below the presumptive minimum set in part 70. Therefore, it was necessary for the State to include a fee adequacy demonstration in their PROGRAM submittal to demonstrate that the State's title V fee structure would collect sufficient fees to cover the reasonable direct and indirect costs of developing and administering the PROGRAM. The fee adequacy demonstration included a four year workload analysis and a cash flow analysis. The fee structure for fiscal year 1995 includes a fee of $10 per ton with a cap of $100,000 per source. These fees are projected to increase to $14.42 per ton with a cap of $109,000 per source by fiscal year 1998. After careful review, the State has determined that these fees would support the North Dakota PROGRAM costs as required by section 70.9(a) of the Federal operating permitting regulation.

4. Provisions Implementing the Requirements of Other Titles of the Act

a. Authority and/or Commitments for Section 112 Implementation

North Dakota has demonstrated in its PROGRAM submittal adequate legal authority to implement and enforce all section 112 requirements through the title V permit. This legal authority is contained in North Dakota's enabling legislation and in regulatory provisions defining ''applicable requirements'' and stating that the permit must incorporate all applicable requirements. EPA has determined that this legal authority is sufficient to allow North Dakota to issue permits that assure compliance with all section 112 requirements, and to carry out all section 112 activities, with the exception noted in section II.A.2 above. Therefore, contingent upon the State completing the above noted corrective action, EPA will consider that the State of North Dakota's legal authority is sufficient to allow the State to issue permits that assure compliance with all section 112 requirements, and to carry out all section 112 activities. For further rationale on this interpretation, please refer to the Technical Support Document accompanying this rulemaking and the April 13, 1993 guidance memorandum titled ''Title V Program Approval Criteria for Section 112 Activities,'' signed by John Seitz, Director of the Office of Air Quality Planning and Standards.

b. Implementation of 112(g)

On February 14, 1995 EPA published an interpretive notice (see 60 FR 8333) that postpones the effective date of section 112(g) until after EPA has promulgated a rule addressing that provision. The section 112(g) interpretive notice explains that EPA is still considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow states time to adopt rules implementing the Federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), North Dakota must be able to implement section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing State regulations. EPA believes that North Dakota can utilize its construction review program to serve as a procedural vehicle for implementing section 112(g) and making these requirements Federally enforceable between promulgation of the Federal section 112(g) rule and adoption of implementing State regulations. For this reason, EPA is proposing to approve North Dakota's construction permitting program found in section 33–15–14–02 of the State's regulations under the authority of title V and part 70 solely for the purpose of implementing section 112(g) during the transition period to meet the requirements of section 112(g). Since the approval would be for the single purpose of providing a

mechanism to implement section 112(g) during the transition period, the approval would be without effect if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until State regulations are adopted. Also, since the approval would be for the limited purpose of allowing the State sufficient time to adopt regulations, EPA proposes to limit the duration of the approval to 12 months following promulgation by EPA of its section 112(g) rule. North Dakota's construction permitting program allows permit requirements to be established for all air contaminants (which is defined in section 33–15–01–04 of the NDAC and includes all of the hazardous air pollutants (HAPs) listed in section 112(b) of the Act).

c. Program for Straight Delegation of Section 112 Standards

Requirements for approval, specified in 40 CFR § 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of the provisions of 40 CFR part 63, Subpart A, and section 112 standards promulgated by EPA as they apply to part 70 sources, as well as non-part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR part 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from the Federal standards as promulgated. North Dakota has informed EPA that it intends to accept delegation of section 112 standards through incorporation by reference. This program applies to both existing and future standards.

The radionuclide national emission standard for HAPs (NESHAP) is a section 112 regulation and an applicable requirement under the State PROGRAM. Currently the State of North Dakota has no part 70 sources which emit radionuclides. However, sources which are not currently part 70 sources may be defined as major and become part 70 sources under forthcoming Federal radionuclide regulations. In that event, the State will be responsible for issuing part 70 permits to those sources.

d. Program for Implementing Title IV of the Act

North Dakota's PROGRAM contains adequate authority to issue permits which reflect the requirements of title IV of the Act, and commits to adopt the rules and requirements promulgated by EPA to implement an acid rain program through the title V permit.

B. Options for Approval/Disapproval and Implications

The EPA is proposing to grant interim approval to the operating permits program submitted by the State of North Dakota on April 28, 1994. If promulgated, the State must complete the following corrective action, as discussed above, to receive final interim PROGRAM approval: Adopt rules for implementation of section 112(j) of the Act which were promulgated under 40 CFR part 63, subpart B.

The State must complete the following corrective actions, as discussed above, to receive full PROGRAM approval: (1) The State must revise sub-section 33–15–14–06.4.c of the NDAC to lower the insignificant emissions unit threshold for criteria pollutants to more reasonable levels. (2) In order to implement sub-section 33–15–14–06.5.a.(1)(c) of the NDAC, the State must adopt specific provisions which detail how to determine that an alternative emission limit is equivalent to that in the SIP, and EPA must approve the provisions as part of the SIP. Until this can be accomplished, the State must delete the words ''or this article'' from the first line of sub-section 33–15–14–06.5.a(1)(c) of the NDAC. (3) Sub-section 33–15–14–06.5.a.(11) of the NDAC must be revised to state that changes in emissions are allowed by this sub-section provided that they are not modifications under title I of the Act and the changes do not exceed the emissions allowed under the permit. (4) The State must revise sub-section 33–15–14–06.5.f.(1) of the NDAC to read ''* * * the department shall include in a title V permit to operate a provision stating *that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance* * * *.'' (5) The State must delete ''or this article'' from sub-section 33–15–14–06.5.a.(8) of the NDAC, and ''this article'' from sub-sections 33–15–14–06.5.a.(10) and 33–15–14–06.6.e.(1)(a)[2] of the NDAC to clarify that, in order to implement these provisions, the State must have an economic incentives, marketable permits or generic emissions trading program approved in its SIP. (6) The State must augment the Attorney General's opinion, providing discussion of and citation to case law, statutes, and regulations which address the requirements of 40 CFR 70.4(b)(3)(xii), or, if such an opinion cannot be rendered, the State must change its statutes and/or regulations to ensure that the requirements of 40 CFR 70.4(b)(3)(xii) are met. (7) The State must augment the Attorney General's opinion, providing discussion of and citation to case law and/or specific statutory or regulatory provisions which provide for judicial review in cases of State inaction, consistent with the requirements of 40 CFR 70.4(b)(3)(xi), or, if such an opinion cannot be rendered, the State must change its statutes and/or regulations to ensure that the requirements of 40 CFR 70.4(b)(3)(xi) are met. (8) The State augment the Attorney General's opinion, providing citation to and discussion of case law indicating that the PROGRAM meets the penalty requirements contained in 40 CFR 70.11, or, if such an opinion cannot be rendered, the State must change its statutes and/or regulations to ensure that the requirements of 40 CFR 70.11 are met.

Evidence of these corrective actions for full PROGRAM approval must be submitted to EPA within 18 months of EPA's interim approval of the North Dakota PROGRAM.

The scope of North Dakota's part 70 PROGRAM that EPA proposes to approve in this notice would apply to all part 70 sources (as defined in the PROGRAM) within the State, except the following: any sources of air pollution located in ''Indian Country,'' as defined in 18 U.S.C. 1151, including the Fort Berthold, Fort Totten, Standing Rock, Sisseton and Turtle Mountain Indian Reservations, or any other sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.*, 59 FR 55813, 55815–18 (Nov. 9, 1994). The term ''Indian Tribe'' is defined under the Act as ''any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' *See* section 302(r) of the CAA; *see also* 59 FR 43955, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

In proposing not to extend the scope of North Dakota's part 70 PROGRAM to sources located in ''Indian Country,'' EPA is not making a determination that the State either has adequate jurisdiction or lacks jurisdiction over such sources. Should the State of North Dakota choose to seek program approval within ''Indian Country,'' it may do so without prejudice. Before EPA would approve the State's part 70 PROGRAM for any portion of ''Indian Country,'' EPA would have to be satisfied that the State has authority, either pursuant to explicit Congressional authorization or

applicable principles of Federal Indian law, to enforce its laws against existing and potential pollution sources within any geographical area for which it seeks program approval, that such approval would constitute sound administrative practice, and that those sources are not subject to the jurisdiction of any Indian Tribe.

This interim approval, which may not be renewed, extends for a period of up to 2 years. During the interim approval period, the State is protected from sanctions for failure to have a program, and EPA is not obligated to promulgate a Federal permits program in the State. Permits issued under a program with interim approval have full standing with respect to Part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon interim approval, as does the 3-year time period for processing the initial permit applications.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR part 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations applies to sources covered by the part 70 program, as well as non-part 70 sources.

III. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed interim approval. Copies of the State's submittal and other information relied upon for the proposed interim approval are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed interim approval. The principal purposes of the docket are:

(1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and

(2) To serve as the record in case of judicial review. The EPA will consider any comments received by May 30, 1995.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR Part 70. Because this action does not impose any new requirements, its does not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–76719.

Dated: April 19, 1995.

William P. Yellowtail,

Regional Administrator.

[FR Doc. 95–10504 Filed 4–27–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 180, 185 and 186

[PP 1F3992, 2F4109, 2F4114, 7F3488, 7F3560, 9F3770, FAP 7H3560 and 7H5543/P615; FRL–4951–9]

RIN 2070–AC18

Pesticide Tolerances for Lambda-Cyhalothrin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish time-limited tolerances with an expiration date of November 15, 1997, for residues of the synthetic pyrethroid lambda-cyhalothrin in or on the raw agricultural commodities (RACs) soybeans, wheat, forage, hay, straw, grain dust; sweet corn; sunflower, seeds and forage; sorghum grain and dust; corn (grain field and pop); corn fodder and forage; peanuts; meat, fat, and meat byproducts (mbyp) and eggs of poultry and increase tolerances in milk, fat, meat and mbyp of cattle, goats, hogs, horses and sheep; and in or on the processed food/feed items corn grain flour, sunflower hulls, sunflower oil, and wheat bran. Zeneca Ag Products, Inc., and Coopers Animal Health, Inc., submitted petitions to EPA under the Federal Food, Drug and Cosmetic Act (FFDCA) proposing tolerances and regulations to establish maximum permissible levels for residues of the insecticide.

DATES: Comments, identified by the document control numbers, [PP 1F3992, 2F4109, 2F4114, 7F3488, 7F3560, 9F3770, FAP 7H3560 and 7H5543/P615], must be received on or before May 30, 1995.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

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

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [1F3992, 2F4109, 2F4114, 7F3488, 7F3560, 9F3770, FAP 7H3560 and 7H5543/P615]. No CBI should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

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

SUPPLEMENTARY INFORMATION: EPA issued notices, published in the **Federal Registers** of March 18, 1987 (52 FR 8527), November 25, 1987 (52 FR 45238), November 1, 1989 (54 FR 46119), December 13, 1991 (56 FR 65080), and June 10, 1992 (57 FR 24644), which announced that Zeneca, Inc. (formerly ICI Americas, Inc.), 1800 Concord Pike, Wilmington, DE 19897, had submitted pesticide petitions 7F3488, 7F3560, 1F3992, 2F4109, 2F4114, 7H3560, and 7H5543 and that Coopers Animal Health, Inc., P.O. Box 419167, Kansas City, MO 64141-0167, had submitted PP 9F3770 to EPA requesting that the Administrator, pursuant to sections 408(d) and 409(b) of the FFDCA, 21 U.S.C. 346a(d) and 348(e), establish tolerances and food/feed additive regulations for residues of the pyrethroid lambda-cyhalothrin in or on the raw agricultural commodities (RACs) soybeans at 0.01 part per million (ppm); poultry meat, fat, and meat byproducts (mbyp) (PP 7F3488); wheat grain at 0.01 ppm, sunflower seeds at 0.03 ppm; sweet corn at 0.01 ppm; poultry meat and mbyp at 0.01 ppm (PP 7F3560); sorghum grain at 0.2 ppm; milk at 0.1 ppm; meat of cattle, goats, horses, and sheep at 0.04 ppm, fat at 2.0 ppm, liver at 0.1 ppm and kidney at 0.1 ppm (PP 1F3992); corn grain (field, pop, and seed) at 0.05 ppm, corn fodder at 3.0 ppm, corn silage at 1.0 ppm and corn grain dust at 0.1 ppm (PP 2F4109); peanut hulls and peanut nutmeats at 0.05 ppm; peanut hulls and peanut nut meats at 0.05 (PP 2F4114); cattle meat and mbyp at 0.1 ppm; cattle fat at 1.0 ppm from direct dermal treatment of cattle (PP 9F3770); sunflower hulls at 0.7 ppm; and sunflower oil at 0.05 ppm (PP 7H5543).

The tolerance expression for lambda-cyhalothrin has been revised and now includes combined residues of parent compound and its epimer. (See the **Federal Register** of March 27, 1995 (60 FR 15683).) The correct commodity expression for peanut nut meat is peanuts. Corn silage is covered under the commodities for corn fodder and forage. Based upon submitted residue data and because residues in corn grain were nondetected, EPA concluded that a tolerance in/on corn grain dust is not required. Since residues concentrate when corn grain is processed into flour, EPA concluded that a food additive tolerance of 0.15 ppm for corn grain flour is required.

At the request of Zeneca Ag products, EPA issued in the **Federal Register** of March 5, 1992 (57 FR 10353), an amendment to PP 7F3560 to increase the proposed tolerance level for the insecticide in or on wheat grain to 0.03 and proposed establishing tolerances for residues of the insecticide lambda cyhalothrin in or on the RACs wheat forage at 2.0 ppm and wheat straw at 2.0 ppm, and the document amended FAP 7H5543 by adding the processed commodity wheat bran at 0.2 ppm and wheat shorts, germ at 0.05 ppm.

After evaluation of the wheat processing study, EPA concluded that the residues in midlings, shorts, germs resulting from the product use rate are no greater than the proposed tolerance on whole wheat grain, and thus no food/feed additive tolerances are required for the processed commodities wheat, shorts and germs.

In June 29, 1994, Zeneca, Inc., requested that certain petitions be amended by increasing the proposed tolerances for the RACs corn, forage (PP 2F4109) to 6.0 ppm; corn, sweet (kernel + kernel with husk removed (k + kwhr)) (PP 7F3560) to 0.05 ppm; sorghum, grain (PP 1F3992) to 0.2 ppm; establish tolerance for sorghum, grain dust (PP 1F3992) at 1.5 ppm; corn grain flour (FAP 7H5543) at 0.15 ppm; increase tolerance for sunflower, seeds (PP 7F3560) to 0.2 ppm; establish proposed tolerance in or on wheat hay and grain dust (PP 7F3560) at 2.0 ppm; increase the tolerance for milk, fat (reflecting 0.2 ppm in whole milk) to 5.0 ppm; meat mbyp of cattle, goats, hogs, horses, and sheep to 0.2 ppm; fat of cattle, goats, hogs, horses, and sheep to 3.0 ppm; meat, fat, mbyp and eggs of poultry to 0.01 ppm, and processed food/feed items sunflower, hulls (FAP 7H5543) to 0.5 ppm and sunflower, oil (7H5543) to 0.3 ppm.

In a letter dated February 10, 1995, Zeneca Ag Products requested that a tolerance be established in or on sunflower, forage (PP 7F3560) at 0.2 ppm.

The scientific data submitted in the petitions and other relevant material have been evaluated. The toxicological data considered in support of the tolerances have been discussed in the **Federal Register** published March 29, 1995 (58 FR 15683).

The acceptable Reference Dose (RfD) based on a NOEL of 0.1 mg/kg/body weight/day from the chronic dog study and a safety factor of 100 is 0.001 mg/kg/body weight/day. A chronic dietary exposure/risk assessment has been performed for lambda-cyhalothrin using the above RfD. Available information on anticipated residues and percent crop treated was incorporated into the analysis to estimate the Anticipated Residue Contribution (ARC). The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC from established tolerances and pending action are estimated to be 0.000192 mg/kg/bwt/day and utilize 19.24 per cent of the RfD for the U.S. population. The ARC for children, aged 1 to 6 years old, and nonnursing infants (subgroups most highly exposed) utilizes 32 and 58 percent of the RfD, respectively. Generally speaking, the Agency has no cause for concern if anticipated residues contribution for all published and proposed tolerances is less than the RfD.

The metabolism of the chemical in plants and livestock is adequately understood for this use. Any secondary residues occurring in meat and meat by-products will be covered by the existing tolerances. There is no reasonable expectation of finite residues in poultry commodities; therefore, no tolerances are necessary at this time. An adequate analytical method (gas liquid chromatography with an electron capture detector) is available for enforcement purposes. The enforcement methodology has been submitted to the Food and Drug Administration for publication in the Pesticide Analytical Manual, Vol. II (PAM II). Because of the long lead time for publication of the method in PAM II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., Washington, DC 20460. Office location and telephone number: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington VA 22202, (703) 305-5232.

The Agency issued a conditional registration for lambda-cyhalothrin for use on cotton with an expiration date of August 30, 1990 (see the **Federal Register** of May 24, 1988 (53 FR 18558)). The conditional registration was subsequently amended and extended to November 15, 1996 (see the **Federal Register** of February 22, 1995 (60 FR 9783)). The registrations were amended and extended to allow time for submission and evaluation of additional environmental effects data. To evaluate the effects of the synthetic pyrethroids on fish and aquatic organisms and its fate in the environment, additional data were required to be collected and submitted during the period of conditional registration. Such requirements included a sediment bioavailability and toxicity study and a small-plot runoff study that must be submitted to the Agency by July 1, 1996. Because of the conditional status of the registration, tolerances have been established for lambda-cyhalothrin on a

time-limited basis (until November 15, 1997) on cottonseed, meat, fat and meat-byproducts of hogs, horses, cattle, goats, sheep, and milk to cover residues expected to present from use during the period of conditional registration. To be consistent with the conditional registration and extension on cotton, the Agency is proposing to issue a conditional registration with an expiration date of November 15, 1996, and establishing a time-limited tolerance on field corn, peanuts, sorghum, soybeans, sweet corn, sunflowers, wheat including livestock meat, fat and milk and processed commodities with an expiration date of November 15, 1997, to cover residues expected to result from use during the period of conditional registration.

There are currently no actions pending against the continued registration of this chemical and its epimer. The pesticide is considered useful for the purposes which it is sought and capable of achieving the intended physical or technical effect. Based on the information and data considered, the Agency has determined that the tolerances established by amending 40 CFR parts 180, 185, and 186 would protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

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

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control numbers, [PP 1F3992, 2F4109, 2F4114, 7F3488, 7F3560, 9F3770, and FAP 7H3560 and 7H5543/P615]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

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

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

A record has been established for this rulemaking under docket number [1F3992, 2F4109, 2F4114, 7F3488, 7F3560, 9F3770, FAP 7H3560 and 7H5543/P615] (including any 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 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

List of Subjects in 40 CFR Parts 180, 185, 186

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

Dated: April 21, 1995.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

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

PART 180—[AMENDED]

1. In part 180:

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

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

b. By amending § 180.438, by revising the table therein, to read as follows:

§ 180.438 Lambda-cyhalothrin; tolerance for residues.

* * * * *

Commodity	Parts per million
Broccoli	0.4
Cabbage	0.4
Cattle, fat	3.0
Cattle, meat	0.2
Cattle, mbyp	0.2
Corn, grain (field and pop)	0.05
Corn, fodder	1.0
Corn, forage	6.0
Corn, sweet (K + kwhr)	0.05
Cottonseed	0.05
Dry bulb onion	0.1
Eggs	0.01
Garlic	0.02
Goats, fat	3.0
Goats, meat	0.2
Goats, mbyp	0.2
Hogs, fat	3.0
Hogs, meat	0.2
Hogs, mbyp	0.2
Horses, fat	3.0
Horses, meat	0.2
Horses, mbyp	0.2
Lettuce, head	2.0
Milk, fat (reflecting 0.2 ppm in whole milk)	5.0
Peanuts	0.05
Peanut, hulls	0.05

Commodity	Parts per million
Poultry, fat	0.01
Poultry, meat	0.01
Poultry, mbyp	0.01
Sheep, fat	3.0
Sheep, meat	0.2
Sheep, mbyp	0.2
Soybeans	0.01
Sorghum, grain	0.2
Sorghum, grain dust	1.5
Sunflower, seeds	0.2
Sunflower, forage	0.20
Tomatoes	0.1
Wheat, grain	0.05
Wheat, forage	2.0
Wheat, hay	2.0
Wheat, straw	2.0
Wheat, grain dust	2.0

PART 185—[AMENDED]

2. In part 185:

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

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

b. By redesignating § 185.1310 as § 185.3765, by revising the heading, and by adding new paragraph (c), to read as follows:

§ 185.3765 Lambda-cyhalothrin.

* * * * *

(c) A tolerance, to expire on November 15, 1997, is established for the combined residues of the insecticide lambda-cyhalothrin and its epimer expressed as lambda-cyhalothrin, a 1:1 mixture of (*S*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (*R*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and its epimer of lambda-cyhalothrin, a 1:1 mixture of (*S*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (*R*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate in or on the following food commodities:

Food	Parts per million
Corn, grain flour	0.15
Sunflower, oil	0.30
Wheat, bran	0.2

PART 186—[AMENDED]

3. In part 186

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

Authority: 21 U.S.C. 348.

b. By revising § 186.3765, to read as follows:

§ 186.3765 Lambda-cyhalothrin.

A tolerance, to expire on November 15, 1997, is established for the combined residues of the insecticide lambda-cyhalothrin and its epimer expressed as lambda-cyhalothrin, a 1:1 mixture of (*S*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (*R*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and its epimer of lambda-cyhalothrin, a 1:1 mixture of (*S*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*S*,3*S*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (*R*)-α-cyano-3-phenoxybenzyl-(*Z*)-(1*R*,3*R*)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate in or on the following feed commodities:

Food	Parts per million
Sunflower, hulls	0.50
Tomato pomace (dry or wet)	6.0
Wheat, bran	0.2

[FR Doc. 95–10612 Filed 4–26–95; 3:36 pm]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 94–54, FCC 95–149]

Interconnection and Resale Obligations of Commercial Mobile Radio Service Providers

AGENCY: Federal Communications Commission.

ACTION: Second notice of proposed rule making.

SUMMARY: This action invites comment to assist the Commission in formulating broad policy guidelines involving the common carrier obligations of commercial mobile radio service (CMRS) providers with respect to CMRS-to-CMRS interconnection. The NPRM also tentatively concludes that its policy regarding the resale obligations of cellular carriers should be extended to most CMRS providers. This NPRM was issued to continue the proceeding initiated by the Commission last year in a Notice of Inquiry regarding interconnection and resale obligations of CMS providers.

DATES: Comments must be filed on or before June 14, 1995, and reply comments on or before July 14, 1995.

FOR FURTHER INFORMATION CONTACT: Judy Argentieri or Barbara Esbin, Wireless Telecommunications Bureau, Policy Division, (202) 418–1310.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Second Notice of Proposed Rule Making (Notice) in CC Docket No. 94–54, FCC 95–149, adopted April 5, 1995, and released April 20, 1995.

The complete text of this Notice is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS, Inc.), at (202) 857–3800, 1919 M Street, N.W., Room 246, Washington, D.C. 20554.

Synopsis of Notice

1. The Notice concludes that at present it would be premature for the Commission to propose or adopt rules of general applicability requiring direct interconnection arrangements between CMRS providers. The Notice also finds that present market conditions fail to indicate that it is necessary to impose a general CMRS-to-CMRS interconnection obligation at this time. The Notice seeks comment on several potential relevant product and geographic market definitions for purposes of analyzing the interconnection obligations of CMRS providers under Section 201(a) of the Communications Act of 1934, as amended (the Act). The Notice also seeks comment on criteria to consider in resolving interconnection disputes under Sections 201(a), 208, and 332 of the Act. Finally, the Notice seeks additional comment on the question of preemption of state-imposed interconnection obligations.

2. The Notice makes similar conclusions regarding the prematurity of imposing the sort of general interconnection obligations needed to support roaming services. The Notice seeks comment on several technical issues related to the provision of roaming service.

3. In addition, the Notice seeks comment on whether Section 22.901 of the Commission's Rules, 47 CFR § 22.901 requires cellular carriers to provide service to other CMRS roamers.

4. The Notice also tentatively concludes that the existing obligation

requiring cellular providers not to prohibit resale should be extended to apply to most CMRS providers.

5. Additionally, the Notice tentatively concludes that, as in the case of cellular carriers, a time limitation on the obligation to require resale of the services of one facilities-based CMRS provider to another facilities-based CMRS provider is appropriate. The Notice tentatively concludes that, as in the case of cellular service, once the newer entrant in a market is fully operational the rationale for prohibiting resale restrictions between facilities-based carriers, i.e., to offset any competitive advantage gained as a result of a service provider's ''headstart'', ceases to exist. The Notice seeks comment on whether, as in the case of cellular, the resale requirement should remain in effect until the termination of the fill-in period of the particular service, which the Commission previously established in its Rules, or whether some other period is appropriate.

6. Finally, the Notice tentatively concludes that the Commission should not impose a general obligation requiring CMRS providers to interconnect with resellers seeking to install their own switching equipment between the CMRS provider's network facilities and the facilities of the local exchange carrier and the interexchange carrier.

Ex Parte Rules

7. This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's Rules.[1]

Regulatory Flexibility Act

8. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.* (1981), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact of the policies and rules proposed in this Notice on small entities. The IRFA is contained in Appendix B to the Notice. The Secretary shall cause a copy of this Notice, including the IRFA, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act.

[1] See generally, Section 1.1206(a) of the Commission's Rules, 47 CFR § 1.1206(a).

Authority

9. This action is taken pursuant to Sections 1, 4(i), 4(j), 201, 202, 208, 332, and 403 Communications Act as amended; 47 U.S.C. 154(i), 201, 202, 208, 332, and 403.

10. Accordingly, it is ordered that notice is hereby given of the proposed regulatory changes described above, and that comment is sought on these proposals.

11. It is further ordered that pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, comments shall be filed with William F. Caton, Acting Secretary, Federal Communications Commission, Washington, DC 20554 on or before June 14, 1995, and reply comments shall be filed with the Secretary on or before July 14, 1995. To file formally in this proceeding, parties must file an original and five copies of all comments, reply comments, and supporting comments. Parties wishing each Commissioner to receive a personal copy of their comments must file an original plus nine copies.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–10472 Filed 4–27–95; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 95–48, RM–8590]

Television Broadcasting Services; Weaverville, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Mark C. Allen, requesting the allotment of UHF television Channel 32 to Weaverville, California, as that community's first local television service. Weaverville is located within the prohibited co-channel minimum distance (174.5 miles) to the Sacramento-Stockton television market, one of the designated markets affected by the Commission's current freeze on allotments and applications pending the outcome of an inquiry into the use of advanced television systems in broadcasting. (*See Order, Advanced Television Systems and Their Impact on Existing Television Broadcast Service*, 52 Fed. Reg. 28346, July 29, 1987). However, Channel 32 can be allotted to Weaverville in compliance with the terms of the freeze *Order* at a restricted site. Coordinates used for Channel 32 at Weaverville are 40–54–45 and 122–52–15.

DATES: Comments must be filed on or before June 15, 1995, and reply comments on or before June 30, 1995.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mark C. Allen, 3745 McHale Way, Redding, CA 96001.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 95–48, adopted April 14, 1995, and released April 24, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 95–10470 Filed 4–27–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB83

Endangered and Threatened Wildlife and Plants; Withdrawal of Proposed Rule to List the Plant Salix arizonica (Arizona Willow) as Endangered With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Fish and Wildlife Service (Service) withdraws a proposal to list the plant *Salix arizonica* (Arizona willow) as an endangered species with critical habitat under the Endangered Species Act of 1973, as amended (Act). The Service finds that evidence now available, discussed below, does not justify listing of the species as proposed. Additional field surveys have provided new data indicating that the species has a wider distribution and greater abundance than previously known. A multi-agency ''Arizona Willow Conservation Agreement and Strategy'' (AWCAS) signed April 7, 1995, has been developed that commits several Federal and State agencies to specific actions to immediately reduce site-specific threats, to provide long-term protection and habitat improvement, and to carry out proactive conservation actions. The White Mountain Apache Tribe (Tribe) has developed the ''Arizona Willow Management Plan: An Interim Approach to High-Elevation Riparian and Cienega Ecosystem Management on the Fort Apache Indian Reservation'' which is consistent with, and complementary to, the strategies and intent set forth in the AWCAS. Although Arizona willow is still considered rare and potentially vulnerable, the new distribution data in combination with the management commitments in the AWCAS and the tribal plan, reduce the relative magnitude and severity of threats to the species so that listing is no longer considered warranted.

ADDRESSES: The complete file for this notice is available for public inspection by appointment, during normal business hours, at the Arizona Ecological Service's State Office, 2321 West Royal Palm Road., Suite 103, Phoenix, Arizona, 85021–4951.

FOR FURTHER INFORMATION CONTACT: Bruce K. Palmer, at the above address (602/640–2720).

SUPPLEMENTARY INFORMATION:

Background

On November 20, 1992, the Service published a proposal to list the Arizona willow as endangered with critical habitat (57 FR 54747). At that time the species was known only from high elevation streams and wet meadows in the Mount Baldy vicinity of Apache County, Arizona, located primarily on the Apache-Sitgreaves National Forests and the Fort Apache Indian Reservation (Reservation). Threats identified in the proposed rule included livestock and wildlife impacts, water impoundments and diversions, roads, recreational use, development and maintenance of ski resort facilities, disease, alteration of natural hydrologic regimes, and changes in species composition and structure of the riparian community, including invasion of nonnative vegetation (especially Kentucky bluegrass, *Poa pratensis*) brought about by historic and current livestock use.

In June 1993, following publication of the proposal, the Service was notified of a previously misidentified herbarium specimen of Arizona willow collected in 1913 from the then-named ''Sevier Forest'' in southern Utah. Preliminary surveys in Utah during the summer of 1993 by the Service did not locate Arizona willow. Surveys initiated by the U.S. Forest Service (FS) resulted in rediscovery of Arizona willow in Utah on June 30, 1994. Subsequent FS surveys documented Arizona willow on the Dixie and Fishlake National Forests, Cedar Breaks National Monument, and adjacent private land. The extent of some individual populations of Arizona willow plants in Utah far exceeds all populations in Arizona.

On September 6, 1994, the Regional Foresters of the Southwestern and Intermountain Regions of the FS and the Regional Director of the Service's Southwest Region made a joint decision to develop a conservation agreement for Arizona willow on Federal lands to ensure the long-term conservation of the species throughout its range. This also required the participation of several non-Federal partners (Arizona Game and Fish Department (AGFD) and Utah Division of Wildlife Resources (UDWR)). A FS policy statement, jointly issued by the Regional Foresters of the Southwestern and Intermountain Regions on December 19, 1994, initiated actions to reduce threats on the National Forests (NF), including designation of FS representation on the Arizona Willow Interagency Technical Team. The Arizona Willow Interagency Technical Team was formed to develop and implement the AWCAS.

Concurrent with the development of a conservation strategy for Arizona willow on Federal lands, the Tribe has developed a management plan that addresses the conservation of Arizona willow on the Reservation. The Tribe's ''Arizona Willow Management Plan: An Interim Approach to High-Elevation Riparian and Cienega Ecosystem Management on the Fort Apache Indian Reservation'' is consistent with, and complementary to, the strategies and intent set forth in the AWCAS.

Specific protection to Arizona willow from cattle herbivory is provided on NF's and Reservation lands. Arizona willow is protected through rested pastures, livestock exclusion fencing, and/or construction of protective cages. On FS lands, no livestock use of any pasture is allowed without implementation of specific actions to protect Arizona willow. Management plans for each FS allotment that includes Arizona willow habitat will be revised within the guidelines set forth in the AWCAS prior to removal of site-specific protections.

Herbivory by wildlife, especially elk in Arizona, has been identified as a threat to Arizona willow. The AGFD has implemented strategies to reduce elk herd sizes within Arizona willow habitats in Arizona, and have committed to maintain stable or continued reductions of herd sizes pending results of herbivory studies. The Tribe has also initiated actions to stabilize elk herd size. Both the AGFD and the UDWR have provided specific commitments to aggressively manage wildlife populations consistent with monitoring and research information on Arizona willow.

Arizona willow habitat is further conserved through other measures, including the application of FS Standards and Guidelines, and the White Mountain Apache Tribe Codes and Tribal Council Resolutions. These protection actions provide for buffers from timber harvest activities, road closures and off-road vehicle restrictions, relocation of recreational trails; restrictions on dispersed camping, and informational signing.

Detailed monitoring of Arizona willow and a variety of research projects and studies on its population biology and ecology are being undertaken to fully understand the implications of land management actions. Such studies are being implemented through various cooperative efforts by the Apache-Sitgreaves NFs, Dixie NF, Fishlake NF, Rocky Mountain Forest and Range Experiment Station, Cedar Breaks National Monument, White Mountain Apache Tribe, AGFD, UDWR, and the

Service. These studies will help determine appropriate management practices and identify suitable areas for expanding and augmenting depauperate populations.

The designation of special management areas, such as Botanical Areas, Research Natural Areas, and essential habitat, are being evaluated and incorporated into a review process under the National Environmental Policy Act. Special management area designation assures the priority of Arizona willow management and long-term conservation of the species within a multiple-use land management framework.

Continued implementation of the AWCAS for management of Arizona willow on the Apache-Sitgreaves NFs, Dixie NF, Fishlake NF, and Cedar Breaks National Monument, and the implementation of the ''Arizona Willow Management Plan: An Interim Approach to High-Elevation Riparian and Cienega Ecosystem Management on the Fort Apache Indian Reservation'' are expected to accomplish significant conservation of Arizona willow without its being listed.

The Service has determined that Arizona willow does not warrant listing under the Act and places this plant in category 3C of the plant notice of review. Category 3C species are those species for which information now in the possession of the Service indicates that the species is more abundant or widespread than previously thought and for which substantial threats do not exist. If further research or changes in habitat indicate a significant decline in the species, it may again be included in categories 1 or 2, and its listing status may be reevaluated.

Author

The primary author of this proposed rule is Bruce K. Palmer (see **ADDRESSES** section).

Authority

The authority for this action is section 4(b)(6)(B)(ii) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: April 25, 1995.

Mollie H. Beattie,

Director, Fish and Wildlife Service.

[FR Doc. 95–10579 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672, 675, and 676

[Docket No. 940414104–5104–01; I.D. 110194B]

RIN 0648–AF53

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Maximum Retainable Bycatch Amounts

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes revised regulations for directed fishing standards in the groundfish fisheries in the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands management area (BSAI). The proposed rule would simplify and clarify the regulations. In place of directed fishing standards, the proposed rule would specify retainable percentages from which the maximum amounts of fish that may be retained as bycatch in fisheries that are closed to directed fishing can be derived. The proposed changes are expected to promote compliance with groundfish regulations and to facilitate enforcement efforts. This action is intended to further the objectives of the fishery management plans (FMPs) for the groundfish fisheries off Alaska.

DATES: Comments must be submitted by May 30, 1995.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Gravel). Individual copies of the environmental assessment/regulatory impact review prepared for this action may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, 907–586–7228.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone (EEZ) of the GOA and the BSAI are managed by NMFS in accordance with the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The FMPs are implemented by regulations that appear at 50 CFR parts 672, 675, and 676. General regulations that also govern the groundfish fisheries appear at 50 CFR part 620. These fishery regulations generally distinguish between fish taken in directed fishing efforts and fish of other species that are taken incidentally, sometimes referred to as ''bycatch.''

Typically, a fishery for a certain species is open to directed fishing until specified amounts of that species are taken or are projected to be taken, at which point the fishery is closed to directed fishing. Once a fishery for a particular species is closed to directed fishing, that species may be retained only as bycatch in fisheries for other species that remain open. The current fishery regulations specify standards for determining what constitutes directed fishing, and the proportions of retained catches that represent allowable bycatch levels. Once the catch of a species exceeds, or is projected to exceed, its total allowable catch (TAC) limit, that species may not be retained and must be discarded at sea.

Current regulations at 50 CFR 672.20(g) and 675.20(h) specify a large number of species-, area-, gear-, and management goal-specific directed fishing standards for the GOA and BSAI, respectively. The current regulations define directed fishing in terms of the proportion of the retained catch of one species in relationship to the retained catch of other species. Directed fishing standards range from 1 percent to 35 percent with a general default of 20 percent. Under current regulations arrowtooth flounder may not be used to calculate retainable amounts of other groundfish species because arrowtooth flounder was sometimes being harvested solely for the purpose of providing directed catch against which retainable bycatch quantities were calculated and accumulated.

These regulations were intended to reduce harvest rates of groundfish species when their TAC limits are being approached. At the same time, the directed fishing standards were intended to reduce waste and minimize the need to discard fish at sea by allowing retention of incidental groundfish bycatch, after closure of the directed fishery until the TAC limit is achieved.

In spite of increased specificity, directed fishing standards have often failed to prevent overharvest or underharvest of groundfish. Furthermore, the existing regulations have not eliminated undesirable fishing

practices, such as covert targeting on high value species after fishery closures or wasteful discarding. Therefore, at its June 1994 meeting, the Council requested that NMFS revise the regulations defining directed fishing standards.

This proposed regulatory amendment does not use the term ''directed fishing standard.'' Instead, the proposed rule would provide tables of retainable percentages for each bycatch species/basis species combination, from which the maximum retainable bycatch amount could be calculated. The maximum retainable bycatch amount is the amount, in round-weight equivalents, of a species or species group that a vessel may retain on board at any time during a fishing trip. Retention in excess of this amount constitutes directed fishing.

This rule would establish a single retainable percentage for each bycatch species/basis species combination, regardless of gear type or management area. Thus, the rule would establish the same retainable percentages for trawl, hook-and-line, pot, and other gear types. The same retainable percentages would be specified for the GOA and BSAI, with separate tables to reflect the differences in species groupings between the two areas.

Therefore, the proposed regulations would be simpler to apply than those currently in place.

Details of the proposed changes in this regulatory amendment follow.

Specific Changes

1. To satisfy the Council's intent for simplification and consistency, the proposed rule would add new tables to §§ 672.20 and 675.20. These tables display bycatch species as columns and species open to directed fishing (basis species) as rows. Each species open to directed fishing retained on board a vessel would become a basis species from which individual retainable bycatch amounts for the bycatch species would be measured. The individual retainable bycatch amount would be calculated by multiplying the retainable percentage in the appropriate block of the table by the round-weight equivalent of the corresponding basis species. The maximum retainable bycatch amount for a given bycatch species would be the sum of all the individual retainable bycatch amounts for the various basis species retained on board the vessel.

Directed fishing would be defined as any fishing activity that results in the retention of an amount of that species or species group on board a vessel that is greater than the maximum retainable bycatch amount for that species or species group as calculated under §§ 672.20 and 675.20.

Current regulations indicate that when a fishery is closed to directed fishing, a vessel may retain bycatch in an amount up to, but not including, the amount that is calculated using the directed fishing standards. Under the proposed rule, the maximum retainable bycatch amount could equal the calculated amount.

The maximum retainable bycatch amount for a bycatch species is calculated for a vessel in relation to the amounts of basis species that are retained on that vessel. Bycatch species are listed on the horizontal axis of the table and are identified by column headings at the top of each table. A bycatch species would be any species or species group for which a maximum retainable bycatch amount would need to be calculated when a fishery is closed to directed fishing, or under other circumstances.

Any species or species group that is open to directed fishing and that the vessel is authorized to harvest would be considered a ''basis species.'' Basis species are listed on the vertical axis of the table and are identified as row headings on the left side of Table 2 to § 672.20 or Table 1 to § 675.20 of the proposed rule. The retainable percentages for each bycatch species/basis species combination are contained in each table block (row and column intersection of the box). These retainable percentages range from 0 to 35 percent.

To calculate the maximum retainable bycatch amount for each bycatch species, individual retainable bycatch amounts would be calculated by multiplying the retainable percentage set forth in the tables of the proposed rule (Table 2 to § 672.20 and Table 1 to § 675.20) by the amount of each basis species retained on board a vessel, in round-weight equivalents. Then the total or maximum retainable bycatch amount would be determined by adding together the individual retainable bycatch amounts calculated for each bycatch species in relation to each basis species retained on board the vessel.

For example, if a vessel in the BSAI is fishing in an area that is open to directed fishing for pollock, Pacific cod and Pacific ocean perch, but is closed to directed fishing for yellowfin sole and Greenland turbot, and all of those species are retained on board the vessel, the maximum retainable bycatch amount of yellowfin sole would be calculated as follows using Table 1 of § 675.20:

a. The individual retainable bycatch amount of yellowfin sole (on the top of the table) in relation to pollock (on the left side of the table) would be determined by multiplying the retainable percentage for bycatch of yellowfin sole in relation to the basis species of pollock—in this case 20 percent (the intersection of the yellowfin sole column and the pollock row in the table) by the amount of pollock retained, in round-weight equivalents.

b. The individual retainable bycatch amount of yellowfin sole (on the top of the table) in relation to Pacific cod (on the left side of the table) would then be determined by multiplying the retainable percentage specified for bycatch of yellowfin sole in relation to the basis species of Pacific cod—in this case 20 percent (the intersection of yellowfin sole column and the Pacific cod row in the table) by the amount of Pacific cod retained, in round-weight equivalents.

c. The same type of calculation would then be made with respect to Pacific ocean perch.

d. The three amounts (for pollock, Pacific cod, and Pacific ocean perch) would then be added together to obtain the maximum retainable bycatch amount of yellowfin sole that could be retained on board the vessel.

Similar calculations would be made to determine the maximum retainable bycatch amount of Greenland turbot, except that the retainable percentages for Greenland turbot in relation to pollock, Pacific cod, and Pacific ocean perch are 1 percent, 1 percent, and 35 percent, respectively, based on Table 1 to § 675.20. Again, the three amounts would be added together to calculate the maximum retainable bycatch amount of Greenland turbot that could be retained on board.

2. Directed fishing standards based on groupings of fisheries categories would be eliminated (except for rockfish). Retainable percentages would be established that are species specific, except for rockfish, which would use percentages applied to the aggregate grouping. Consistent with existing regulations at §§ 672.20(g)(2) and 675.20(h)(3)(iii), rockfish, except demersal shelf rockfish, would continue to be aggregated to prevent ''topping off'' of individual rockfish species that are closed to directed fishing. Definitions of groundfish species may be found in the final 1995 groundfish harvest specifications for the BSAI (60 FR 8479, February 14, 1995) and GOA (60 FR 8470, February 14, 1995). One retainable percentage would apply for all gear types, such as trawl, hook-and-line, pot, and jig gear. A separate table would be published at §§ 672.20(g) and

675.20(h) to accommodate distinctions between species groupings that are specific to the different management areas.

3. The separate directed fishing standard for vessels using pelagic trawl gear would be eliminated. Instead, one retainable percentage for each bycatch species/basis species combination would be specified. The existing directed fishing standard for pelagic trawl gear was intended to be effective after the directed fishery for pollock by vessels using bottom trawl gear was closed because a prohibited species bycatch allowance, specified for the pollock fishery, had been reached. The intent of the existing directed fishing standard was to encourage vessel operators using pelagic trawl gear to conduct midwater operations and avoid contact with the seabed and, therefore, avoid additional bycatch amounts of halibut and crab.

Since the directed fishing standard for pelagic trawl gear was implemented, several new regulatory measures have been implemented to monitor and enforce off-bottom trawl operations more effectively during the period when directed fishing for pollock with bottom trawl gear is closed. These measures include a revised definition of pelagic trawl gear (§§ 672.2 and 675.2, definitions of, ''Authorized fishing gear'') and a new performance standard for pelagic trawl gear based on the number of crab on board a vessel at any time (§§ 672.7(m) and 675.7(n)). These measures were implemented to control more effectively the type of fishing behavior that the directed fishing standard for pelagic trawl gear was intended to address. As a result of these recent measures, the current directed fishing standard for pelagic trawl gear arguably is redundant and unnecessarily complicates the issue of what constitutes directed fishing or the amount of a species that may be retained as bycatch. If information collected in the future indicates that additional performance standards are appropriate for pelagic trawl gear operations, it is likely that these standards would be developed and implemented separately from the proposed regulations governing the maximum amount of a species that may be retained as bycatch.

4. The proposed rule would eliminate closures of fisheries for species in the aggregate under § 675.21(c) and (d) when a prohibited species bycatch allowance is reached. Under current regulations, NMFS can close the fishery for an aggregate group of target species when a prohibited species bycatch allowance is attained. The default directed fishing standard of 20 percent for that aggregate group is then effective. This differs from the use of a directed fishing standard for a specific target species category to manage the harvest of species' TAC amounts.

Under the proposed rule, once a prohibited species bycatch allowance is reached, the fishery for each species in the grouping would be closed individually. A single species specific retainable percentage would then apply. This change is consistent with the objective of simplifying the standards for directing fishing.

For the following items 5 through 9, the proposed retainable percentages differ from the current directed fishing standards to represent a more accurate estimation of the observed bycatch rates and to simplify the regulations:

5. The retainable percentage for sablefish would be 15 percent with respect to each deep-water target species (deep-water flatfish, rex sole, flathead sole, Pacific ocean perch, shortraker/rougheye, other rockfish, northern rockfish, pelagic rockfish, demersal shelf rockfish in the Southeast outside area, thornyhead, Greenland turbot, other rockfish, other red rockfish in the Bering Sea, sharpchin/northern-AI, and shortraker/ rougheye-AI), and 1 percent with respect to each other target species (pollock, Pacific cod, shallow-water flatfish, Atka mackerel and ''other species'').

The retainable percentage for sablefish of 15 percent with respect to deep-water species would be higher than the directed fishing standard currently established for the BSAI trawl fisheries and the GOA hook-and-line fisheries. Historically, trawl vessels have not taken their TAC for sablefish and the Council believes that the current directed fishing standard is unnecessarily conservative.

Currently, a vessel using hook-and-line gear in the GOA is considered to be engaged in directed fishing for sablefish if 4 percent or more of the total amount of fish on board the vessel are sablefish. The sablefish fishery will be managed under an individual fishing quota (IFQ) system in 1995. Sablefish will most likely be taken as bycatch in the Pacific cod fishery outside of the IFQ open season; therefore, a retainable percentage of 1 percent with respect to Pacific cod, which is a shallow-water species, would be appropriate. These considerations, together with the overall intent to simplify the regulations, support the proposed retainable percentage of 15 and 1 percent.

6. The retainable percentage for Greenland turbot would be 35 percent with respect to rockfish retained on board the vessel. Similarly, the retainable percentage for Greenland turbot would be 35 percent with respect to sablefish retained on board the vessel. The retainable percentage for Greenland turbot would be 1 percent of each other target species on board the vessel.

The Council recommended that the retainable percentage for BSAI Greenland turbot be 35 percent of deep-water flatfish, flathead sole, and rex sole retained on board the vessel. The final groundfish harvest specifications for the BSAI published February 14, 1995 (60 FR 8479) established a separate TAC category for flathead sole. A technical amendment published concurrently with the BSAI specifications established the retainable percentage for flathead sole as 35 percent. However, the other two groups currently are aggregated under the ''other flatfish'' grouping to reflect the combined annual TAC specified for these species. To establish distinct retainable percentages for these other two species, the species must first be separated from the ''other flatfish'' grouping through the annual TAC specification process. Until this separation occurs, a distinct retainable percentage for these target species cannot be established.

7. The retainable percentage for aggregated rockfish would be 15 percent of deep-water target species (deep-water flatfish, rex sole, flathead sole, sablefish, rockfish, and Greenland turbot) and 5 percent of each other target species.

The assignment of 15 percent for deep-water species, such as rockfish and sablefish, against flathead sole differs from the current BSAI regulations. Currrent regulations allow deep-water species to be retained at 1 percent against ''other flatfish'', from which flathead sole was separated in 1995. This could indicate that deep-water species should be allowed at 1 percent against flathead sole since it was separated from the ''other flatfish'' category. However, to maintain consistency with the GOA and with the Council's intent to allow 15 percent against flathead sole, deep-water species such as rockfish and sablefish would be 15 percent against flathead sole for both the GOA and the BSAI.

8. The retainable percentage for a species taken as bycatch, other than those specifically established above, would be 20 percent of each basis species. The retainable percentage for groundfish species measured against nongroundfish basis species would also be the default of 20 percent.

9. Consistent with the Council intent to specify retainable percentages that are more representative of actual bycatch rates, the proposed rule would change

the retainable percentage for arrowtooth flounder from 20 percent to 35 percent of each basis species retained on board the vessel.

Classification

The Assistant General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. While the proposed rule would affect a substantial number of small entities, it would slightly lessen economic burdens on them by reducing the time required to calculate amounts of retainable groundfish bycatch and maintain required records. This lessening of burdens would not be economically significant for purposes of the Regulatory Flexibility Act.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Parts 672, 675, and 676

Fisheries, Reporting and recordkeeping requirements.

Dated: April 19, 1995.

Richard H. Schaefer,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 672, 675, and 676 are proposed to be amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

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

2. In § 672.2, the definition of ''Directed fishing'' is revised to read as follows:

§ 672.2 Definitions.

* * * * *

Directed fishing means any fishing activity that results in the retention of an amount of a species or species group on board a vessel that is greater than the maximum retainable bycatch amount for that species or species group as calculated under § 672.20 (g) and (h).

* * * * *

3. In § 672.20, the last sentence of paragraphs (c)(2)(i) and (c)(2)(ii), and paragraph (g) are revised, and new Table 2 is added at the end of this section to read as follows:

§ 672.20 General limitations.

* * * * *

(c) * * *

(2) * * *

(i) * * * If directed fishing for a species or species group is prohibited, any amount of that species or species group greater than the maximum retainable bycatch amount, as calculated under paragraph (g) of this section, may not be retained and must be treated as a prohibited species under paragraph (e) of this section.

(ii) * * * If directed fishing for a species or species group is prohibited, any amount of that species or species group greater than the maximum retainable bycatch amount, as calculated under paragraph (g) of this section, may not be retained and must be treated as a prohibited species under paragraph (e) of this section.

* * * * *

(g) *Maximum retainable bycatch amounts.* (1) The maximum retainable bycatch amount for a bycatch species or species group is calculated as a proportion of the basis species retained on board the vessel using the retainable percentages in Table 2 to this section. As used in this paragraph (g), ''bycatch species'' means any species or species group for which a maximum retainable bycatch amount is being calculated. As used in this paragraph (g), ''basis species'' means any species or species group that is open to directed fishing that the vessel is authorized to harvest.

(2) If a fishery is closed to directed fishing, a vessel may not retain a bycatch species in an amount that exceeds that maximum retainable bycatch amount, as calculated under this paragraph (g), at any time during a fishing trip.

(3) To calculate the maximum retainable bycatch amount for a specific bycatch species, an individual retainable bycatch amount must be calculated with respect to each basis species that is retained on board that vessel. To obtain these individual retainable bycatch amounts, the appropriate retainable percentage for the bycatch species/basis species combination, set forth in Table 2 to this section, is multiplied by the amount of that basis species, in round-weight equivalents. The maximum retainable bycatch amount for that specific bycatch species consists of the sum of the individual retainable bycatch amounts.

* * * * *

TABLE 2 TO § 672.20.—GULF OF ALASKA RETAINABLE PERCENTAGES

Basis species [1]	Bycatch species [1]					
	Pollock	Pacific cod	Deep flat-fish	Rex sole	Flathead sole	Shallow flat-fish
Pollock	[2] na	20	20	20	20	20
Pacific cod	20	[2] na	20	20	20	20
Deep-water flatfish	20	20	[2] na	20	20	20
Rex sole	20	20	20	[2] na	20	20
Flathead sole	20	20	20	20	[2] na	20
Shallow-water flatfish	20	20	20	20	20	[2] na
Arrowtooth	0	0	0	0	0	0
Sablefish	20	20	20	20	20	20
Pacific Ocean perch	20	20	20	20	20	20
Shortraker/rougheye	20	20	20	20	20	20
Other rockfish	20	20	20	20	20	20
Northern rockfish	20	20	20	20	20	20
Pelagic rockfish	20	20	20	20	20	20
DSR—Southeast outside	20	20	20	20	20	20
Thornyhead	20	20	20	20	20	20
Atka mackerel	20	20	20	20	20	20
Other species	20	20	20	20	20	20

TABLE 2 TO § 672.20.—GULF OF ALASKA RETAINABLE PERCENTAGES—Continued

Basis species [1]	Bycatch species [1]					
	Pollock	Pacific cod	Deep flatfish	Rex sole	Flathead sole	Shallow flatfish
Aggregated amount non-groundfish species	20	20	20	20	20	20

[1] For definition of species see Table 1 of the Gulf of Alaska groundfish specifications.
[2] na=not applicable.

TABLE 2 to § 672.20.—GULF OF ALASKA RETAINABLE PERCENTAGES

Basis species [1]	Bycatch species [1]					
	Arrowtooth	Sablefish	Aggregated rockfish [2]	DSR southeast outside	Atka mackerel	Other species
Pollock	35	1	5	10	20	20
Pacific cod	35	1	5	10	20	20
Deep-water flatfish	35	15	15	1	20	20
Rex sole	35	15	15	1	20	20
Flathead sole	35	15	15	1	20	20
Shallow-water flatfish	35	1	5	10	20	20
Arrowtooth	[3] na	0	0	0	0	0
Sablefish	35	[3] na	15	1	20	20
Pacific Ocean perch	35	15	15	1	20	20
Shortraker/rougheye	35	15	15	1	20	20
Other rockfish	35	15	15	1	20	20
Northern rockfish	35	15	15	1	20	20
Pelagic rockfish	35	15	15	1	20	20
DSR-Southeast outside	35	15	15	[3] na	20	20
Thornyhead	35	15	15	1	20	20
Atka mackerel	35	1	5	10	[3] na	20
Other species	35	1	5	10	20	[3] na
Aggregated amount non-groundfish species	35	1	5	10	20	20

[1] For definition of species see Table 1 of the Gulf of Alaska groundfish specifications.
[2] Aggregated rockfish means rockfish of the general Sebastes and Sebastolobus except for demersal shelf rockfish.
[3] na=not applicable.

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

4. The authority citation for part 675 continues to read as follows:

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

5. In § 675.2, the definition of ''Directed fishing'' is revised to read as follows:

§ 675.2 Definitions.

* * * * *

Directed fishing means any fishing activity that results in the retention of an amount of a species or species group on board a vessel that is greater than the maximum retainable bycatch amount for that species or species group as calculated under § 675.20 (h) and (i).

* * * * *

6. In § 675.20, the last sentence of paragraph (a)(8) and paragraph (h) are revised, and new Table 1 is added at the end of the section to read as follows:

§ 675.20 General limitations.

(a) * * *

(8) * * * If directed fishing for a species or species group is prohibited, any amount of that species or species group greater than the maximum retainable bycatch amount, as calculated under paragraph (h) of this section, may not be retained and must be treated as a prohibited species under paragraph (c) of this section.

* * * * *

(h) *Maximum retainable bycatch amounts.* (1) The maximum retainable bycatch amount for a bycatch species or species group is calculated as a proportion of the basis species retained on board the vessel using the retainable percentages in Table 1 to this section. As used in this paragraph (h), ''bycatch species'' means any species or species group for which a maximum retainable bycatch amount is being calculated. As used in this paragraph (h), ''basis species'' means any species or species group that is open to directed fishing that the vessel is authorized to harvest.

(2) If a fishery is closed to directed fishing, a vessel may not retain a bycatch species in an amount that exceeds that maximum retainable bycatch amount, as calculated under this paragraph (h), at any time during a fishing trip.

(3) To calculate the maximum retainable bycatch amount for a specific bycatch species, an individual retainable bycatch amount must be calculated with respect to each basis species that is retained on board the vessel. To obtain these individual amounts, the appropriate retainable percentage for the bycatch species/basis species combination, set forth in Table 1 to this section, is multiplied by the amount of that basis species, in round-weight equivalents. The maximum retainable bycatch amount for that specific bycatch species consists of the sum of the individual retainable bycatch amounts.

* * * * *

TABLE 1 TO § 675.20.—BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA RETAINABLE PERCENTAGES

Basis species[1]	Bycatch species[1]					
	Pollock	P. cod	Atka mack.	Arrowtooth	Yellowfin sole	Other flat-fish
Pollock	[2] na	20	20	35	20	20
Pacific cod	20	[2] na	20	35	20	20
Atka mackerel	20	20	[2] na	35	20	20
Arrowtooth	0	0	0	[2] na	0	0
Yellowfin sole	20	20	20	35	[2] na	35
Other flatfish	20	20	20	35	35	[2] na
Rocksole	20	20	20	35	35	35
Flathead sole	20	20	20	35	35	35
Greenland turbot	20	20	20	35	20	20
Sablefish	20	20	20	35	20	20
Other rockfish	20	20	20	35	20	20
Other red rockfish-BS	20	20	20	35	20	20
Pacific Ocean perch	20	20	20	35	20	20
Sharpchin/Northern—AI	20	20	20	35	20	20
Shortraker/Rougheye—AI	20	20	20	35	20	20
Squid	20	20	20	35	20	20
Other species	20	20	20	35	20	20
Aggregated amount nongroundfish species	20	20	20	35	20	20

[1] For definition of species see Table 1 of the Bering Sea and Aleutian Islands groundfish specifications.
[2] na=not applicable.

TABLE 1 TO § 675.20.—BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA RETAINABLE PERCENTAGES

Basis species [1]	Bycatch species [1]			
	Rocksole	Flathead sole	Grld turbot	Sablefish
Pollock	20	20	1	1
Pacific cod	20	20	1	1
Atka mackerel	20	20	1	1
Arrowtooth	0	0	0	0
Yellowfin sole	35	35	1	1
Other flatfish	35	35	1	1
Rocksole	[2] na	35	1	1
Flathead sole	35	[2] na	35	15
Greenland turbot	20	20	[2] na	15
Sablefish	20	20	35	[2] na
Other rockfish	20	20	35	15
Other red rockfish—BS	20	20	35	15
Pacific Ocean perch	20	20	35	15
Sharpchin/Northern—AI	20	20	35	15
Shortraker/Rougheye—AI	20	20	35	15
Squid	20	20	1	1
Other species	20	20	1	1
Aggregated amount non-groundfish species	20	20	1	1

[1] For definition of species see Table 1 of the Bering Sea and Aleutian Islands groundfish specifications.
[2] na=not applicable.

TABLE 1 TO § 675.20.—BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA RETAINABLE PERCENTAGES

Basis species[1]	Aggregated rock-fish[2]	Squid	Other species
Pollock	5	20	20
Pacific cod	5	20	20
Atka mackerel	5	20	20
Arrowtooth	0	0	0
Yellowfin sole	5	20	20
Other flatfish	5	20	20
Rocksole	5	20	20
Flathead sole	15	20	20
Greenland turbot	15	20	20
Sablefish	15	20	20
Other rockfish	15	20	20
Other red rockfish—BS	15	20	20
Pacific Ocean perch	15	20	20
Sharpchin/Northern—AI	15	20	20

TABLE 1 TO § 675.20.—BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA RETAINABLE PERCENTAGES—Continued

Basis species[1]	Aggregated rockfish[2]	Squid	Other species
Shortraker/Rougheye—AI	15	20	20
Squid	5	[3] na	20
Other species	5	20	[3] na
Aggregated amount non-groundfish species	5	20	20

[1] For definition of species see Table 1 of the Bering Sea and Aleutian Islands groundfish specifications.
[2] Aggregated rockfish means rockfish of the genera Sebastes and Sebastolobus.
[3] na=not applicable.

7. In § 675.21, paragraphs (c)(1)(i) through (c)(1)(iii) and (c)(2) introductory text, and paragraph (d) are revised to read as follows:

§ 675.21 Prohibited species catch (PSC) limitations.

* * * * *

(c) * * *

(1) * * *

(i) *Zone 1 red king crab or C. bairdi Tanner crab bycatch allowance.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(1)(iii) (B) through (F) of this section will catch the Zone 1 bycatch allowance, or seasonal apportionment thereof, of red king crab or *C. bairdi* Tanner crab specified for that fishery category under paragraph (b) of this section, NMFS will publish in the **Federal Register** the closure of Zone 1 to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/''other species'' fishery category is reached, only directed fishing for pollock is closed to trawl vessels using nonpelagic trawl gear.

(ii) *Zone 2 red king crab or C. bairdi Tanner crab bycatch allowance.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(1)(iii) (B) through (F) of this section will catch the Zone 2 bycatch allowance, or seasonal apportionment thereof, of red king crab or *C. bairdi* Tanner crab specified for that fishery category under paragraph (b) of this section, NMFS will publish in the **Federal Register** the closure of Zone 2 to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/''other species'' fishery category is reached, only directed fishing for pollock is closed to trawl vessels using nonpelagic trawl gear.

(iii) *Halibut bycatch allowance.* If, during the fishing year the Regional Director determines that U.S. fishing vessels participating in any of the trawl fishery categories listed in paragraphs (b)(1)(iii) (B) through (F) of this section in the Bering Sea and Aleutian Islands management area will catch the halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (b) of this section, NMFS will publish in the **Federal Register** the closure of the entire Bering Sea and Aleutian Islands management area to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/''other species'' fishery category is reached, only directed fishing for pollock is closed to trawl vessels using nonpelagic trawl gear.

(2) *Attainment of a trawl bycatch allowance for Pacific herring.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(1)(iii) (A) through (F) of this section in the Bering Sea and Aleutian Islands management area will catch the herring bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (b) of this section, NMFS will publish in the **Federal Register** the closure of the Herring Savings Area to directed fishing for each species and/or species group in that fishery category, except that:

* * * * *

(d) *Attainment of a Pacific halibut nontrawl fishery bycatch allowance.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the nontrawl fishery categories listed in paragraphs (b)(2)(ii) (A) through (C) of this section will catch the Pacific halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (b) of this section, NMFS will publish in the **Federal Register** the closure of the entire Bering Sea and Aleutian Islands management area to directed fishing with the relevant gear type for each species and/or species group in that fishery category.

8. In § 675.22, paragraph (g) introductory text is revised to read as follows:

§ 675.22 Time and area closures.

* * * * *

(g) Catcher vessel operational area (applicable through December 31, 1995). Processor vessels in the ''offshore component,'' defined at § 675.2, may not catch pollock in excess of the maximum retainable bycatch amount for pollock during the second seasonal allowance of pollock, defined at § 675.20(a)(2)(ii), in the Bering Sea subarea south of 56°00′ N. lat., and between 163°00′ and 168°00′ W. long.

* * * * *

PART 676—LIMITED ACCESS MANAGEMENT OF FEDERAL FISHERIES IN AND OFF OF ALASKA

9. The authority citation for part 676 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.* and 1801 *et seq.*

10. In § 676.23, paragraph (b) is revised to read as follows:

§ 676.23 IFQ fishing season.

* * * * *

(b) Directed fishing for sablefish using fixed gear in any IFQ regulatory area may be conducted in any fishing year during the period specified by the Regional Director through notification published in the **Federal Register**. The Regional Director will take into account the opening date of the Pacific halibut season when determining the opening date for sablefish for the purposes of reducing bycatch and regulatory

discards between the two fisheries. Catches of sablefish by fixed gear during other periods may be retained up to and including the maximum retainable bycatch amount specified at §§ 672.20(g) and 675.20(h) of this chapter if an individual is aboard when the catch is made who has a valid IFQ card and unused IFQ in the account on which the card was issued. Catches of sablefish in excess of the maximum retainable bycatch amounts and catches made without IFQ must be treated in the same manner as prohibited species.

[FR Doc. 95–10502 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–22–W

50 CFR Part 673

[I.D. 042595A]

Scallop Fishery off Alaska; Closure of Federal Waters to Protect Scallop Stocks

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

ACTION: Notice of availability of fishery management plan; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has requested NMFS to implement a proposed Fishery Management Plan for the Scallop Fishery off Alaska (FMP). The FMP would authorize an interim closure of Federal waters off Alaska to fishing for scallops for up to a 1-year period. The interim closure is necessary to prevent overfishing of scallop stocks during the period of time an alternative fishery management plan is developed that would allow the controlled harvest of scallops in Federal waters. This action is intended to promote the objective of the proposed FMP to prevent overfishing of the scallop resource that could otherwise result from unregulated fishing for scallops in Federal waters. Comments are requested from the public. Copies of the revised FMP amendments may be obtained from NMFS (see **ADDRESSES**).

DATES: Comments on the proposed FMP must be submitted by June 26, 1995.

ADDRESSES: Comments on the revised FMP amendments must be submitted to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, 709 West 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel. Copies of the proposed amendments and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) for the FMP may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Sue Salveson, 907–586–7228.

SUPPLEMENTARY INFORMATION:

The scallop resource off Alaska has been commercially exploited for almost 30 years. Between 1969 and 1991, about 40 percent of the annual scallop harvests came from State waters. Since 1991, however, Alaska scallop harvests increasingly have occurred in Federal waters. In 1994, only 14 percent of the 1.2 million lbs (544 metric tons (mt)) landed were harvested in State waters, with the remainder harvested in Federal waters off Alaska.

The State of Alaska has managed the scallop fishery in State and Federal waters, consistent with section 306(a)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*)(Magnuson Act), which allows a state to directly regulate any fishing vessel outside state waters if the vessel is registered under the laws of that state. Until 1995, all vessels participating in the Alaska scallop fishery were registered under the laws of the State of Alaska and the fishery was monitored and controlled under State jurisdiction. However, participation in the 1995 scallop fishery by at least one vessel fishing outside the jurisdiction of the State, contemplation by other vessel owners to fish in Federal waters outside State regulations governing the scallop fishery, and the likelihood that uncontrolled fishing for scallops could occur anywhere off Alaska by the highly mobile scallop processor fleet now requires that Federal regulations be implemented to control scallop fishing activity by vessels that choose not to register with the State of Alaska.

To respond to the need for Federal management of the scallop fishery, the Council adopted the proposed FMP under section 303 of the Magnuson Act. The FMP would specify a long-term optimum yield for the scallop fishery in Federal waters off Alaska as a numerical range of 0–1.1 million lbs (0–499 mt) of shucked scallop meats. The FMP also would authorize up to a 1-year closure of Federal waters to fishing for scallops. During the period of time Federal waters are closed to fishing for scallops under the FMP, the OY would be equal to zero. The intent of the FMP is to prevent an unregulated and uncontrolled fishery for scallops in Federal waters that could result in overfishing of scallop stocks during the period of time an alternative fishery management plan is developed that would authorize fishing for scallops in Federal waters under a Federal management regime.

The Secretary will consider the public comments received during the comment period in determining whether to approve the proposed FMP. The proposed regulations are scheduled to be published within 15 days of this document.

Dated: April 24, 1995.

Richard H. Schaefer,

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

[FR Doc. 95–10435 Filed 4–25–95; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 60, No. 82
Friday, April 28, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Special Committee to Review the Government in the Sunshine Act; Notice of Public Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Special Committee to Review the Government in the Sunshine Act of the Administrative Conference of the United States.

DATES: Friday, May 12, 1995, at 2 p.m.

LOCATION: Office of the Chairman, Administrative Conference, 2120 L Street, N.W., Suite 500, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jeffrey Lubbers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, N.W., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

SUPPLEMENTARY INFORMATION: The Special Committee to Review the Government in the Sunshine Act will meet for the first time to discuss a letter from over a dozen current and former agency commissioners requesting that the Administrative Conference review the operation of the Government in the Sunshine Act. The committee, formed by the Chairman of the Conference in response to that letter, will plan its upcoming activities for the rest of the summer, and will determine whether to have a public hearing on the issues raised by the letter. Copies of the letter are available from the Administrative Conference.

Attendance at the meetings is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The chairman of the committee, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Dated: April 21, 1995.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 95–10593 Filed 4–27–95; 8:45 am]

BILLING CODE 6110–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

Mount St. Helens National Volcanic Monument Boundary Modification

AGENCY: Forest Service, USDA.

ACTION: Notice of effective date.

SUMMARY: The Act of August 26, 1982, establishing the Mount St. Helens National Volcanic Monument, Gifford Pinchot National Forest, requires public and congressional notice of proposed boundary revisions for a period of 60 days prior to such revisions becoming effective. Notice of proposed revisions to the boundary in Cowlitz County, Washington, was published in the Federal Register on February 9, 1995 [60 FR 7748]. The Forest Service hereby gives notice that the proposed boundary modifications as published are now effective.

DATES: The 60-day notice period expired April 10, 1995. The effective date of the Mount St. Helens National Volcanic Monument Boundary modification was April 10, 1995.

FOR FURTHER INFORMATION CONTACT: Ralph Bauman, Lands Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, telephone: (202) 205–1248; or Bruce Watson, Assistant Lands Staff Officer, Gifford Pinchot National Forest, P.O. Box 8944, Vancouver, Washington 98668–8944, telephone: (206) 750–5103.

SUPPLEMENTARY INFORMATION: In accordance with section 1(b)(2) of the Act of August 26, 1982 (96 Stat. 301), establishing the Mount St. Helens National Volcanic Monument, the Secretary of Agriculture has modified the Monument boundary. A copy of the Secretary's boundary modification document which includes the legal description of the lands included within the modification appears at the end of this notice.

Dated: April 19, 1995.

Larry D. Gadt,

Acting Deputy Chief.

Boundary Modification, Mount St. Helens National Volcanic Monument, Gifford Pinchot National Forest, Washington

Pursuant to the Secretary of Agriculture's authority under section 1(b)(2) of the Mount St. Helens National Volcanic Monument Act of 1982 (P.L. 97–243, 96 Stat. 301), a minor boundary modification is being made to the Mount St. Helens National Volcanic Monument, Gifford Pinchot National Forest, Cowlitz County, Washington.

The proposed modification will delete approximately 1.93 acres to the 111,500 acre Monument. This land to be deleted is privately owned.

The current boundary of the Monument follows the east-west centerline of section 35 to the south right-of-way line of State Route 504. The proposed modification would delete a strip of land 100 feet wide containing Weyerhaeuser Company's access road to their lands north of the Monument.

The legal description of the boundary deletion is as follows: All descriptions are for the Willamette Meridian, Cowlitz County, Washington.

A strip of land 100 feet wide, 50 feet each side of the following described centerline, as surveyed and filed in Vol. 12 Page 78, Cowlitz County, Washington.

Beginning at the West ¼ corner of section 35, T. 10 N., R. 4 E., thence S 88°–41′–06″ E, along the East-West centerline of section 35, a distance of 2483.41 feet to the intersection of the centerline of Weyerhaeuser road number 3500, and the true point of beginning; thence southerly with the centerline of Weyerhaeuser road number 3500, S 18°–19′–24″ E a distance of 290.23 feet to the beginning of a curve concave to the West, having a radius of 247.03 feet, thence southerly 98.67 feet along said curve with a central angle of 22°–53′–04″ to the end of said curve, thence S 4°–33′–40″ W a distance of 114.01 feet to the beginning of a curve concave to the West, having a radius of 245.21 feet, thence southwesterly 206.80 feet along said curve with a central angle of 48°–19′–21″ to the end of said curve, thence S 52°–53′–01″ E a distance of 130.34 feet to the intersection with the Northerly right of way for State Highway number 504.

The private lands involved are deleted with the concurrence of the Weyerhaeuser Company, the landowner.

This modification shall become effective 60 days from the date the notice is published in the Federal Register and simultaneous notification is provided to the Committee on Energy and Natural Resources of the Senate and the Committee on Agriculture and the Committee on Natural Resources of the House of Representatives.

Dated: February 2, 1995.

Adela Backiel,

Deputy Under Secretary.

[FR Doc. 95–10530 Filed 4–27–95; 8:45 am]

BILLING CODE 3410–11–M

Olympic Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic PIEC Advisory Committee will meet on May 16, 1995 at the Jamestown S'Klallam Tribe Community Center, 1033 Old Blyn Highway, Sequim, Washington. The meeting will begin at 10 a.m. and continue until 3:30 p.m. Agenda topics to be covered include: (1) Long-term vision of the Advisory Committee; (2) short-term projects: watershed analysis priorities; (3) review of non-Federal watershed activity; (4) timber salvage issue (presentation and discussion); (5) future agenda/committee topics; and (6) Open Public Forum. All Olympic Province Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Kathy Snow, Province Liaison, USDA, Quilcene Ranger District, P.O. Box 280, Quilcene, WA 98376, (360 765–2211 or Ronald R. Humphrey, Forest Supervisor, at (360) 956–2301.

Dated: April 24, 1995.

David Yates,

Land Management Planning Staff Officer.

[FR Doc. 95–10452 Filed 4–27–95; 8:45 am]

BILLING CODE 3410–11–M

Food Safety and Inspection Service

[Docket No. 95–016N]

National Forum on Animal Production Food Safety

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Food Safety and Inspection Service (FSIS) will hold a forum, ''National Forum on Animal Production Food Safety,'' on May 23–25, 1995, at the University of Maryland, The Inn and Conference Center, University College, College Park, Maryland. The forum will explore ways FSIS can refine and advance its strategy to assure the safety of meat and poultry products from farm to table as outlined in the proposal, ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems.''

FOR FURTHER INFORMATION CONTACT: Ms. Margaret Webb, Communications and Public Affairs, FSIS Animal Production Food Safety Program, FSIS, USDA, (202) 690–2683.

To register to attend, call Ms. Jennifer Callahan (202) 501–7136.

SUPPLEMENTARY INFORMATION: On February 3, 1995, FSIS published a proposed rule, ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems'' (60 FR 6774). In that document, the Agency proposed a number of regulatory changes applicable to Federal- and State-inspected meat and poultry establishments. The proposed changes are designed to reduce the occurrence and numbers of pathogenic microorganisms in meat and poultry products, thereby reducing the incidence of foodborne illness associated with the consumption of these products.

In the proposed rule, FSIS stated that public meetings would be held with the regulated industry and interested parties. Although the proposed regulations address product safety within an establishment environment, FSIS recognizes that food safety requires attention throughout the chain of production, processing, distribution, and sale. Therefore, FSIS is holding the forum, ''National Forum on Animal Production Food Safety,'' to explore FSIS strategy to assure the safety of meat and poultry products from farm to table.

The forum, ''National Forum on Animal Production Food Safety,'' will be held on May 23–25, 1995, at the University of Maryland, The Inn and Conference Center, University College, College Park, Maryland 20742 (301) 985–7445. On May 23 and 24 the forum will begin at 8:00 a.m. and end at 5:30 p.m. On May 25 the forum will begin at 8:00 a.m. and end at 12:30 p.m.

Forum Agenda

The forum will primarily focus on the preventive approach to reducing microbial pathogens from the farm to the slaughter plant. Objectives are to define the current status of food safety risks and possible risk reduction measures in animal production practices; to work toward national consensus on research priorities; to identify partnerships needed for research and education; to explore effective public/private funding processes to sustain research and build science-based prevention programs; to identify roles and responsibilities of stakeholders; and to consider the role of FSIS' Animal Production Food Safety Program.

Several speakers will address key issues relating to HACCP and international animal production food safety programs. In addition, attendees will participate in commodity workshops addressing topics relating to the forum. Producers, processors, government agencies, consumer groups, university scientists, the veterinary community, and all interested groups are invited to participate. Transcripts of the forum will be available in the FSIS Docket Clerk's Office, Room 4352, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

Attendance and Hotel Reservations

Seating space at the forum is limited. Please call Ms. Jennifer Callahan if you wish to attend the forum (see **FOR FURTHER INFORMATION CONTACT**). People attending the forum will be responsible for making their own hotel arrangements.

Done at Washington, DC, on: April 21, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

[FR Doc. 95–10428 Filed 4–27–95; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Agency Information Collections Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 25).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Certificate of Exemption Renewal.

Form Number: Agency: None; OMB Number 0648–0078.

Type of Request: Extension of the expiration date.

Burden: 41 hours; 10 respondents; Avg. Hours Per Response ranges between 30 minutes and one hour depending on the requirement.

Needs and Uses: Under the Endangered Species Act, it is illegal to engage in

interstate or foreign commerce of products comprised of endangered fish or wildlife. Certificates of Exemption, however, were issued to those persons holding inventories of such items before the effective date of the Act. The information collection is to: (1) grant the public exemption, and (2) to provide information for enforcement purposes.

Affected Public: Businesses or other for-profit institutions.

Frequency: Quarterly, and every 5 years.

Obligation: Mandatory.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Subsequent Purchaser Report.

Form Number: Agency: None; OMB Number 0648–0079.

Type of Request: Extension of the expiration date.

Burden: 150 hours; 150 respondents filing 2 responses; Avg. Hours Per Response is 30 minutes.

Needs and Uses: Under the Endangered Species Act, it is illegal to engage in interstate or foreign commerce of products comprised of endangered fish or wildlife. Those persons holding a Certificate of Exemption are allowed to sell items that they held before the effective date of the Act. For those persons purchasing such items, they must file a report if they plan to sell the item in ''intrastate'' commerce. This information is used by enforcement officers to distinguish between legal and illegal items.

Affected Public: Businesses or other for-profit institutions.

Frequency: On occasion.

Obligation: Mandatory.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Application for a Commercial Fisheries Exemption Under Section 114 of the Marine Mammal Protection Act (MMPA).

Form Number: Agency: None assigned; OMB Number 0648–0224.

Type of Request: Extension of a currently approved collection.

Burden: 3,225 hours; 13,000 respondents; Avg. Hours Per Response is 15 minutes.

Needs and Uses: The MMPA mandates the protection and conservation of marine mammals and makes the killing or serious injury of marine mammals, except under permit or exemption, a violation of the Act. Fishermen must register to obtain the exemption. Without this system, commercial fishermen incidentally killing or injuring marine mammals during their normal fishing activities are in violation of the MMPA and subject to prosecution.

Affected Public: Businesses or other for-profit institutions, individuals.

Frequency: Annually.

Obligation: Mandatory.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Gerald Taché, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Don Arbuckle, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: April 24, 1995.

Gerald Taché,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 95–10519 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–CW–M

International Trade Administration

Intent To Revoke Antidumping Duty Orders and Findings and To Terminate Suspended Investigations

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

ACTION: Notice of intent to revoke antidumping duty orders and findings and to terminate suspended investigations.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the antidumping duty orders and findings and to terminate the suspended investigations listed below. Domestic interested parties who object to these revocations and terminations must submit their comments in writing no later than the last day of May 1995.

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed under Antidumping Proceeding at: Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue NW., Washington, D.C. 20230, telephone (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke an antidumping duty order or finding or terminate a suspended investigation if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke the following antidumping duty orders and findings and to terminate the suspended investigations for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months:

Antidumping Proceeding

Argentina
Rectangular Carbon Steel Tubing
A–357–802
54 FR 22794
May 26, 1989
Contact: Sally Hastings at (202) 482–4366

Brazil
Iron Construction Castings
A–351–503
51 FR 17220
May 9, 1986
Contact: Hermes Pinilla at (202) 482–3477

Japan
Impression Fabric
A–588–066
43 FR 22344
May 25, 1978
Contact: Joe Fargo at (202) 482–5345

South Korea
Malleable Cast Iron Pipe Fittings, Other than Grooved
A–580–507
51 FR 18917
May 23, 1986
Contact: Thomas Schauer at (202) 482–4852

Taiwan
Certain Welded Carbon Steel Pipe & Tubes
A–583–008
49 FR 19369
May 7, 1984
Contact: Michael Heaney at (202) 482–4475

Taiwan
Malleable Cast Iron Pipe Fittings, Other Than Grooved
A–583–507
51 FR 18918
May 23, 1986
Contact: Wendy J. Frankel at (202) 482–0367

If no interested party requests an administrative review in accordance with the Department's notice of

opportunity to request administrative review, and no domestic interested party objects to the Department's intent to revoke or terminate pursuant to this notice, we shall conclude that the antidumping duty orders, findings, and suspended investigations are no longer of interest to interested parties and shall proceed with the revocation or termination.

Opportunity to Object

Domestic interested parties, as defined in § 353.2(k)(3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke these antidumping duty orders and findings or to terminate the suspended investigations by the last day of May 1995. Any submission to the Department must contain the name and case number of the proceeding and a statement that explains how the objecting party qualifies as a domestic interested party under § 353.2(k)(3), (4), (5), and (6) of the Department's regulations.

Seven copies of such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, D.C. 20230. You must also include the pertinent certification(s) in accordance with § 353.31(g) and § 353.31(i) of the Department's regulations. In addition, the Department requests that a copy of the objection be sent to Michael F. Panfeld in Room 4203. This notice is in accordance with 19 CFR 353.25(d)(4)(i).

Dated: April 18, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–10520 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DS–P

[A–201–819]

Initiation of Antidumping Duty Investigation: Light-Walled Rectangular Pipe and Tube From Mexico

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

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Dorothy Tomaszewski or Erik Warga at (202) 482–0631 or (202) 482–0922, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

INITIATION OF INVESTIGATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Statute by the Uruguay Round Agreements Act (URAA).

The Petition

On March 31, 1995, the Department of Commerce (the Department) received a petition filed in proper form by Southwestern Pipe, Inc. (the petitioner), one of two regional producers of light-walled rectangular (''LWR'') pipe and tube in Texas. A supplement to the petition was filed on April 13, 1995.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of LWR pipe and tube from Mexico are being, or are likely to be, sold in the United States in the region of Texas at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the regional industry in Texas.

Since petitioner is an interested party as defined under section 771(9)(C) of the Act, petitioner has standing to file a petition for the imposition of antidumping duties.

On April 17, 1995, a Mexican producer of subject merchandise named in the petition, Hylsa S.A. de C.V. (''HYLSA''), submitted a request that the Department poll all domestic producers of subject merchandise in the United States. According to HYLSA, the relevant industry for purposes of determining petitioner's standing should be defined as the national industry producing the subject merchandise (see following Section for details on this issue).

Determination of Industry Support for the Petition

The petition contains an adequate allegation that Texas is a regional industry for the domestic like product; this allegation includes data on both factors required by section 771(4)(C) of the Act. Under section 732(c)(4)(C), if the petitioner properly alleges that the industry is a regional industry, the Department shall determine whether the petition has been filed by or on behalf of the industry by applying the requirements set forth in the Act on the basis of the production in the region. Therefore, the Department has evaluated industry support for the petition based upon production in the region.

Section 732(c)(4)(A) of the Act requires that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets the minimum requirements if (1) domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product; and (2) those domestic producers or workers expressing support account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

The petitioner, one of two known regional producers of the domestic like product, accounts for more than 50 percent of the total production of the domestic like product in the region as defined in the petition. The other known producer in the region has informed the Department that it supports this antidumping petition. Accordingly, the Department determines that this petition is supported by the regional industry in Texas.

Scope of the Investigation

The merchandise subject to this investigation is certain light-walled welded non-alloy steel pipes and tubes, of rectangular (including square) cross section, having a wall thickness of less than 4mm (''LWR''), regardless of specification (ASTM, proprietary, or other). These LWR pipes and tubes are supplied with rectangular cross sections ranging from 0.375×0.625 inch to 2×6 inches or with square sections ranging from 0.375 to 4 inches.

The LWR pipe and tube that are the subject of this petition are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) heading 7306.60.50.00. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Export Price and Normal Value

Export price was based on fourth quarter 1994 (1) average c.i.f. unit value of U.S. imports from Mexico, and (2) prices from a salesman's call sheets recording sales lost to Mexican competitors. The unit values based on U.S. imports from Mexico were reduced for foreign inland freight to derive ex-factory prices. The prices based on ''lost'' sales were reduced for the following costs: exporter's mark-up costs, broker commissions, U.S. import

duties, foreign inland freight and U.S. freight.

The home market price was based on tax-inclusive price quotations from Mexican producers to a home market customer in December 1994. The petitioner adjusted the FOB warehouse prices for Mexico's value added tax.

The petitioner based the normal value on constructed value (''CV'') in accordance with section 773(a)(4) because it asserts that the Mexican home market price provided in the petition represented sales that were made below the cost of production (''COP'') and, therefore, was not an appropriate basis for calculating normal value.

The components of COP are cost of manufacture (''COM'') and selling, general and administrative expenses (''SG&A''). The petitioner calculated COM based on its own production experience, adjusted for known differences between costs incurred to produce LWR pipe and tube in the United States and production costs incurred for the merchandise in Mexico. To calculate SG&A expenses, including interest expense, the petitioner relied on data from the 1993 financial statement of a Mexican pipe and tube producer not named as a respondent in the petition. Petitioner maintained in its allegation that Mexican producers named as respondents in the petition did not publish financial statements and that the financial statements used to calculate SG&A expense provided the only available data for this expense.

The allegation that the Mexican producers are selling the foreign like product in their home market at prices below COP is based upon a comparison of the adjusted home market price with the calculated COP. Based on this information, we find reasonable grounds to believe or suspect that sales of the foreign like product were made at prices below COP in accordance with section 773(b)(2)(A)(i) of the Act. Accordingly, the Department will initiate a cost of production investigation.

Therefore, for the purposes of this initiation, we are accepting the petitioner's estimate of CV, as adjusted by the Department for profit, as the appropriate basis for Mexican normal value. The petitioner based CV on its COP methodology, described above, adding an amount for profit to arrive at a total CV. Rather than use the Mexican pipe and tube producer's 1993 financial statements to compute profit, the petitioner calculated profit on the basis of public financial data for a Mexican steel producer. It did so because the Mexican pipe producer had incurred a loss in that year. Consistent with section 773(e) of the Act, the Department revised the profit figure included in the CV to be zero, the actual profit for the one Mexican company whose operations were limited to the production of the foreign-like product.

Based on comparisons of export prices to CV, the recalculated dumping margins range from 14.08 to 23.38 percent.

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of LWR pipe and tube from Mexico are being, or likely to be, sold at less than fair value. If it becomes necessary at a later date to consider the petition as a source of facts available under section 776 of the Act, we may further review the calculations.

Initiation of Investigation

We have examined the petition on LWR pipe and tube and have found that it meets the requirements of section 732 of the Act, including the requirements concerning allegations of material injury or threat of material injury to a regional industry in a domestic-like product by reason of the complained-of imports, allegedly sold at less than fair value. Therefore, we are initiating an antidumping duty investigation to determine whether imports of LWR pipe and tube from Mexico are being, or are likely to be, sold at less than fair value on a regional basis. Unless extended, we will make our preliminary determination by September 7, 1995.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, copies of the public version of the petition have been provided to the representatives of the government of Mexico. We will attempt to provide copies of the public version of the petition to all the exporters named in the petition.

ITC Notification

We have notified the International Trade Commission (ITC) of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by May 15, 1995, whether there is a reasonable indication that imports of LWR pipe and tube from Mexico are causing material injury, or threaten to cause material injury to the regional industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act.

Dated: April 20, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 95–10524 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DS–M

[C–331–601]

Cut Flowers From Ecuador; Amendment to Notice of Determination To Revoke Countervailing Duty Order

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

ACTION: Amendment to notice of determination to revoke countervailing duty order.

SUMMARY: On April 12, 1995, the Department of Commerce (the Department) published a notice of determination to revoke the countervailing duty order on cut flowers from Ecuador (60 FR 18582). That notice stated, in error, that the effective date of revocation was April 12, 1995. We are correcting that clerical error; the effective date of revocation is January 1, 1995.

EFFECTIVE DATE: January 1, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Maria MacKay, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202)482–2786.

SUPPLEMENTARY INFORMATION:

Clerical Error

We are correcting the following clerical error in the Department's April 12, 1995 determination to revoke the countervailing duty order on cut flowers from Ecuador:

The section which reads ''**EFFECTIVE DATE:** April 12, 1995'' is amended to read ''**EFFECTIVE DATE:** January 1, 1995.''

This notice is in accordance with 19 CFR 355.25(d)(4)(iii).

Dated: April 21, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–10521 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DS–P

Determination Not To Revoke Countervailing Duty Orders

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

ACTION: Notice of determination not to revoke countervailing duty orders.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its determination not to revoke the countervailing duty orders listed below.

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Maria MacKay, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On January 31, 1995, the Department published in the Federal Register (60 FR 5901) its intent to revoke the countervailing duty orders listed below. Under 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party (as defined in sections 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the regulations), objects to revocation and no interested party requests an administrative review by the last day of the fifth anniversary month.

Within the specified time frame, we received an objection from a domestic interested party to our intent to revoke these countervailing duty orders. Therefore, because the requirements of 19 CFR 355.25(d)(4)(iii) have not been met, we will not revoke these orders.

This determination is in accordance with 19 CFR 355.25(d)(4).

Countervailing duty orders	
Peru: Cotton Sheeting and Sateen (C–331–001).	02/01/83 48 FR 4501
Thailand: Malleable Iron Pipe Fittings (C–549–803).	02/10/89 54 FR 6439

Dated: April 21, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–10522 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DS–P

[C–201–405]

Certain Textile Mill Products From Mexico; Final Results of Countervailing Duty Administrative Review

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

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On January 26, 1995, the Department of Commerce (the Department) published the preliminary results of its administrative review of the countervailing duty order on certain textile mill products from Mexico for the period January 1, 1992, through December 31, 1992. We have now completed this review and determine the total net subsidy to be 0.15 percent *ad valorem* for all companies during this review period. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis.*

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On January 26, 1995, the Department published in the Federal Register (60 FR 5166) the preliminary results of its administrative review of the countervailing duty order on certain textile mill products from Mexico (50 FR 10824; March 18, 1985). The Department has now completed this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of Review

Imports covered by this review are certain textile mill products from Mexico. Shipments of such merchandise are classifiable under the Harmonized Tariff Schedule (HTS) item numbers listed in the Appendix to this notice.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

Final Results of Review

We determine the total net subsidy to be 0.15 percent *ad valorem* during the period January 1, 1992, through December 31, 1992. In accordance with 19 CFR 355.7, any rate less than 0.5 percent *ad valorem* is *de minimis.*

As a result of this review, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of the subject merchandise from Mexico, exported on or after January 1, 1992, and on or before December 31, 1992. Further, as provided by section 751(a)(1) of the Act, the Department will instruct Customs to collect cash deposits of estimated countervailing duties at a rate of zero percent for all shipments of the subject merchandise from Mexico entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. These instructions shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: April 19, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

Appendix—Certain Textile Mill Products from Mexico C–201–405 Harmonized Tariff System (HTS) Numbers

4010.10.10	5109.10.60	5109.90.60	5111.11.70	5111.19.60
5111.20.90	5111.30.90	5112.20.30	5112.30.30	5204.11.00
5204.19.00	5204.20.00	5205.11.10	5205.12.10	5205.12.20
5205.13.10	5205.13.20	5205.14.10	5205.23.00	5205.24.00
5205.25.00	5205.31.00	5205.32.00	5205.33.00	5205.34.00
5205.42.00	5205.43.00	5205.44.00	5206.11.00	5206.12.00
5206.13.00	5206.14.00	5206.15.00	5206.31.00	5206.32.00
5206.33.00	5206.34.00	5206.35.00	5206.41.00	5206.42.00
5206.43.00	5206.44.00	5206.45.00	5207.10.00	5207.90.00
5208.11.20	5208.12.40	5208.13.00	5208.19.40	5208.21.20
5208.21.40	5208.22.40	5208.22.60	5208.23.00	5208.29.40

Appendix—Certain Textile Mill Products from Mexico C–201–405 Harmonized Tariff System (HTS) Numbers—Continued

5208.29.60	5208.31.40	5208.31.60	5208.31.80	5208.32.30
5208.32.40	5208.32.50	5208.33.00	5208.39.20	5208.39.80
5208.41.40	5208.41.60	5208.41.80	5208.42.30	5208.42.40
5208.42.50	5208.43.00	5208.49.40	5208.51.40	5208.51.60
5208.51.80	5208.52.30	5208.52.40	5208.52.50	5208.53.00
5208.59.20	5208.59.80	5209.11.00	5209.19.00	5209.31.60
5209.32.00	5209.41.60	5209.43.00	5209.51.60	5209.52.00
5210.21.40	5210.21.60	5210.22.00	5210.29.40	5210.29.60
5210.32.00	5210.39.40	5210.39.60	5210.52.00	5210.59.40
5210.59.60	5211.31.00	5211.51.00	5401.10.00	5401.20.00
5402.10.30	5402.20.30	5402.31.30	5402.31.60	5402.32.30
5402.32.60	5402.33.30	5402.41.00	5402.43.00	5402.49.00
5402.51.00	5402.52.00	5402.59.00	5403.20.30	5403.20.60
5406.10.00	5406.20.00	5407.41.00	5407.42.00	5407.43.20
5407.44.00	5407.52.20	5407.53.10	5407.53.20	5407.54.00
5407.60.05	5407.60.10	5407.60.20	5407.91.05	5407.92.05
5407.93.05	5407.94.05	5408.21.00	5408.22.00	5408.23.20
5408.24.00	5408.31.05	5408.32.05	5408.33.05	5408.34.05
5508.10.00	5508.20.00	5509.12.00	5509.21.00	5509.22.00
5509.31.00	5509.32.00	5509.41.00	5509.51.30	5509.51.60
5509.53.00	5509.69.20	5509.69.40	5509.99.20	5509.99.40
5511.10.00	5511.20.00	5511.30.00	5513.11.00	5513.13.00
5513.19.00	5513.21.00	5513.23.00	5513.29.00	5513.33.00
5513.39.00	5513.41.00	5513.43.00	5513.49.00	5514.11.00
5514.19.00	5514.21.00	5514.29.00	5514.41.00	5514.49.00
5515.13.05	5516.11.00	5516.12.00	5516.13.00	5516.14.00
5516.41.00	5516.42.00	5516.43.00	5516.44.00	5516.91.00
5516.92.00	5516.93.00	5516.94.00	5601.10.20	5601.22.00
5602.10.90	5602.21.00	5602.90.60	5603.00.90	5607.41.30
5607.49.15	5607.49.25	5607.50.20	5608.11.00	5701.10.16
5701.10.20	5701.90.20	5702.10.90	5702.31.10	5702.31.20
5702.32.10	5702.32.20	5702.41.10	5702.41.20	5702.42.10
5702.42.20	5702.51.20	5702.51.40	5702.52.00	5702.91.30
5702.91.40	5702.92.00	5703.10.00	5703.20.10	5703.20.20
5703.30.00	5704.10.00	5704.90.00	5705.00.20	5801.31.00
5801.33.00	5801.34.00	5801.35.00	5801.36.00	5803.10.00
5803.90.30	5804.10.00	5804.21.00	5804.29.00	5804.30.00
5805.00.25	5806.32.10	5810.10.00	5810.91.00	5810.92.00
5902.10.00	5902.20.00	5902.90.00	5911.10.20	5911.20.10
5911.31.00	5911.32.00	6001.10.20	6001.22.00	6001.92.00
6002.10.80	6002.20.10	6002.20.60	6002.30.20	6002.43.00
6002.93.00	6301.10.00	6301.20.00	6301.30.00	6301.40.00
6301.90.00	6302.22.10	6302.22.20	6302.32.10	6302.32.20
6302.40.10	6302.40.20	6302.51.10	6302.51.20	6302.51.30
6302.51.40	6302.52.10	6302.52.20	6302.53.00	6302.59.00
6302.91.00	6302.92.00	6302.93.20	6302.99.20	6303.12.00
6303.19.00	6303.92.00	6303.99.00	6304.11.20	6304.19.05
6304.19.15	6304.19.20	6304.91.00	6304.92.00	6304.93.00
6304.99.15	6304.99.60	7019.20.10	9404.90.90	

5209.32.00 Coverage limited to fabrics, not napped, of numbers 17 to 33.

5209.52.00 Coverage limited to fabrics, not napped, of numbers 17 to 33.

5402.10.30 Coverage limited to yarns provided for in subheading 5402.10.3040.

5402.20.30 Coverage limited to yarns provided for in subheading 5402.20.3040.

5402.33.30 Coverage limited to yarns, valued not over $2.20 per kilogram.

5402.41.00 Coverage limited to yarns provided for in subheading 5402.41.0040.

5402.43.00 Coverage limited to yarns provided for in subheading 5402.42.0040.

5402.49.00 Coverage limited to yarns provided for in subheading 5402.49.0070 and 5402.49.0080.

5509.31.00 Not to include single blended yarns containing a combination of noncontinuous acrylic and continuous nylon filaments.

5509.32.00 Not to include plied blended yarns containing a combination of noncontinuous acrylic and continuous nylon filaments.

[FR Doc. 95–10523 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DS–P

Lamont-Doherty Earth Observatory of Columbia University, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–005. *Applicant:* Lamont-Doherty Earth Observatory of Columbia University, Palisades, NY

10964-8000. *Instrument:* Mass Spectrometer, Model VG 5400. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* See notice at 60 FR 9662, February 21, 1995.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) sensitivity equal to or greater than 2.0×10^{-4} A/torr at 800 μA trap current and an air sample of 0.4 cc will produce a ^{3}He count rate of at least 1700 cps and (2) the precision of measurement of the ^{3}He/^{4}He ratio will be ±2.0% (1σ) on ten measurements of the 0.4 cc STP air sample as defined above.

These capabilities are pertinent to the applicant's intended purposes and we know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 95–10528 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DS–F

Simpson College, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 94–033R. *Applicant:* Simpson College, Indianola, IA 50125. *Instrument:* Rapid Kinetics Accessory, Model SFA-12. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* See notice at 59 FR 16188, April 6, 1994. *Reasons:* The foreign instrument provides designed capability for use in classroom demonstration of principles of stopped flow kinetics for reactions with half-lives of .5 to 5 seconds.

Docket Number: 94–071R. *Applicant:* University of Arkansas for Medical Sciences, Little Rock, AR 72205-7122. *Instrument:* Rapid Kinetics Accessory, Model SFA-20. *Manufacturer:* Hi Tech Scientific, United Kingdom. *Intended Use:* See notice at 59 FR 31208, June 17, 1994. *Reasons:* The foreign instrument provides customized compatibility with the observation cell and a Hewlett Packard 8452A diode array spectrophotometer.

Docket Number: 94–131. *Applicant:* University of Rhode Island, Narragansett, RI 02882-1197. *Instrument:* 5-sample Anticoincidence Multicounter System, Model GM-25-5. *Manufacturer:* Riso National Laboratory, Denmark. *Intended Use:* See notice at 59 FR 60607, November 25, 1994. *Reasons:* The foreign instrument provides: (1) anti-coincidence mode detection to reduce background cosmic radiation, (2) low-level beta counting of less than 0.2 CPM, and (3) a 5-sample simultaneous measurement gas-flow multicounter unit.

Docket Number: 94–133. *Applicant:* Woods Hole Oceanographic Institution, Woods Hole, MA 02543. *Instrument:* Multi-Sensor Core Logger. *Manufacturer:* GEOTEK, United Kingdom. *Intended Use:* See notice at 59 FR 63762, December 9, 1994. *Reasons:* The foreign instrument provides measurements of bulk density, magnetic susceptibility, P-wave velocity and gamma ray absorption from extracted cores of sediment.

Docket Number: 94–138. *Applicant:* Texas A&M Research Foundation, College Station, TX 77843. *Instrument:* 600M Fluorometer and Accessories, Model AquatrackA MKIII. *Manufacturer:* Chelsea Instrument, United Kingdom. *Intended Use:* See notice at 59 FR 63762, December 9, 1994. *Reasons:* The foreign instrument provides: (1) chlorophyll-a measurements over 5 orders of magnitude using logarithmic scaling, (2) low power consumption and (3) deployment in seawater.

The National Institutes of Health advises in its memoranda of February 16, 1995 that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 95–10527 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DS–F

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 95–021. *Applicant:* Tulane University, 6823 St. Charles Avenue, New Orleans, LA 70118. *Instrument:* Ultra Sensitive Steady State Fluorimeter with Accessories, Model FS900CD. *Manufacturer:* Edinburgh Instruments Ltd., United Kingdom. *Intended Use:* The instrument will be used to monitor the behavior of organic and inorganic molecules by their emissive properties. Further, the instrument will be used to develop and study red sensitive dyes, a class of molecules which have attracted attention. In addition, the instrument will be used for training graduate and undergraduate students towards their degree. *Application Accepted by Commissioner of Customs:* March 28, 1995.

Docket Number: 95–022. *Applicant:* University of Illinois at Urbana-Champaign, Purchasing Division, 506 South Wright Street, Urbana, IL 61801. *Instrument:* Electron Microscope, Model CM200. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used by pre and post-doctoral students as a research tool to examine the microscopic structure of the following specimens or compounds of interest: the brain, copolymers, inorganic compounds adrenocortical cells, the honey bee, FLAT-MAP proteins and sub-micron structures.

Application Accepted by Commissioner of Customs: March 29, 1995.

Docket Number: 95–023. *Applicant:* Department of Veterans Affairs, Medical Center, One Veterans Plaza, San Juan, PR 00927-5800. *Instrument:* Electron Microscope, Model CM100. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used for studies of the morphologic changes produced by disease at the ultrastructural level in tissues. In addition, the instrument will be used for clinical teaching of residents in pathology, with emphasis in the diagnostic aspects of ultrastructural findings in relation to disease and practical use of the instrument. *Application Accepted by Commissioner of Customs:* March 28, 1995.

Docket Number: 95–024. *Applicant:* U.S. Environmental Protection Agency, Office of Research & Development, Environmental Research Laboratory-Narragansett, 27 Tarzwell Drive, Narragansett, RI 02882. *Instrument:* Mass Spectrometer, Model VG Optima. *Manufacturer:* Fisons Instruments, Inc., United Kingdom. *Intended Use:* The instrument will be used in the following experiments and measurements: (1) determining the origins, transport and fate of organic chemicals and inorganic nutrient elements in coastal marine organisms and ecosystems, (2) characterizing the sources of carbon, nitrogen, and sulfur in coastal marine food webs, (3) developing stable isotopic component of chemical markers and toxicity identification test, (4) atmospheric research, and (5) stable isotopic tracer experiments to elucidate the biogeochemical cycles of carbon nitrogen and sulfur in coastal environments. *Application Accepted by Commissioner of Customs:* March 28, 1995.

Docket Number: 95–025. *Applicant:* John L. McClellan Memorial Hospital, Pathology and Laboratory Medicine Service, 4300 West 7th Street, Little Rock, AR 72205. *Instrument:* Electron Microscope, Model JEM-1010. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* The instrument will be used for the study of human and animal tissues representing various disease states and experimental paradigms. In addition, the instrument be used for training medical and graduate students. *Application Accepted by Commissioner of Customs:* March 28, 1995.

Docket Number: 95–026. *Applicant:* Tulane University, 6823 St. Charles Avenue, New Orleans, LA 70118. *Instrument:* Lifetime CD Spectrometer, Model FL 900. *Manufacturer:* Edinburgh Instruments, United Kingdom. *Intended Use:* The instrument will be used to monitor the excited state lifetime of organic and inorganic molecules by their emissive properties. The research involves the study of catalytic materials such as zeolites and silica and characterizing reactant molecules absorbed to these catalysts. In addition, the instrument will be used for training the research students. *Application Accepted by Commissioner of Customs:* April 4, 1995.

Docket Number: 95–027. *Applicant:* Samuel S. Stratton Department of Veterans Affairs Medical Center, 113 Holland Avenue, Albany, NY 12208. *Instrument:* Electron Microscope, Model CM100. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used for studies of both biological tissue and inorganic materials such as asbestos, silicon and calcified particles. The research projects include:

(1) environmental pathology -- measuring particle burdens in human lung tissue,
(2) diffraction analysis of calcified products -- identifying the composition of kidney and gall stones, and
(3) immunolabelling in tissues and cytology specimens.

In addition, the instrument will be used for medical resident training specializing in electron microscopy. *Application Accepted by Commissioner of Customs:* April 5, 1995.

Frank W. Creel,
Director, Statutory Import Programs Staff.
[FR Doc. 95–10526 Filed 4–27–95; 8:45 am]
BILLING CODE 3510–DS–F

University of California, Irvine, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 94–130. *Applicant:* University of California, Irvine, CA 92717-1650. *Instrument:* Positron Emission Tomography Camera System, Model GE 2048. *Manufacturer:* General Electric, Sweden. *Intended Use:* See notice at 59 FR 60607, November 25, 1994. *Reasons:* The foreign instrument provides: (1) a detector ring diameter of 51.5 cm (for head only measurements), (2) interleaved imaging of 30 simultaneous slices in a single acquisition interval and (3) stationary or operator selectable wobble (1-60 RPM) modes. *Advice Received From:* The National Institutes of Health, February 16, 1995.

Docket Number: 94–132. *Applicant:* The Regents of the University of California, Riverside, CA 92521. *Instrument:* Microvolume Stopped-Flow Spectroflourimeter, Model SX-17MV. *Manufacturer:* Applied Photophysics, Ltd., United Kingdom. *Intended Use:* See notice at 59 FR 63762, December 9, 1994. *Reasons:* The foreign instrument provides: (1) automated stop syringe operation and data acquisition via 32 bit RISC-processor workstation, (2) log time base data acquisition, (3) high reproducibility of repeat measurements and (4) dead time of 850µs. *Advice Received From:* The National Institutes of Health, February 16, 1995.

Docket Number: 94–136. *Applicant:* Iowa State University of Science and Technology, Ames, Iowa 50011-4050. *Instrument:* Servo Systems Experiments, Model SRV-02. *Manufacturer:* Quanser Consulting, Canada. *Intended Use:* See notice at 59 FR 63762, December 9, 1994. *Reasons:* The foreign instrument provides designed capability for use in academic laboratories to demonstrate principles related to equations of motion and dynamic responses in digital control system design and theory. *Advice Received From:* The National Institutes of Health, February 16, 1995.

Docket Number: 94–137. *Applicant:* University of Vermont, Burlington, VT 05405. *Instrument:* Trough, Model 611M-100. *Manufacturer:* CTC Technologies, United Kingdom. *Intended Use:* See notice at 59 FR 63762, December 9, 1994. *Reasons:* The foreign instrument provides preparation of lipid monolayers for structural studies including atomic force microscopy. *Advice Received From:* The National Institutes of Health, February 16, 1995.

Docket Number: 95–003. *Applicant:* The Pennsylvania State University, University Park, PA 16802-4801. *Instrument:* Automatic Grinding, Mixing, Stirring and Kneading Machines. *Manufacturer:* Nitto Kagaku Co., Ltd., Japan. *Intended Use:* See notice at 60 FR 9662, February 21, 1995. *Reasons:* The foreign instrument

provides automatic grinding and mixing of raw powders to high levels of uniformity and purity (99.999%) using dual crossing arms which rotate in opposite directions from a rotating mortar. *Advice Received From:* The National Institute of Standards and Technology, March 29, 1995.

The National Institutes of Health and The National Institute of Standards and Technology advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 95–10525 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DS–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

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

April 24, 1995.

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

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

EFFECTIVE DATE: May 2, 1995.

FOR FURTHER INFORMATION CONTACT: Anne Novak, 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 and Apparel Agreement of December 20, 1994 between the Governments of the United States and Romania establishes limits for the period beginning on January 1, 1995 and extending through December 31, 1995.

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 59 FR 65531, published on December 20, 1994).

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, but are designed to assist only in the implementation of certain of their provisions.

Rita D. Hyaes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 24, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Effective on May 2, 1995, you are directed to no longer count imports of textile products in Categories 410, 414, 464, 465, 469, 611, 613–615, 617–622, 624–629, 665, 666, 669 and 670, produced or manufactured in Romania and exported during the period beginning on January 1, 1995 and extending through December 31, 1995 (see directive dated November 29, 1994).

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Textile and Apparel Agreement of December 20, 1994 between the Governments of the United States and Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 2, 1995, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Romania and exported during the twelve-month period beginning on January 1, 1995 and extending through December 31, 1995, in excess of the following limits:

Category	Twelve-month restraint limit [1]
Cotton Group	
200, 201, 218–220, 222–227, 229, 237, 239, 300, 301, 313–315, 317, 326, 330–342, 345, 347–354, 359–363, 369, 800, 810, 831–836, 838–840, 842–847, 850–852, 858, 859, 863, 870, 871 and 899, as a group.	54,060,737 square meters equivalent.
Sublevels in Cotton Group	
315	2,847,370 square meters.
333/833	112,772 dozen.
334	272,582 dozen.
335/835	142,845 dozen.
338/339	616,488 dozen.
340	269,092 dozen.
341/840	112,772 dozen.
347/348	481,162 dozen.
360	1,590,000 numbers.
361	1,060,000 numbers.
836	53,000 dozen.
Group III	
431–436, 438–440, 442–448, 459, 630–654 and 659, as a group.	60,367,521 square meters equivalent.
Sublevels in Group III	
433/434	7,156 dozen.
435	7,575 dozen.
442	11,110 dozen.
443	104,237 numbers.
444	40,400 numbers.
447/448	20,200 dozen.
638/639	545,150 dozen.
Level not in a group	
604	1,580,516 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

Imports charged to these category limits for the period January 1, 1994 through December 31, 1994, 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 conversion factors for the following merged categories are listed below:

Category	Conversion factor (square meters equivalent/category unit)
341/840	12.1
433/434	35.2
638/639	12.96

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,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–10473 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Taiwan

April 24, 1995.

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

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

EFFECTIVE DATE: May 2, 1995.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, 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) 927–6719. 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 current limits for certain categories are being reduced for carryforward used during 1994.

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 59 FR 65531, published on December 20, 1994). Also see 59 FR 66297, published on December 23, 1994.

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, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 24, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on May 2, 1995, you are directed to amend the December 19, 1994 directive to adjust the limits for the following categories, as provided under the terms of the current bilateral textile agreement concerning textile products from Taiwan:

Category	Twelve-month limit [1]
Sublevels in Group II	
340	1,053,278 dozen.
633/634/635	1,629,203 dozen of which not more than 935,644 dozen shall be in Categories 633/634 and not more than 850,077 dozen shall be in Category 635.
638/639	6,473,522 dozen.
Within Group II sub-group	
351	340,166 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–10474 Filed 4–27–95; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List, Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List a commodity, military resale commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities and a service previously furnished by such agencies.

EFFECTIVE DATE: May 30, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On October 14, December 30, 1994, January 13 and March 10, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (59 FR 52145, 67703, FR 60 13122 and 3196) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity, military resale commodity and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity, military resale commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity, military resale commodity and services to the Government.

2. The action does not appear to have a severe economic impact on current

contractors for the commodity, military resale commodity and services.

3. The action will result in authorizing small entities to furnish the commodity, military resale commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity, military resale commodity and services proposed for addition to the Procurement List.

Accordingly, the following commodity, military resale commodity and services are hereby added to the Procurement List:

Commodity

Pad, Fax Transmittal (OF 99)
7540–01–317–7368

Military Resale Commodity

Mop, Sponge, Block
M.R. 990

Services

Janitorial/Custodial, Federal Building and U.S. Post Office, 18th and K Streets, Merced, California

Janitorial/Custodial, U.S. Coast Guard Air Station, Clearwater, Florida

Mailroom Operation, U.S. Army Corps of Engineers, Cold Regions Research and Engineering Laboratory, Hanover, New Hampshire

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. Accordingly, the following commodities and service are hereby deleted from the Procurement List:

Commodities

Paper, Teletypewriter, Roll
7530–00–019–6674
7530–00–142–9038
7530–00–943–7076
7530–00–019–7267

Service

Janitorial/Grounds Maintenance, U.S. Coast Guard Loran Station, Malone, Florida

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–10497 Filed 4–27–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List, Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 30, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Index Sheet Set, Looseleaf Binder
7530–00–160–8477

(Remaining Government requirement)

NPA: Easter Seal Society of Allegheny County, Pittsburgh, Pennsylvania

Services

Dispatcher, Department of Veterans Affairs Medical Center, 7305 N. Military Trail, West Palm Beach, Florida

NPA: Gulfstream Goodwill Industries, Inc., West Palm Beach, Florida

Janitorial/Custodial, Department of Veterans Affairs Medical Center, Omaha, Nebraska

NPA: Vocational Development Center, Inc., Council Bluffs, Iowa

Operation of Postal Service Center, Department of the Air Force, Hurlburt Field, Florida

NPA: Lakeview Center, Inc., Pensacola, Florida

Parts Sorting, Defense Reutilization and Marketing Office, Barstow, California

NPA: BEST Opportunities, Barstow, California

Parts Sorting, Defense Reutilization and Marketing Office, Robins Air Force Base, Georgia

NPA: Epilepsy Association of Georgia, Warner Robins, Georgia

Parts Sorting, Defense Reutilization and Marketing Office, Fort Lewis, Washington

NPA: Morningside of Olympia, Olympia, Washington

Deletions

The following commodities have been proposed for deletion from the Procurement List:

Seal, Metal Band
P.S. Item #0816–A
P.S. Item #0816–B

Tape, Red
7510–00–NIB–0068
7510–00–NIB–0069
7510–00–NIB–0070

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–10498 Filed 4–27–95; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

Title, Applicable Form; and OMB Control Number: Defense Federal Acquisition Regulation Supplement, Part 225, Foreign Acquisition; Related Clauses at 252.225; DD Form 2139; OMB Control Number 0704–0229. (Supersedes OMB Control Numbers 0704–0339, 0704–0350, 0704–0355, and 0704–0361.)

Type of Request: Revision.

Number of Respondents: 55,182.

Responses per Respondent: 22.24.

Annual Responses: 1,227,227.

Annual Burden per Response: .11 hours.

Annual Burden Hours: 441,683 (140,783 response hours + 300,900 recordkeeping hours).

Needs and Uses: DFARS Part 225 concerns information collection requirements used to ensure contractor compliance with restrictions on the acquisition of foreign products imposed by statute or policy to protect the defense industrial base. Other information is required for compliance with our trade agreements and Memoranda of Understanding, which promote reciprocal trade with our allies.

Affected Public: Businesses or other for-profit; non-profit institutions; and small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Peter N. Weiss. Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302.

Dated: April 24, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10420 Filed 4–27–95; 8:45 am]

BILLING CODE 5000–04–M

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Forms, and OMB Control Number: AMC Contractor Feedback Survey.

Type of Request: New collection.

Number of Respondents: 200.

Responses per Respondent: 1.

Annual Responses: 200.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 100.

Needs and Uses: In response to acquisition Reform and the demands of the defense industry, AMC has implemented many changes designed to streamline and improve the acquisition process. The survey will provide an industry assessment as to the effectiveness of these changes.

Affected public: Businesses or other for-profit, small businesses or organizations.

Frequency: One time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Peter N. Weiss. Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington,Virginia 22202–4302.

Dated: April 24, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10421 Filed 4–27–95; 8:45 am]

BILLING CODE 5000–04–Ms

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Establishment of National Differentials for Children's Hospitals

AGENCY: Office of the Secretary, DoD.

ACTION: Notice.

SUMMARY: The Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS) is announcing the national differential rates for children's hospitals which go into effect April 1, 1995. This notice is issued as required in 32 CFR 199.14 in which OCHAMPUS announced that a notice would be published setting forth the national differential and eliminating the hospital-specific differentials.

FOR FURTHER INFORMATION CONTACT: Marty Maxey, Program Development Branch, OCHAMPUS, telephone (303) 361–1227.

SUPPLEMENTARY INFORMATION: DoD 6010.8–R (Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)) was published in the Federal Register on July 1, 1986 (51 FR 24008). On October 1, 1987, OCHAMPUS implemented a DRG-based payment system, modeled on the Medicare Prospective Payment System. Children's Hospitals were exempted from the initial implementation until a children's hospital differential rate could be developed. This would ensure that payments to children's hospitals remained budget neutral compared to fiscal year 1988 charges. Since we included children's hospitals under the CHAMPUS diagnosis related group (DRG) payment system in 1989, we have implemented the special measures directed by Congress. When children's hospitals were included by Congress. When children's hospitals were included under the DRG-based payment systems, we implemented the pediatric-modified DRGs (PM–DRGs) for neonatal services. The PM–DRGs, which were developed by the National Association of Children's Hospitals and Related Institutions (NACHRI), replaced the six Medicare neonatal DRGs with thirty-four DRGs which account for birthweight, surgery and the presence of multiple, major and other neonatal problems.

When we implemented the PM–DRGs, we promised an early review of the weights to ensure that they were adequate. The original weights had been derived from a database provided by NACHRI which was believed to be representative of CHAMPUS. However, the case mix and the charges apparently were very different and in December

1989, we published revised relative weights based on CHAMPUS claims data. As a result, the weights, and therefore, the payments, nearly doubled on average. At that time OCHAMPUS retroactively adjusted all claims which had been processed using the previous lower weights. We have continued to refine the PM–DRG weights and classifications involving complications during subsequent annual updates.

In addition, at the time we adopted the PM–DRGs, we examined the possible application of additional DRGs to children who are older than newborns. We contracted with the RAND Corporation to investigate the use of PM–DRGs for this pediatric population. RAND's results showed that almost no difference in payments would occur, so we elected not to make any changes for the pediatric age groups.

To recognize the higher costs of pediatric patients and hospitals with more than their share of high-cost patients, CHAMPUS included a generous provision for calculating the cost outlier for children's hospitals and for neonatal services. Any discharge for services in a children's hospital or for neonatal services which has standardized costs that exceed a threshold of the greater of two times the DRG-based amount or $13,500 qualifies as a cost outlier, resulting in reimbursement of the DRG-based amount plus the differential, plus a percentage of all costs exceeding the threshold. Since the threshold is so low, a considerable number of cases receive this additional payment consideration.

As an added safeguard, CHAMPUS will continue for an interim period to exempt certain high-cost conditions from payment under the DRG-based payment system to protect acute care and children's hospitals from incurring unexpectedly high costs for care related to children under 18 years of age who are HIV seropositive, for all services related to pediatric bone marrow transplants and for all services related to pediatric cystic fibrosis.

In 1990, New York adopted some very minor classification changes to their neonatal DRGs which resulted in some reductions in payments; CHAMPUS reviewed the classification changes but elected not to make similar changes. We have continually consulted with NACHRI.

Since we have implemented all of the special measures Congress identified and since the Congressional intent was that the hospital-specific differential be used only ''for a transitional period of 3 years,'' it is appropriate that a national differential for children's hospitals be implemented at this time. During the three-year transition, children's hospitals were held harmless via a reconciliation calculation that ensured payments that recognized hospital-specific costs for high-volume hospitals. The transition period for using the ''hold harmless'' hospital-specific and low-volume differentials ended March 31, 1992. Reconciliations after the ''hold harmless'' period will be calculated applying the national differential rate in accordance with Congressional direction. Under the national differential, eighteen hospitals will receive a higher differential, and fifteen hospitals will receive a lower differential. Although a small number of high-volume hospitals will experience a reduction in CHAMPUS payments, we remain convinced that our payments, especially in light of the differential and other special considerations outlined above, will fairly compensate children's hospitals for their services. Even with a national differential, our payments will be significantly higher for all children's hospitals than for all other hospitals subject to DRG-based payments. The national differential is expected to encourage efficiency, and comply with Congressional intent and direction in controlling future CHAMPUS costs.

CHAMPUS recognizes that on average, children's hospitals have a more costly mix of pediatric patients than nonexempt hospitals. CHAMPUS is also aware that pediatric patients in general may be more expensive than adults because of the requirement for more nursing care and specialized services. Because of these higher costs, CHAMPUS has proceeded slowly and built in safeguards to protect children's hospitals against untoward financial repercussions. We believe all of these safeguards, as well as the numerous refinements we have outlined, will result in a fair and equitable payment to the children's hospitals. We feel confident that sufficient time has been allotted to identify and implement any classification changes which were found necessary. Of course, CHAMPUS will continue to refine PM–DRGs on an ongoing basis, just as we currently do for adult DRGs.

Following are the national differentials:

Area	All hospitals
Large Urban:	
Labor	$1,945.99
Non-labor	689.42
	2,635.41
Other Urban:	
Labor	1,483.21
Non-labor	525.47
	2,008.68

Dated: April 24, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10426 Filed 4–27–95; 8:45 am]

BILLING CODE 5000–04–M

Record of Decision for the Final Programmatic Environmental Impact Statement (FPEIS) for the Ballistic Missile Defense (BMD) Program

AGENCY: Ballistic Missile Defense Organization (BMDO).

SUMMARY: On April 23, 1995, the Ballistic Missile Defense Organization (BMDO) signed the Record of Decision (ROD) on research, development, and testing of Ballistic Missile Defense (BMD) capability. The decision included in this ROD has been made in consideration of, but not limited to, the information contained in the *Ballistic Missile Defense Final Programmatic Environmental Impact Statement* (Final PEIS) filed with the U.S. Environmental Protection Agency on November 18, 1994. Other factors considered in this decision include the present and projected threat, cost, and administrative and congressional directives.

The BMD programmatic alternatives arose from existing and potential national security needs. The need for further research and development of BMD capability comes from the threat posed by the global proliferation of missile technology, and the accompanying production and development of weapons of mass destruction. This threat is compounded by improvements to missile performance and weapon design by other nations, as well as increases in the number of missile-armed nations. The ROD documents the BMDO decision between the programmatic alternatives.

The BMD program includes both National Missile Defense (NMD) and Theater Missile Defense (TMD) segments under the direction of BMDO. The NMD segment of the program considers developing ground and space-based elements, including Ground-Based Sensor (GBS), Ground-Based Interceptor (GBI), Space-Based Sensor (SBS), and Battle Management/Command, Control, and Communications (BM/C3) elements, to defend the United States against long-range missiles. The TMD segment

considers developing transportable systems to defend elements of the armed forces of the United States deployed abroad, and United States' allies, against short- and medium-range missiles. The TMD segment was analyzed separately in the TMD Programmatic EIS, due to the distinct functions and independent utility of the TMD and NMD segments.

The decision conveyed by the ROD is to continue research, development, and testing of NMD capabilities. The decision includes continuing the NMD Technology Readiness Program but does not include the procurement or acquisition of an operational NMD system. Only limited NMD research, development, and testing is to continue. The acquisition of TMD system capabilities will continue as described in the TMD ROD published in the Federal Register on August 11, 1994 (59 FR 41277).

The specific decision with respect to NMD is to continue a focused approach to technology development in the form of the Technology Readiness Program (the Preferred Action in the Final PEIS). The program involves the development of existing and new technologies and test systems for BM/C3, GBS, GBI, and SBS elements. Research is to be focused to ensure the capability to deploy a limited NMD system in the next decade. Basic technology efforts will continue to infuse new advances as the program proceeds. Contingency planning and options development will continue to be conducted to meet unexpected threats.

Three NMD System Acquisition Alternatives were also evaluated. These alternatives consisted of proceeding with system acquisition and design of NMD elements through the Engineering and Manufacturing Development (EMD) phase of the DoD System Acquisition Life-cycle. Activities included in the EMD phase involve development and testing of elements up to, but not including, element and/or system production and basing. The System Acquisition Alternatives evaluated were:

1. Ground- and Space-Based Sensors and Ground- and Space-Based Interceptors System Acquisition Alternative (which consists of Engineering and Manufacturing Development of GBS, SBS, GBI, SBI, and BM/C3);

2. All Ground-Based System Acquisition Alternative (which consists of Engineering and Manufacturing Development of GBS, GBI, and BM/C3); and

3. Ground- and Space-Based Sensors and Ground-Based Interceptors System Acquisition Alternative (which consists of Engineering and Manufacturing Development of GBS, SBS, GBI, and BM/C3).

The Final PEIS analyses determined that environmental impacts for the Preferred Action (No Action Alternative) or any of the three System Acquisition Alternatives would be minimal. The Final PEIS analyses found no significant and unavoidable environmental impacts for the Preferred Action or any of the three alternatives. The Preferred Action would be termed the *environmentally preferred alternative* since there would be fewer activities associated with its implementation, and therefore fewer impacts. The other alternatives would generally create greater areas of disturbance, require more resources, and create more and greater hazards than the Preferred Action although the environmental impact of all options would be minimal.

Therefore, the implementation of BMD research, development, and testing activities and associated mitigation measures will proceed with minimal adverse impact to the environment. BMDO Deputies and Program Executive Officers are tasked to monitor these activities to ensure that the required environmental standards and controls described in the Final PEIS are followed. BMDO activities will conform with all applicable Federal, state, and local statutes and regulations. Additionally, all reasonable and practical efforts and appropriate safeguards will be implemented to minimize harm to the public and the environment.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Lehner, BMDO/SRE, Washington, DC 20301–7100, (703) 695–8743.

Dated: April 25, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10459 Filed 4–27–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Base Closure and Realignment Commission Investigative Hearings

AGENCY: Defense Base Closure and Realignment Commission (a Presidentially appointed commission separate from and independent of DoD).

ACTION: Notice of a public, deliberative hearing.

SUMMARY: Pursuant to Public Law 101–510, as amended, the Defense Base Closure and Realignment Commission announces a day-long investigative hearing to be held in Washington, D.C. The purpose of this hearing is for the Commission to consider additional and/or alternative bases to those recommended for closure and realignment by the Secretary of Defense on March 1, 1995.

The specific date, location, and general topics follow:

May 10 (Location: Hart Senate Office Building, Room 216)

—Chairpersons and representatives from each of the Commission staff's five review-and-analysis panels (Army, Navy, Air Force, InterAgency, and Joint-CrossService) present information concerning options for additional and/or alternative base-closure recommendations.

—Commission formally votes on additional and/or alternative bases as options for consideration.

The May 10 hearing will begin at 9 a.m. The building and room number are noted in parentheses following the date of the hearing. However, hearing location, date, and time are subject to change based upon availability of facilities.

FOR FURTHER INFORMATION CONTACT: Mr. Wade Nelson, Director of Communications, at (703) 696–0504.

SUPPLEMENTARY INFORMATION: Changes to the above schedule will be published in the Federal Register by the Commission. Please call the Commission to confirm dates, times, and locations prior to each event. Individuals needing special assistance should contact the Commission in advance of each event to facilitate their requirements.

Dated: April 24, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10419 Filed 4–27–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Combat Identification; Meeting

SUMMARY: The Defense Science Board Task Force on Combat Identification will meet in closed session on July 11–12, 1995 at the MITRE Corporation, Bedford, Massachusetts.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense (Acquisition and Technology) on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will evaluate the DoD long term strategy and plan for development and fielding of a

comprehensive situational awareness (SA) and combat identification (CID) architecture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: April 24, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10422 Filed 4–27–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Defense Mapping for Future Operations; Meetings

SUMMARY: The Defense Science Board Task Force on Defense Mapping for Future Operations will meet in closed session on May 2–3, 1995 at Science Applications International Corporation, Arlington, Virginia. In order for the Task Force to obtain time sensitive classified briefings, critical to the understanding of the issues, this meeting is scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense (Acquisition and Technology) on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will develop recommendations for implementing a cost-effective approach for providing geospatial information and products to Department of Defense users.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: April 24, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10423 Filed 4–27–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Combat Identification; Change in Date of Advisory Committee Meeting

SUMMARY: The meeting of the Defense Science Board Task Force on Combat Identification scheduled for June 13–14, 1995 as published in the Federal Register (Vol. 60, No. 54, Page 14932, Tuesday, March 21, 1995, FR Doc. 95–6956) will be held on June 14–15, 1995. In all other respects the original notice remains unchanged.

Dated: April 24, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–10425 Filed 4–27–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement/ Environmental Impact Report for a Permit Application for Proposed Activities at Playa Vista, Los Angeles County, CA

AGENCY: U.S. Army Corps of Engineers, Los Angeles District, DOD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is considering an application for Section 404 and Section 10 permits to (1) conduct dredge and fill activities to implement restoration of the Ballona Salt Marsh and (2) construct a marina or other saltwater boating facility and an adjacent mixed use (residential/commercial/visitor serving) community (marina).

The primary Federal concern is the dredging and discharging of materials within waters of the United States, including wetlands and potential significant impacts on the human environment. Therefore, in accordance with the National Environmental Policy Act (NEPA), the Corps is requiring the preparation of an Environmental Impact Statement (EIS) prior to consideration of any permit action. The Corps may ultimately make a determination to permit or deny either or both items (1) and (2) above, or permit or deny modified versions of items (1) and (2) above.

Pursuant to the California Environmental Quality Act (CEQA), the City of Los Angeles will serve as Lead Agency for the preparation of an Environmental Impact Report (EIR) for its consideration of development approvals within its jurisdiction. The County of Los Angeles will serve as a Responsible Agency under CEQA and will use the EIR for consideration of project approvals within its jurisdiction. The Corps and the City have agreed to jointly prepare a Draft EIS/EIR in order to optimize efficiency and avoid duplication. The Draft EIS/EIR is intended to be sufficient in scope to address both the Federal and the state and local requirements and environmental issues concerning the proposed activities and permit approvals.

ADDRESSES: U.S. Army Engineer District, Los Angeles, Regulatory Branch, ATTN: File Number 95–0212–CSC, P.O. Box 2711, Los Angeles, California 90012.

FOR FURTHER INFORMATION CONTACT: Phone message or questions will be handled at 213–485–8009.

SUPPLEMENTARY INFORMATION:

Project Site

The proposed project is located near Marina del Rey. The salt marsh restoration activities are planned for a portion of the project area known as Area B which is located within the City of Los Angeles. The marina development is planned for an adjacent portion of the project known as Area A within an unincorporated portion of the County of Los Angeles. The area proposed for salt marsh restoration is located in the remnant portions of the once extensive Ballona Salt Marsh. The proposed marina site is located within an area containing extensive fill resulting from previous Marina del Rey and flood control construction projects.

Proposed Action

The project applicant, Maguire Thomas Partners (MTP), proposes to restore a 190 acre salt marsh system within a substantially undeveloped area containing approximately 154 acres of existing degraded wetlands. Establishment of this proposed salt marsh system will include three actions: (1) Enhancement of the western portion of existing wetlands by reestablishing tidal flows to a mid-tidal regime; (2) restoration of the eastern portion of the wetlands by reestablishing tidal flow to a full tidal regime and (3) creation of new wetlands from existing uplands. The proposed project includes the construction of culverts providing access to tidal flows within the Ballona Channel. The proposed project also involves the widening of Culvert Boulevard to meet regional transportation demand.

It is further proposed that a water oriented mixed use community be constructed in Area A on 138.6 acres of substantially undeveloped property separated from the salt marsh restoration project by the Ballona Channel. This development would include a 48 acre marina, 2,576 residential units, 450 hotel rooms, 125,000 square feet of office space,

75,000 square feet of community serving uses and 75,000 square feet of visitor serving retail uses. The proposed marina would accommodate up to 700 boat ships with access to Santa Monica Bay via a new entrance channel to the main channel of Marina del Rey. This Channel would be approximately 200 feet wide and excavated to a depth of −16 feet MSL. This proposed development would result in the dredge and/or fill of 9.8 acres of degraded wetlands, 4.8 acres of which would be within the footprint of the proposed marina.

Issues

There are several potential environmental issues that will be addressed in the EIS/EIR. Additional issues may be identified during the scoping process. Issues initially identified as potentially significant include:

1. Geological issues including subsidence, seismic concerns and landform alternation.
2. Impacts to surface and groundwater hydrology and water quality.
3. Potential impacts to terrestrial, aquatic and marine biological resources.
4. Impacts to prehistoric and historic cultural resources.
5. Impacts to air quality.
6. Traffic and transportation related impacts.
7. Potential noise impacts.
8. Land use impacts.
9. Impacts to public utilities and services.
10. Socioeconomic impacts including population, housing and infrastructure costs and benefits.
11. Impact to aesthetic resources.
12. Potential impacts on public health and safety.
13. Cumulative impacts.

Alternatives

Several alternatives are being considered for restoration of the Ballona Salt Marsh as well as alternatives to the marina proposal. These alternatives will be further formulated and developed during the scoping process. In addition to the No Action Alternative (no restoration), two other alternatives for salt marsh restoration have been identified. These are a full tidal restoration for the entire restoration area and a muted tidal restoration for the entire restoration area. In addition, the EIS/EIR will consider alternatives to the Ballona Channel as a source of salt water for the restoration. The EIS/EIR will also consider alternatives to the proposed widening of Culver Boulevard.

A range of alternatives to the marina proposal will be considered in the EIS/EIR. These alternatives will include other saltwater boating facility alternatives with or without a marina feature as well as other wetland alternatives and the No Act Alternative.

Scoping Process

A public meeting will be held to receive public comment and assess public concern regarding the appropriate scope and preparation of the Draft EIS/EIR. Participation in the public meeting by federal, state and local agencies and other interested organizations and persons is encouraged.

The Corps of Engineers will also be consulting with the U.S. Fish and Wildlife Service under the Endangered Species Act and Fish and Wildlife Coordination Act, and with the State Office of Historic Preservation under the National Historic Preservation Act. Additionally, the EIS/EIR will assess the consistency of the proposed Action with the Coastal Zone Management Act, as well as executive orders on wetlands and floodplain protection.

The public scoping meeting for the Draft EIS/EIR will be held at the Airport Marina Hotel, 8601 Lincoln Boulevard, Los Angeles, California on June 7, 1995. Two sessions, one beginning at 2:00 p.m. and the other starting at 7:00 p.m. are scheduled. Written comments will be received until June 21, 1995.

Availability of the Draft EIS

The Draft EIS is expected to be published and circulated in April of 1996, and a Public Hearing will be held after its publication.

Juanita H. Maberry,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 95–10489 Filed 4–27–95; 8:45 am]

BILLING CODE 3710–KF–M

Corps of Engineers; Local Redevelopment Authority (LRA) for the Available Surplus Manhattan Beach Family Housing Area, Located at Quentin Street, Brooklyn, NY (Formerly New York Defense Area, Nike Batteries 48–49 Housing Area)

AGENCY: U.S. Army Corps of Engineers, New York District, DOD.

ACTION: Notice.

SUMMARY: This Notice provides information regarding the LRA that has been established to plan the reuse of the Manhattan Beach Family Housing Area, located at Quentin Street, Brooklyn, NY, as set forth in the new procedures under the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

SUPPLEMENTARY INFORMATION: In 1989 the Manhattan Beach Family Housing Area, located at Quentin Street, Brooklyn, NY (formerly New York Defense Area, Nike Batteries 48–49 Housing Area) was designated for closure pursuant to Title II Section 204 of Public Law 100–526, Defense Base Closure and Realignment Act, supplemented by paragraph 7 of section 2905(b) of the 1990 Base Closure Act, 10 U.S.C. 2687, as amended by subsection (a) of the Base Closure and Community Redevelopment and Homeless Assistance Act of 1994, Public Law 103–421.

Election to Proceed Under the New Statuary Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Pub. L. 103–421) subsection (e)(1)(b) of the 1994 Act was enacted. This statute gives a redevelopment plan authority at base closure sites the option of employing new procedures with regard to the manner in which the redevelopment plan for the base is formulated and how requests are made for future use of the property by homeless assistance providers and non-federal public agencies.

Redevelopment Authority

The Redevelopment Authority for the base for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990 as amended is the Manhattan Beach Community Group (MBCG). The following thirteen (13) people makeup the governing group of the LRA.

—Oliver Klapper, President
—Lucille Nieporent, Vice President
—Barbara Gatto, Treasurer
—Dana Borrell, Sec'y
—Eugene Friedus, member
—Martin Izaak, member
—Richard Bearak, Brooklyn Borough President's Office
—Florence Stachel, Congressman Schumer's Office
—John Nikas, Chairman, Community Board #15
—Maurice Kolodin, Former Chairmen, Community Board #15
—Barbara Simmons, President, Community School Board #2
—Louise Albenda, member
—Michael Geller, Former President, MBCG

Take Notice: Pursuant to the Base Closure and Community Redevelopment and Homeless Assistance Act of 1994, State and local governments,

representatives of the homeless and other interested parties located in the communities in the vicinity of the installation may submit to the Manhattan Beach Community Group letters of interest no later than May 22, 1995, and June 25, 1995 to submit a full proposal. All submission should be forwarded to the attention of: Dr. Oliver Klapper, 174 Dover Street, Brooklyn, NY 11235, (718) 368–5115.

Surplus Property Description: The Surplus Manhattan Beach Family Housing site consists of approximately 4.74 acres of land in fee, improved with 72 family housing units, 56 two story-two family and 16 two story and basement one family, totalling nine (9) buildings.

Juanita H. Maberry,

Alternate, Army Federal Register Liaison Officer.

[FR Doc. 95–10490 Filed 4–27–95; 8:45 am]

BILLING CODE 3710–06–M

Corps of Engineers; Local Redevelopment Authority (LRA) for the Available Surplus Nike Missile Battery 80, Family Housing Located at East Hanover, NJ

AGENCY: U.S. Army Corps of Engineers, New York District, DOD.

ACTION: Notice.

SUMMARY: This notice provides information regarding the LRA that has been established to plan the reuse of the Nike Missile Battery 80, Family Housing, East Hanover, NJ, as set forth in the new procedures under the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

ADDRESSES: Comments for proposals regarding the development of the site for consideration by the Local Redevelopment Authority should be addressed to Mr. Paduch, Township Administrator, 411 Ridgedale Avenue, East Hanover, New Jersey 07936.

FOR FURTHER INFORMATION CONTACT: Mr. Paduch, Township Administrator, 411 Ridgedale Avenue, East Hanover, New Jersey 07936.

SUPPLEMENTARY INFORMATION: In 1989 the Nike Missile Battery 80, Family Housing, East Hanover, NJ, was designated for closure pursuant to Title II Section 204 of Public Law 100–526, Defense Base Closure and Realignment Act, supplemented by paragraph 7 of section 2905(b) of the 1990 Base Closure Act, 10 U.S.C. 2687, as amended by subsection (a) of the Base Closure and Community Redevelopment and Homeless Assistance Act of 1994, Public Law 103–421.

Election to Proceed Under the New Statuary Procedures

Subsequently, the Base Closure Community Redevelopment and Homeless Assistance Act of 1194 (Pub. L. 103–421) subsection (e)(1)(b) of the 1994 Act was enacted. This statute gives a redevelopment authority at base closure sites the option of employing new procedures with regard to the manner in which the redevelopment plan is formulated and how requests are made for future use of the property and by homeless assistance providers and non-federal public agencies.

Redevelopment Authority

The Redevelopment Authority for the base for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990 as amended is the Township Council of East Hanover Township, New Jersey. The Township Council is the governing body of East Hanover Township. It consists of the Mayor and four other members of the council. It has already conducted two public town meetings to receive comments from individuals and organizations interested in the redevelopment of the base. The Township Council is assisted by a full time Township Administrator, Mr. C. Richard Paduch.

Take Notice: Pursuant to the Base Closure and Community Redevelopment Assistance Act of 1994, the Township Council of East Hanover extends until May 26, 1995 the period in which State and local governments, representatives of the homeless and other interested parties located in the vicinity of the installation may submit notices of interest to the Township in all or part of the property and/or buildings located at the Nike Missile Battery 80.

Surplus Property Description: The Surplus Nike Missile Battery 80, Family Housing site consists of 13.97 acres of land more or less improved with 32 ''Capehart'' style houses, each having three bedrooms, one family room, a carport, and storage room. Capehart is the model name assigned to these houses by the builder, National Homes. The houses are wood framed, built on concrete slabs. Water lines and air conditioning ducts are embedded in the foundation slab.

Juanita H. Maberry,

Alternate, Army Federal Register Liaison Officer.

[FR Doc. 95–10488 Filed 4–27–95; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by May 9, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 am and 8 pm, Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Group, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency

of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review has been requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: April 24, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Expedited
Title: Program for North American Cooperation in Higher Education (A Special Focus Competition of the Fund for the Improvement of Postsecondary Education)
Frequency: Annually
Affected Public: Not-for-profit institutions
Reporting Burden:
Responses: 300
Burden Hours: 6,000
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: The Program for North American Cooperation in Higher Education is a competitive process to award grants to groups of U.S. institutions of higher education, represented by one member of the group that will serve as lead institution for the U.S. members of the consortium, for an experimental program that will support cooperation and exchange among U.S., Mexican and Canadian institutions of higher education. Funding will be for projects lasting up to three years. Copies of the guidelines and forms for review and comment can be obtained by calling (202) 708–5750.
Additional Information: Clearance for this information collection is requested by May 9, 1995. An expedited review is requested in order to meet the schedule of this competition for this fiscal year. Without an expedited review, the funding for this competition would not be met for this fiscal year.

[FR Doc. 95–10443 Filed 4–27–95; 8:45 am]

BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) has been requested by May 12, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Group, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract: (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review has been requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: April 24, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: Expedited
Title: Application for Grants Under the Women's Educational Equity Act (WEEA) Program
Frequency: Annually
Affected Public: Individuals or households; not-for-profit institutions; State, Local or Tribal Governments
Reporting Burden:
Responses: 500
Burden Hours: 8,000
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This form will be used by State Educational agencies to apply for funding under the Women's Educational Equity Act (WEEA) Program. The Department will use the information to make grant awards.
Additional Information: Clearance for this information collection is requested by May 12, 1995. An expedited review is requested in order to provide award information to clients as soon as possible.

[FR Doc. 95–10442 Filed 4–27–95; 8:45 am]

BILLING CODE 4000–01–M

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Group, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval by the Office of Management and Budget (OMB) was requested by April 14, 1995.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill, (202) 708–9915. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information

Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Group, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review has been requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: April 24, 1995.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: Expedited
Title: Goals 2000—Educate America Act Title III State Grants Funding for Second Through Fifth Years
Frequency: One time
Affected Public: State, Local or Tribal Government
Reporting Burden:
Responses: 61
Burden Hours: 1,220
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: Second through fifth year Goals 2000 Title III formula state grants provide funding to states to continue to develop and implement wide ranging reform plans at the State, local district, and school level necessary to improve the education for all children in each state. The Secretary will approve applications for second through fifth year funding if: (1) The State's improvement plan has been approved by the Secretary or the State can document that it has made substantial progress toward developing its plan and (2) the State's application conforms to the requirements of law.
Additional Information: Clearance for this information collection is requested for April 14, 1995. An expedited review is requested in order to implement the program before the start of the new year.

[FR Doc. 95–10441 Filed 4–27–95; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Final Environmental Impact Statement for Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs

AGENCY: Department of Energy.

ACTION: Notice of Availability.

SUMMARY: The Department of Energy (DOE) is giving notice of the availability of the final environmental impact statement (EIS) for Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory (INEL) Environmental Restoration and Waste Management Programs (DOE/EIS–0203). The final EIS was prepared in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA); Council on Environmental Quality regulations implementing NEPA, 40 CFR Parts 1500–1508; and DOE NEPA Implementing Procedures, 10 CFR Part 1021. The final EIS addresses Department-wide spent nuclear fuel (SNF) management strategies for the transportation, receipt, storage, and processing of these fuels. In addition, the final EIS addresses proposed environmental restoration and waste management activities at the INEL. The Department of the Navy was a cooperating agency in preparing this EIS.

Upon completion of general distribution of the document, DOE will file the final EIS with the Environmental Protection Agency, which will then publish a Notice of Availability in the Federal Register. The final EIS will also be available to the public in DOE reading rooms and designated information locations which are identified in this notice. DOE plans to issue a Record of Decision on the final EIS by June 1, 1995.

ADDRESSES: Requests for copies of the final EIS and for further information on the final EIS should be directed to: U.S. Department of Energy, Idaho Operations Office, Office of Communications, Attention: Brad Bugger, 850 Energy Drive, MS 1214, Idaho Falls, ID 83402. Mr. Bugger can be reached by telephone at: 208–526–0833. Addresses of DOE Public Reading Rooms, Navy Information Locations, and other locations where the final EIS will be available for public review are listed below under ''Supplementary Information.''

General information on the DOE NEPA process may be obtained from Ms. Carol Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585. Ms. Borgstrom may be reached by telephone at: (202) 586–4600 or by leaving a message at (800) 472–2756.

SUPPLEMENTARY INFORMATION:

Background

DOE issued a draft EIS for public comment and published a Notice of Availability in the Federal Register on June 24, 1994 (59 FR 32688). Thereafter, DOE held 33 public hearings in 20 cities across the nation in order to obtain public comments on the draft EIS. In addition, public comments were received by mail, a toll-free telephone line, and facsimile. More than 1,430 commentors, including a broad spectrum of private citizens, businesses, local, state and federal officials, Native American Tribes, and public interest groups, commented on the draft EIS. Comments are summarized in Volume 3 of the final EIS. DOE and Navy responses to those comments are also provided in Volume 3, as well as discussions of which comments resulted in changes to the EIS.

Public comments on the draft EIS were assessed and considered both individually and collectively by DOE and the Navy. Some comments resulted in modifications to the EIS. For other comments, DOE explained why a change to the EIS was not warranted. Most responses to such comments communicated government policy, indicated that the comment was beyond the scope of the EIS, explained the relationship of this EIS to other related NEPA documents, referred commentors to information in the EIS, answered technical questions, or further explained technical issues.

The final EIS, like the draft EIS, addresses the potential environmental impacts associated with alternatives for managing DOE spent nuclear fuel on a national level (Volume 1). The final EIS also addresses potential environmental impacts related to the management of solid, radioactive, mixed and hazardous wastes, spent nuclear fuel, and environmental restoration activities at the INEL (Volume 2). DOE conducted

these analyses as part of the decisionmaking process for: (1) Programmatic (nationwide) decisions regarding the management of DOE and Navy spent nuclear fuel; and (2) site-specific decisions regarding the future direction of the environmental restoration and waste management programs at the INEL. DOE's programmatic decisions will determine the locations for managing existing and projected quantities of spent nuclear fuel from now until the year 2035. DOE's site-specific decisions for INEL will determine how to manage environmental restoration and waste management activities and spent nuclear fuel during the next 10 years. DOE's objectives are to mitigate, through environmental restoration, the impacts of previous operations, and to treat, store, and dispose of waste at INEL in a safe and efficient manner.

Alternatives Considered

Programmatic management alternatives for spent nuclear fuel discussed in Volume 1 include: Alternative 1, No Action—perform minimum activities required for safe and secure management at or close to the generation site or current storage location; Alternative 2, Decentralization—storage and stabilization of most spent nuclear fuel at or near the generation site with limited shipments from university and non-DOE facilities; Alternative 3, the 1992/1993 Planning Basis—transport to and store newly generated spent nuclear fuel at INEL or the Savannah River Site and consolidate some existing spent nuclear fuel at INEL; Alternative 4, Regionalization—distribute existing and projected spent nuclear fuel among DOE sites based on fuel type or geographic location (an eastern regional site and a western regional site); and Alternative 5, Centralization—manage all existing and projected spent nuclear fuel at one site until ultimate disposition. Five DOE sites have been analyzed for roles in the management of DOE spent nuclear fuel: (1) the Hanford Site at Richland, Washington; (2) the Idaho National Engineering Laboratory in southeastern Idaho; (3) the Savannah River Site in Aiken, South Carolina; (4) the Oak Ridge Reservation in Oak Ridge, Tennessee; and (5) the Nevada Test Site near Mercury, Nevada. In addition, four Naval shipyards and the Kesselring site (near West Milton, New York) are being considered for management of Naval spent nuclear fuel only. The four Naval shipyards are: (1) Norfolk Naval Shipyard, Portsmouth, Virginia; (2) Portsmouth Naval Shipyard, Kittery, Maine; (3) Pearl Harbor Naval Shipyard, Honolulu, Hawaii; and (4) Puget Sound Naval Shipyard, Bremerton, Washington.

The INEL site-specific alternatives related to environmental restoration and waste management discussed in Volume 2 include: Alternative A, No Action—complete all identified near-term actions and continue to operate most existing facilities; Alternative B, the 10-Year Plan—complete all identified actions and initiate new projects to enhance cleanup, manage laboratory wastes and spent nuclear fuel; Alternative C, Minimum Treatment, Storage, and Disposal—minimize treatment, storage and disposal activities to the extent possible, conduct minimum cleanup and decontamination and decommissioning activities prescribed by regulation and transfer spent nuclear fuel and waste from environmental restoration activities to another site; and Alternative D, Maximum Treatment, Storage, and Disposal—maximize treatment, storage and disposal functions at INEL to accommodate waste and spent nuclear fuel from the DOE complex and conduct maximum cleanup and decontamination and decommissioning.

Preferred Alternatives

DOE's preferred alternatives are identified in the final EIS. The identification of the preferred alternatives for Volume 1 and Volume 2 was based on consideration of environmental impacts, regulatory compliance, DOE and Navy spent nuclear fuel programmatic missions, Idaho National Engineering Laboratory environmental restoration and waste management programs, public comments, national security and defense, and cost.

Preferred Alternative for Programmatic Spent Fuel Management (Volume 1)

The DOE's preferred alternative for programmatic spent nuclear fuel management is Regionalization-By-Fuel-Type (Alternative 4A). Under this alternative, aluminum clad fuel would be consolidated at the Savannah River Site, non-aluminum fuel (including spent nuclear fuel from the Fort Saint Vrain reactor in Colorado) would be consolidated at the Idaho National Engineering Laboratory, and defense production fuel would be retained at the Hanford Site.

The Navy would continue to conduct refueling and defueling of nuclear-powered vessels and prototypes, and to transport spent nuclear fuel to the Idaho National Engineering Laboratory for full examination at the Expended Core Facility and interim storage. Following examination, fuel would remain in storage at the Idaho National Engineering Laboratory. The DOE preferred alternative is consistent with the Navy's preferred alternative identified in the draft EIS.

Under the preferred alternative, facility upgrades, replacements, and additions would be undertaken as necessary, and research and development activities would be conducted. Spent nuclear fuel processing might also occur. Other forms of stabilization might be needed to provide for safe storage and/or transport. Site-specific spent nuclear fuel management decisions will be made after further site-specific or project-specific NEPA evaluations, as appropriate, have been prepared.

The final EIS also states that for planning purposes, DOE assumes that some or all of the SNF in its inventory that satisfies a geologic repository's acceptance criteria, could be placed in the first repository developed under the Nuclear Waste Policy Act, as amended. While sufficient quantity and quality of information are still not available to determine whether the Yucca Mountain site is a suitable candidate for geologic disposal of SNF and high-level radioactive wastes, DOE is in the early planning stages of a repository EIS which will be prepared pursuant to the directives of the Nuclear Waste Policy Act, as amended. Until the repository EIS is complete, no final decision could be made concerning what DOE SNF would be accepted in a geologic repository.

Preferred Alternative for Environmental Restoration and Waste Management Programs at the Idaho National Engineering Laboratory (Volume 2)

The DOE's preferred alternative for INEL environmental restoration and waste management programs is the Ten Year Plan (Alternative B) enhanced to include elements from other alternatives. Under the preferred alternative, ongoing spent nuclear fuel management, environmental restoration, and waste management activities would continue and be enhanced to meet current and anticipated spent nuclear fuel management and waste handling needs. These enhanced activities, related to acceptance of additional offsite-generated materials and waste, would be needed to comply with applicable regulations and agreements. Existing environmental restoration and waste management facilities and projects would continue to operate. Waste generation from onsite sources would increase, as a result of regulatory

requirements and increased environmental restoration activities. In addition to existing facilities and projects, projects proposed under Alternative B for 1995 through 2005 would be implemented to meet the current Idaho National Engineering Laboratory mission, comply with negotiated agreements and commitments, and enhance cleanup.

Spent nuclear fuel, transuranic and mixed low level waste would be received from other sites. These activities may be modified following other evaluations currently underway, including proposed actions being negotiated pursuant to Federal Facility Compliance (FFC) Act site treatment plans, the Waste Management Programmatic Environmental Impact Statement and other NEPA Reviews. Generally, the transuranic and mixed low-level waste would be treated and returned to the site of origin (generator) or transported to an approved offsite disposal facility, depending on agreements to be negotiated under the FFC Act with the State of Idaho, the Environmental Protection Agency, and with other affected States. Plans would be developed for a high-level waste treatment facility that would minimize resulting high-radioactivity waste. Ongoing remediation and decommissioning and decontamination projects would continue and additional projects would be constructed.

Availability of Copies of the Final EIS

Copies of the final EIS are being distributed to Federal, State, and local officials and agencies; to organizations and individuals known to be interested in the EIS; and to persons and agencies that commented on the draft EIS. Additional copies may be obtained by contacting Mr. Bugger at the above address. Copies of the final EIS, including appendices, comment letters, public hearing transcripts, and the DOE responses to comments, will be available for public review at the locations listed below. Microfiche copies of selected reference materials will also be available in DOE Reading Rooms and Navy Information Locations listed below. Copies of the reference material may also be obtained upon request.

The final EIS, including appendices, is more than 5,100 pages in length, and is separately bound into the following portions:

Summary of the EIS

Volume I—Programmatic Spent Nuclear Fuel Management EIS (includes Appendices G through L).

Appendix A—Hanford Site Spent Nuclear Fuel Management Program.

Appendix B—Idaho National Engineering Laboratory Spent Nuclear Fuel Management Program.

Appendix C—Savannah River Site Spent Nuclear Fuel Management Program.

Appendix D—Naval Spent Nuclear Fuel Management.

Appendix E—Spent Nuclear Fuel Management at Other Sites.

Appendix F—Nevada Test Site and Oak Ridge Reservation Spent Nuclear Fuel Management.

Volume II—INEL Environmental Restoration and Waste Management Programs EIS (includes Appendices A through F).

Volume III—Response to Public Comments.

The 80-page Summary is available for review for those who do not wish to have the entire final EIS. When requesting copies of the final EIS, please indicate whether you wish to receive only the summary, or the entire final EIS and all of its associated appendices, or specific volumes or appendices, as listed above.

DOE Public Reading Rooms

U.S. Department of Energy, Oakland Operations Office, Environmental Information Center, 1301 Clay Street, Room 700 North, Oakland, CA 94612, (510) 637–1762. Monday-Friday: 8:30 a.m. to 5:00 p.m.

U.S. Department of Energy, Rocky Flats Office, Public Reading Room, Front Range Community, College Library, 3645 West 112th Avenue, Level B, Center of the Building, Westminster, CO 80030, (303) 469–4435. Monday & Tuesday: 10:30 a.m. to 6:30 p.m. Wednesday: 10:00 a.m. to 4:00 p.m. Thursday: 8:00 a.m. to 4:00 p.m.

U.S. Department of Energy, Headquarters, Freedom of Information Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 10585, (202) 586–6020. Monday-Friday: 9:00 a.m. to 4:00 p.m.

U.S. Department of Energy, Idaho Operations Office, Public Reading Room, 1776 Science Center Drive, Idaho Falls, ID 83402, (208) 526–9162. Monday-Friday: 8:00 a.m. to 5:00 p.m.

U.S. Department of Energy, Chicago Operations Office, Public Reading Room, University of Illinois at Chicago Library, Government Documents Section, 801 South Morgan Street, Chicago, IL 60607, (312) 996–2738. Monday-Friday: 8:00 a.m. to 10:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m.

U.S. Department of Energy, Albuquerque Operations Office, Public Reading Room, National Atomic Museum, 20358 Wyoming Boulevard, SE, Albuquerque, NM 87185, (505) 845–4378. Monday-Friday: 9:00 a.m. to 5:00 p.m.

U.S. DOE Community Reading Room, 1450 Central Avenue, Suite 101, MS C314, Los Alamos, NM 87544, (505) 665–2127. Monday-Friday: 8:00 a.m. to 5:00 p.m.

U.S. Department of Energy, Nevada Operations Office, Public Reading Room, Coordination and Information Center, 3084 South Highland Drive, Las Vegas, NV 89106, (702) 295–0731. Monday-Friday: 7:00 a.m. to 4:00 p.m.

U.S. Department of Energy, Fernald Field Office, Public Environmental Center, JANTER Building 10845, Hamilton-Cleves Highway, Harrison, OH 45030, (513) 738–0164. Monday, Thursday: 9:00 a.m. to 8:00 p.m. Tuesday, Wednesday, Friday: 9:00 a.m. to 4:30 p.m. Saturday: 9:00 a.m. to 1:00 p.m.

U.S. Department of Energy, Savannah River Operations Office, Public Reading Room, Road 1A, Building 703A, D232, Aiken, SC 29802, (803) 725–1408. Monday-Thursday: 8:00 a.m. to 11:00 p.m. Friday: 8:00 a.m. to 5:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m. Sunday: 2:00 p.m. to 11:00 p.m.

U.S. Department of Energy, Oak Ridge Operations Office, Public Reading Room, 55 Jefferson Avenue, Oak Ridge, TN 37831, (615) 576–1216. Monday-Friday: 8:00 a.m. to 11:30 a.m. and 12:30 p.m. to 5:00 p.m.

U.S. Department of Energy, Richland Operations Office, Public Reading Room, Washington State University Tri-Cities, 100 Sprout Road, Room 130W, Richland, WA 99352, (509) 376–8583. Monday-Friday: 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m.

Navy Information Locations

Norfolk Naval Shipyard

Chesapeake Central Library, 298 Cedar Rd., Chesapeake, VA 23320–5512, (804) 436–8300. Monday-Thursday: 9:00 a.m to 9:00 p.m. Friday-Saturday: 9:00 a.m to 5:00 p.m. Sunday: 1:00 p.m to 5:00 p.m.

Newport News Public Library, Grissom Branch, 366 Deshazor Dr., Newport News, VA 23602, (804) 886–7896. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday-Saturday: 9:00 a.m. to 6:00 p.m.

Kirn Library, 301 East City Hall Ave., Norfolk, VA 23510, (804) 441–2429. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday: 9:00 a.m. to 5:30 p.m. Saturday: 9:00 a.m. to 5:00 p.m.

Hampton Public Library, 4207 Victoria Boulevard, Hampton, VA 23669, (804) 727–1154. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday-Saturday: 9:00 a.m. to 5:00 p.m.

Portsmouth Public Library, Main Branch, 601 Court St., Portsmouth, VA 23704, (804) 393–8501. Monday-Thursday: 9:00 a.m to 9:00 p.m. Friday-Saturday: 9:00 a.m to 5:00 p.m.

Virginia Beach Central Library, 4100 Virginia Beach Blvd., Virginia Beach, VA 23452, (804) 431–3001. Monday-Thursday: 10:00 a.m. to 9:00 p.m. Friday-Saturday: 10:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m .to 5:00 p.m.

Puget Sound

Kitsap Regional Library, 1301 Sylvan Way, Bremerton, WA 98310, (206) 377–7601. Monday-Thursday: 9:30 a.m to 9:00 p.m. Friday-Saturday: 9:30 a.m to 5:30 p.m. Sunday: 12:30 p.m. to 5:30 p.m.

Kitsap Regional Library, Downtown Branch, 612 5th Ave., Bremerton, WA 98310, (206) 377–3955. Monday-Friday: 10:00 a.m. to 6:00 p.m.

Suzzallo Library, SM25, University of Washington Libraries, University of Washington, Seattle, WA 98185, (206) 543–9158. Monday-Thursday: 7:30 a.m. to 12:00 midnight. Friday: 7:30 a.m. to 6:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday 12:00 p.m. to 12:00 midnight.

Portsmouth Naval Shipyard

Rice Public Library, 8 Wentworth St., Kittery, ME 03904, (207) 439–1553. Monday-Wednesday, Friday: 10:00 a.m. to 5:00 p.m. Thursday: 10:00 a.m. to 8:00 p.m. Saturday: 10:00 a.m. to 4:00 p.m.

Portsmouth Public Library, 8 Islington St., Portsmouth, NH 03801, (804) 393–8501. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday-Saturday: 9:00 a.m. to 5:00 p.m.

Pearl Harbor

Aiea Public Library, 99–143 Monalua Rd., Aiea, HI 96701, (808) 488–2654. Monday, Thursday: 10:00 a.m. to 8:00 p.m. Tuesday, Wednesday, Friday. Saturday: 10:00 a.m. to 5:00 p.m.

Hawaii State Library, 478 S. King St., Honolulu, HI 96813, (808) 586–3535. Monday, Wednesday, Friday, Saturday: 9:00 a.m. to 5:00 p.m. Tuesday, Thursday: 9:00 a.m. to 8:00 p.m.

Pearl City Public Library, 1138 Waimano Home Rd., Pearl City, HI 96782, (808) 455–4134. Monday-Wednesday: 10:00 a.m. to 8:00 p.m. Thursday-Saturday: 10:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Pearl Harbor Naval Base Library, Code 90L, 1614 Makalapa Dr., Pearl Harbor, HI 96860–5350, (808) 471–8238. Tuesday-Thursday: 10:00 a.m. to 7:00 p.m. Friday-Saturday: 9:00 a.m. to 5:00 p.m.

Kesselring Site

Albany Public Library, Reference and Adult Services, 161 Washington Ave., Albany, NY 12210, (518) 449–3380. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday: 9:00 a.m to 6:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m.

Saratoga Springs Public Library, 320 Broadway, Saratoga Springs, NY 12866, Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday: 9:00 a.m. to 6:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Schenectady County Library, 99 Clinton St., Schenectady, NY 12305, (518) 388–4511. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday-Saturday: 9:00 a.m. to 5:00 p.m.

Other Information Locations

Main Library, University of Arizona, Tucson, AZ 85721, (602) 621–6433. School Hours: Sunday-Thursday: 8:00 a.m. to 1:00 a.m. Friday-Saturday: 9:00 a.m. to 5:00 p.m. Summer Hours: Monday-Thursday: 7:30 a.m. to 11:00 p.m. Friday: 7:30 a.m. to 6:00 p.m. Saturday: 10:00 a.m. to 8:00 p.m. Sunday: 12:00 noon to 11:00 p.m.

Main Library, University of California at Irvine, Government Publications Receiving Dock, Irvine, CA 92717, (714) 856–7290. School Hours: Monday-Thursday: 8:00 a.m. to 7:00 p.m. Friday: 8:00 a.m. to 5:00 p.m. Saturday-Sunday: 1:00 p.m. to 5:00 p.m. Summer Hours: Monday-Friday: 8:00 a.m. to 5:00 p.m. Saturday-Sunday: 1:00 p.m. to 5:00 p.m.

Pleasanton Public Library—Reference Desk, 400 Old Bernal Avenue, Pleasanton, CA 94566, (510) 462–3535. Monday, Tuesday: 1:00 p.m. to 8:00 p.m. Wednesday, Thursday: 10:00 a.m. to 6:00 p.m. Saturday: 2:00 p.m. to 6:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

San Diego Public Library, 820 ''E'' Street, San Diego, CA 92101, (619) 236–5867. Monday-Thursday: 10:00 a.m. to 9:00 p.m. Friday-Saturday: 9:30 a.m. to 5:30 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Denver Public Library, 1357 Broadway, Denver, CO 80203, (303) 640–8845. Monday-Wednesday: 10:00 a.m. to 9:00 p.m. Thursday-Saturday: 10:00 a.m. to 5:30 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

George A. Smathers Libraries, Library West, University of Florida Library, Room 241, P.O. Box 117001, Gainesville, FL 32611–7001, (904) 392–0367. Monday-Thursday: 8:00 a.m. to 9:30 p.m. Friday: 8:00 a.m. to 5:00 p.m. Sunday: 2:30 p.m. to 9:30 p.m.

Atlanta Public Library, 1 Margaret Mitchell Square, Atlanta, GA 30303, (404) 730–1700. Monday: 9:00 a.m. to 6:00 p.m. Tuesday-Thursday: 9:00 a.m. to 8:00 p.m. Friday: 9:00 a.m. to 5:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m.

Reese Library, Augusta College, 2500 Walton Way, Augusta, GA 30904–2200, (706) 737–1744. School Hours: Monday-Thursday: 7:45 a.m. to 10:30 p.m. Friday: 7:45 a.m. to 5:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:30 p.m. to 9:30 p.m. Summer Hours: Monday-Friday: 8:00 a.m. to 5:00 p.m.

Chatham-Effingham-Liberty Regional Library, 2002 Bull Street, Savannah, GA 31401, (912) 234–5127. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday: 9:00 a.m. to 6:00 p.m. Saturday: 10:00 a.m. to 6:00 p.m.

Parks Library, Iowa State University, Government Publications Department, Ames, IA 50011–2140, (515) 294–3642. School Hours: Monday-Thursday: 7:30 a.m. to 12:00 midnight, Friday: 7:30 a.m. to 10:00 p.m. Saturday: 10:00 a.m. to 10:00 p.m. Sunday: 12:30 p.m. to 12:00 midnight. Summer Hours: Monday-Thursday: 7:30 a.m. to 10:00 p.m. Friday: 7:30 a.m. to 5:00 p.m. Saturday: 12:30 p.m. to 5:00 p.m. Sunday: 12:30 p.m. to 10:00 p.m.

Boise Public Library, 715 South Capitol Boulevard, Boise, ID 83702, (208) 384–4023. Monday, Friday: 10:00 a.m. to 6:00 p.m. Tuesday-Thursday: 10:00 a.m. to 9:00 p.m. Saturday: 1:00 p.m. to 5:00 p.m.

Idaho Department of Health and Welfare, Idaho National Engineering Laboratory, Oversight Program Library, 1410 North Hilton, Boise, ID 83706, (208) 334–0498. Monday-Friday: 8:00 a.m. to 5:00 p.m.

Idaho State Library, 325 West State Street, Boise, ID 83702, (208) 334–2152. Monday-Friday: 9:00 a.m. to 5:00 p.m.

Shoshone-Bannock Library, Bannock and Pima Streets, HRDC Building, Fort Hall, ID 83203, (208) 238–3882. Monday-Friday: 8:00 a.m. to 4:30 p.m.

Idaho Falls Public Library, 457 Broadway, Idaho Falls, ID 83402, (208) 529–1462. Monday-Thursday: 8:00 a.m. to 7:00 p.m, Friday: 8:00 a.m. to 5:00 p.m. Saturday: 9:00 a.m. to 1:00 p.m.

University of Idaho Library, Rayburn Street, Moscow, ID 83844–2353, (208) 885–6344. Monday-Friday: 8:00 a.m. to 12:00 midnight. Saturday: 9:00 a.m. to 12:00 midnight. Sunday: 10:00 a.m. to 12:00 midnight.

Pocatello Public Library, 812 East Clark Street, Pocatello, ID 83201, (208) 232–1263. Monday-Thursday: 10:00 a.m. to 9:00 p.m. Friday-Saturday: 10:00 a.m. to 6:00 p.m.

Twin Falls Public Library, 434 Second Street East, Twin Falls, ID 83301, (208) 733–2964. Monday-Thursday: 10:00 a.m. to 6:00 p.m. Friday: 10:00 a.m. to 5:00 p.m. Saturday: 12:00 noon to 5:00 p.m.

Main Library, Third Floor, University of Illinois, 801 South Morgan, Mail Code 234, Chicago, IL 60607, (312) 413–2594. Monday-Thursday: 7:30 a.m. to 10:00 p.m. Friday: 7:30 a.m. to 5:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 9:00 p.m.

Documents Library, 200–D, University of Illinois, 1408 W. Gregory Drive, Urbana, IL 61801, (217) 244–2060. School Hours: Monday-Thursday: 8:00 a.m. to 12:00 midnight. Friday: 8:00 a.m. to 6:00 p.m. Saturday: 9:00 a.m. to 6:00 p.m. Sunday: 1:00 p.m. to 12:00 midnight. Summer Hours: Monday-Thursday: 8:00 a.m. to 9:00 p.m. Friday: 8:00 a.m. to 6:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Engineering Library, Purdue University, West Lafayette, IN 47907, (317) 494–2871. School Hours: Monday-Friday: 8:00 a.m. to 12:00 midnight. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 12:00 noon to 12:00 midnight. Summer Hours: Monday-Friday: 8:00 a.m. to 8:00 p.m.

Manhattan Public Library, Julliette and Poyntz, Manhattan, KS 66502, (913) 776–4741. Monday-Friday: 9:00 a.m. to 9:00 p.m. Saturday: 9:00 a.m. to 6:00 p.m. Sunday: 2:00 p.m. to 6:00 p.m.

Massachusetts Institute of Technology, Science Library, 160 Memorial Drive Building 14, Cambridge, MA 02139, (617) 253–5685. Monday-Thursday: 8:00 a.m. to 12:00 midnight. Friday, Saturday: 8:00 a.m. to 8:00 p.m. Sunday: 12:00 noon to 12:00 midnight.

O'Leary Library, University of Massachusetts, 1 University Ave, Lowell, MA 01854, (508) 934–3205. School Hours: Monday-Thursday: 7:30 a.m. to 11:00 p.m. Friday: 7:30 a.m. to 5:00 p.m. Saturday: 10:00 a.m. to 6:00 p.m. Summer Hours: Monday-Friday: 8:30 a.m. to 9:00 p.m Sunday: 2:00 p.m. to 7:00 p.m.

Worcester Public Library, 3 Salem Square, Worchester, MA 01608, (508) 799–1655. Monday, Wednesday: 12:00 noon to 9:00 p.m. Tuesday: 10:00 a.m. to 9:00 p.m. Thursday-Saturday: 10:00 a.m. to 5:30 p.m.

Bethesda Public Library, 7400 Arlington Road, Bethesda, MD 20814, (301) 986–4300. Monday-Thursday: 10:00 a.m. to 8:30 p.m. Friday: 10:00 a.m. to 5:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Gaithersburg Regional Library, 18330 Montgomery Village Avenue, Gaithersburg, MD 20879, (301) 840–

15. Monday-Thursday: 10:00 a.m. to 8:30 p.m. Friday: 10:00 a.m. to 5:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Hyattsville Public Library, 6530 Adelphi Road, Hyattsville, MD 20782, (301) 779–9330. Monday-Thursday: 10:00 a.m. to 9:00 p.m. Friday: 10:00 a.m. to 6:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Ann Arbor Public Library, 343 South 5th Avenue, Ann Arbor, MI 48104, (313) 994–2333. Monday: 10:00 a.m. to 9:00 p.m. Tuesday-Friday: 9:00 a.m. to 9:00 p.m. Saturday: 9:00 a.m. to 6:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Zanhow Library, Saginaw Valley State University, 7400 Bay Road, University Center, MI 48710, (517) 790–4240. School Hours: Monday-Thursday: 8:00 a.m. to 11:00 p.m. Friday: 8:00 a.m. to 4:30 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 9:00 p.m. Summer Hours: Monday-Thursday: 8:00 a.m. to 10:30 p.m. Friday: 8:00 a.m. to 4:30 p.m. Saturday: 10:00 a.m. to 2:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Ellis Library, University of Missouri, Columbia, MO 65201, (314) 882–0748. School Hours: Monday-Thursday: 7:30 a.m. to 12:00 midnight. Friday: 7:30 a.m. to 11:00 p.m. Saturday: 9:00 a.m. to 9:00 p.m. Sunday: 12:00 noon 1:00 a.m. Summer Hours: Monday, Thursday: 8:00 a.m. to 8:00 p.m. Tuesday, Wednesday, Friday: 8:00 a.m. to 5:00 p.m. Saturday: 12:00 noon to 5:00 p.m.

Curtis Laws Wilson Library, University of Missouri Library, Rolla, MO 65401–0249, (314) 341–4227. School Hours: Monday-Thursday: 8:00 a.m. to 12:00 midnight. Friday: 8:00 a.m. to 10:30 p.m. Saturday: 8:00 a.m. to 5:00 p.m. Sunday: 2:00 p.m. to 12:00 midnight. Summer Hours: Monday-Friday: 8:00 a.m. to 10:00 p.m. Saturday: 8:00 a.m. to 5:00 p.m. Sunday: 2:00 p.m. to 10:00 p.m.

D.H. Hill Library, North Carolina State University, P.O. Box 7111, Raleigh, NC 27695–7111, (919) 515–3364. School Hours: Monday-Thursday: 7:00 a.m. to 1:00 a.m. Friday: 7:00 a.m. to 6:00 p.m. Saturday: 9:30 a.m. to 5:30 p.m. Sunday: 1:00 p.m. to 1:00 a.m. Summer Hours: Monday-Thursday: 7:00 a.m. to 11:00 p.m. Friday: 7:00 a.m. to 6:00 p.m. Saturday: 9:30 a.m. to 5:30 p.m. Sunday: 1:00 p.m. to 11:00 p.m.

Omaha Public Library, 215 S. 15th Street, Omaha, NE 68102, (402) 444–4800. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday, Saturday: 9:00 a.m. to 5:30 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

General Library, University of New Mexico, Albuquerque, NM 87131–1466, (505) 277–5441. School Hours: Monday-Thursday: 8:00 a.m. to 9:00 p.m. Friday: 8:00 a.m. to 5:00 p.m. Saturday: 1:00 p.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m. Summer Hours: Monday-Friday: 8:00 a.m. to 6:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m.

Lockwood Library, State University of New York-Buffalo, Buffalo, NY 14260–2200, (716) 645–2816. School Year: Monday-Thursday: 8:00 a.m. to 10:45 p.m. Friday: 8:00 a.m. to 9:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 10:45 p.m. Summer Hours: Monday, Wednesday, Thursday, Friday: 9:00 a.m. to 6:00 p.m. Tuesday: 9:00 a.m. to 10:00 p.m. Sunday: 1:00 p.m. to 9:00 p.m.

Engineering Library, Cornell University, Carpenter Hall, Main Floor, Ithaca, NY 14853, (607) 255–5762. School Hours: Monday-Thursday: 8:00 a.m. to 11:00 p.m. Friday: 8:00 a.m. to 6:00 p.m. Saturday: 10:00 a.m. to 6:00 p.m. Sunday: 12:00 p.m. to 11:00 p.m. Summer Hours: Monday-Friday: 8:00 a.m. to 6:00 p.m. Saturday: 12:00 p.m. to 6:00 p.m.

Cardinal Hayes Library, Manhattan College, 4531 Manhattan College Parkway, Riverdale, NY 10471, (718) 920–0100. School Hours: Monday-Thursday: 8:00 a.m. to 11:00 p.m. Friday: 8:00 a.m. to 6:30 p.m. Saturday: 10:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 11:00 p.m. Summer Hours: Monday-Friday: 8:30 a.m. to 6:30 p.m.

Brookhaven National Laboratory, 25 Brookhaven Avenue, Building 477 A, P.O. Box 5000, Upton, NY 11973–5000, (516) 282–3489. Monday-Friday 8:30 a.m. to 9:00 p.m. Saturday-Sunday: 10:00 a.m. to 6:00 p.m.

Columbus Metropolitan Library, 96 South Grant Avenue, Columbus, OH 43215, (614) 645–2710. Monday-Thursday: 9:00 a.m. to 9:00 p.m. Friday-Saturday: 9:00 a.m. to 6:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Kerr Library, Oregon State University, Corvallis, OR 97331–4905, (503) 737–0123. Monday-Friday: 7:45 a.m. to 2:00 a.m. Saturday-Sunday: 10:00 a.m. to 2:00 a.m. Summer Hours: Monday-Friday: 7:45 a.m. to 9:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m., Sunday: 10:00 a.m. to 9:00 p.m.

Brantford Price Millar Library, Portland State University, 934 S.W. Harrison, Portland, OR 97201, (503) 725–4617. Monday-Friday: 8:00 a.m. to 10:00 p.m. Saturday: 10:00 a.m. to 10:00 p.m. Sunday: 11:00 a.m. to 10:00 p.m.

Pattee Library, Pennsylvania State University, University Park, PA 16801, (814) 865–2112. School Hours: Monday-Thursday: 8:00 a.m. to 12:00 midnight. Friday: 8:00 a.m. to 10:00 p.m. Saturday: 8:00 a.m. to 9:00 p.m. Sunday: 1:00 p.m. to 12:00 midnight. Summer Hours: Monday-Thursday: 7:45 a.m. to 10:00 p.m. Friday: 7:45 a.m. to 9:00 p.m. Saturday: 8:00 a.m. to 9:00 p.m. Sunday: 1:00 p.m. to 10:00 p.m.

Narragansett Public Library, 35 Kingston Road, Narragansett, RI 02882, (401) 789–9507. Monday: 10:00 a.m. to 9:00 p.m. Tuesday-Friday: 10:00 a.m. to 6:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m. (Saturday hours September to May only).

Charleston County Main Library, 404 King Street, Charleston, SC 29403, (803) 723–1645. Monday-Thursday: 9:30 a.m. to 9:00 p.m. Friday-Saturday: 9:30 a.m. to 6:00 p.m. Sunday: 2:00 p.m. to 6:00 p.m.

South Carolina State Library, 1500 Senate Street, Columbia, SC 29201, (803) 734–8666. Monday-Friday: 8:15 a.m. to 5:30 p.m. Saturday: 9:00 a.m. to 1:00 p.m.

Clinton Public Library, 118 South Hicks Street, Clinton, TN 37716, (615) 457–0519. Monday, Thursday: 10:00 a.m. to 8:00 p.m. Tuesday, Wednesday, Friday, Saturday: 10:00 a.m. to 5:00 p.m.

Harriman Public Library, 601 Walden Street, Harriman, TN 37748, (615) 882–3195. Monday-Thursday: 9:00 a.m. to 5:00 p.m. Friday-Saturday: 9:00 a.m. to 1:00 p.m.

Kingston Public Library, 1000 Bradford Way Building #3, Kingston, TN 37763, (615) 376–9905. Monday, Thursday: 10:00 a.m. to 7:30 p.m. Tuesday, Wednesday, Friday: 10:00 a.m. to 5:30 p.m. Saturday: 10:00 a.m. to 2:00 p.m.

Lawson McGhee Public Library, 500 West Church Avenue, Knoxville, TN 37902, (615) 544–5750. Monday-Thursday: 9:00 a.m. to 8:30 p.m. Friday: 9:00 a.m. to 5:30 p.m. Saturday-Sunday: 1:00 p.m. to 5:00 p.m.

Oak Ridge Public Library, Civic Center, Oak Ridge, TN 37830, (615) 482–8455. Monday-Thursday: 10:00 a.m. to 9:00 p.m. Friday: 10:00 a.m. to 6:00 p.m. Saturday: 9:00 a.m. to 6:00 p.m. Sunday: 2:00 p.m. to 6:00 p.m.

Oliver Springs Public Library, 607 Easterbrook Avenue, Oliver Springs, TN 37840, (615) 435–2509. Tuesday-Thursday: 2:00 p.m. to 4:00 p.m. Saturday: 9:00 a.m. to 12:00 midnight.

Rockwood Public Library, 117 North Front Avenue, Rockwood, TN 37854, (615) 354–1281. Monday, Wednesday, Friday, Saturday: 10:00 a.m. to 5:00 p.m. Tuesday, Thursday: 10:00 a.m. to 8:00 p.m.

General Library, University of Texas, PCL 2.402X, Austin, TX 78713, (512) 495–4262. School Hours: Monday-Friday: 8:00 a.m. to 2:00 a.m. Saturday: 9:00 a.m. to 2:00 a.m. Sunday: 12:00 p.m. to 2:00 a.m. Summer Hours: Monday-Friday: 8:00 a.m. to 10:00 p.m. Saturday: 9:00 a.m. to 10:00 p.m. Sunday: 12:00 noon to 10:00 p.m.

Evans Library, Texas A&M University, MS 5000, College Station, TX 77843–5000, (409) 845–8850. School Hours: Monday-Thursday: 7:00 a.m. to 12:00 midnight. Friday: 7:00 a.m. to 10:00 p.m. Saturday: 9:00 a.m. to 10:00 p.m. Sunday: 12:00 noon to 10:00 p.m. Summer Hours: Monday-Thursday: 7:00 a.m. to 11:00 p.m. Friday: 7:00 a.m. to 7:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 11:00 p.m.

Marriott Library, University of Utah, Salt Lake City, UT 84112, (801) 581–8394. School Hours: Monday-Thursday: 7:00 a.m. to 11:00 p.m. Friday: 7:00 a.m. to 5:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 11:00 a.m. to 9:00 p.m. Summer Hours: Monday-Thursday: 7:00 a.m. to 10:00 p.m. Friday: 7:00 a.m. to 5:00 p.m. Saturday: 9:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Alderman Library, University of Virginia, Charlottesville, VA 22903–2498, (804) 924–3133. School Hours: Monday-Thursday: 8:00 a.m. to 12:00 midnight. Friday: 8:00 a.m. to 6:00 p.m. Saturday: 9:00 a.m. to 6:00 p.m. Sunday: 12:00 p.m. to 12:00 midnight. Summer Hours: Monday-Thursday: 8:00 a.m. to 10:00 p.m. Friday: 8:00 a.m. to 6:00 p.m. Saturday: 9:00 a.m. to 6:00 p.m. Sunday: 2:00 p.m. to 10:00 p.m.

Owen Science & Engineering Library, Washington State University, Pullman, WA 99164–3200, (509) 335–4181. School Hours: Monday-Thursday: 8:00 a.m. to 11:00 p.m. Friday: 8:00 a.m. to 9:00 p.m. Saturday: 12:00 noon to 9:00 p.m. Sunday: 12:00 noon to 11:00 p.m. Summer Hours: Monday, Thursday: 7:30 a.m. to 11:00 p.m. Tuesday, Wednesday, Friday: 7:30 a.m. to

6:00 p.m. Saturday-Sunday: 12:00 noon to 6:00 p.m.

Foley Center, Gonzaga University, East 502 Boone Avenue, Spokane, WA 99258, (509) 328–4220, extension 3125. School Hours: Monday-Thursday: 8:00 a.m. to 12:00 midnight, Friday-Saturday: 8:00 a.m. to 9:00 p.m. Sunday: 11:00 a.m. to 12:00 midnight. Summer Hours: Monday-Friday: 8:00 a.m. to 9:00 p.m., Saturday: 10:00 a.m. to 6:00 p.m. Sunday: 1:00 p.m. to 7:00 p.m.

Madison Public Library, 201 W. Mifflin Street, Madison, WI 53703, (608) 266–6350. Monday-Wednesday: 8:30 a.m. to 9:00 p.m. Thursday-Friday: 8:30 a.m. to 5:30 p.m. Saturday: 9:00 a.m. to 5:30 p.m.

Teton County Public Library, 320 South King Street, Jackson, WY 83001, (307) 733–2164. Monday, Wednesday, Friday: 10:00 a.m. to 5:30 p.m. Tuesday, Thursday: 10:00 a.m. to 9:00 p.m. Saturday: 10:00 a.m. to 5:00 p.m. Sunday: 1:00 p.m. to 5:00 p.m.

Issued in Washington, DC, on April 18, 1995.

Jill E. Lytle,

Deputy Assistant Secretary for Waste Management, Environmental Management.

[FR Doc. 95–10514 Filed 4–27–95; 8:45 am]

BILLING CODE 6450–01–P

Notice of Floodplain Involvement for Casey's Pond Improvement Project at Fermi National Accelerator Laboratory, Batavia, IL

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of floodplain involvement.

SUMMARY: DOE proposes to construct a six acre cooling pond in a floodplain located in DuPage County, Illinois. Approximately 15% of the new pond would be within the 100-year floodplain of Kress Creek on the Fermi National Accelerator Laboratory (Fermilab) site. In accordance with DOE Regulations for Compliance with Floodplains/Wetlands Environmental Review Requirements (10 CFR Part 1022), DOE will prepare a floodplain assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain.

DATES: Comments are due to the address below no later than May 15, 1995.

ADDRESSES: Comments should be addressed to Andrew E. Mravca, Area Manager, Batavia Area Office, U.S. Department of Energy, P.O. Box 2000, Batavia, Illinois 60510.

FOR FURTHER INFORMATION ON THIS PROPOSED ACTION, CONTACT: Andrew E. Mravca, Area Manager, Batavia Area Office, U.S. Department of Energy, P.O. Box 2000, Batavia, Illinois 60510, Phone: (708) 840–3281, FAX: (708) 840–3285.

FOR FURTHER INFORMATION ON GENERAL DOE FLOODPLAIN ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT: Dr. W. Sedgefield White, Chicago Operations Office, U.S. Department of Energy, 9800 South Cass Avenue, Argonne, Illinois 60439, Phone: (708) 252–2101, FAX: (708) 252–2835.

SUPPLEMENTARY INFORMATION: The proposed action would consist of two parts. The first would be to add a six acre pond to an existing system of surface waters including ponds and ditches to provide needed additional cooling capacity. The second would be to install a transfer pipe and pumphouse to connect Casey's Pond to the existing surface water storage system to provide more efficient use of surface water storage capacity. The cooling water from the existing system is used primarily to cool heat exchangers located within the fixed target experimental complex at Fermilab. The additional cooling capacity and effective use of storage capacity is needed to avoid inefficiency and potential system shutdowns due to overheating. The added cooling would also help to avert unacceptable thermal discharges to Kress Creek. The new pond also would provide increased storage capacity for fire protection systems. Consultation with the Illinois Environmental Protection Agency and the Illinois Department of Transportation has been initiated to obtain the required permits.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR Part 1022), DOE will prepare a floodplain assessment for this proposed DOE action.

The assessment will be included in the Environmental Assessment (EA) prepared for the proposed project in accordance with the requirements of the National Environmental Policy Act. Should the evaluation of environmental impacts in the EA support a finding of no significant impact (FONSI), the floodplain statement of finding shall be included. In the event an environmental impact statement (EIS) is needed, the floodplain statement will be contained in the record of decision (ROD).

Issued in Argonne, Illinois, this 12th day of April 1995.

Cherri J. Langenfeld,

Manager, Chicago Operations Office.

[FR Doc. 95–10515 Filed 4–27–95; 8:45 am]

BILLING CODE 6450–01–P

Chicago Operations Office, Federal Assistance Solicitation for Cooperative Agreement Proposals

AGENCY: U.S. Department of Energy.

ACTION: Notice of availability of a Federal assistance solicitation for cooperative agreement proposals.

SUMMARY: The U.S. Department of Energy (DOE) pursuant to the DOE Financial Assistance Rule 10 CFR 600.9, announces the availability of a solicitation, FASCAP No. DE–SC02–95CE41122. for the Industrial Heating Equipment Research Program. This notice supersedes Federal Register Publication dated February 7, 1995, (60 FR 7178).

FOR FURTHER INFORMATION CONTACT: Cynthia Anderson, U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439, (708) 252–2844.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy (DOE) plans to issue a Federal Assistance Solicitation for Cooperative Agreement Proposals (FASCAP), April 21, 1995 for the Industrial Heating Equipment Research Program. The program has the following objectives: (1) To improve industrial energy use efficiency and productivity in heating and combustion for process heat by at least 20%; (2) to improve and increase the use of waste-source fuels; (3) to reduce the national environmental impacts of industrial wastes that results from less efficient production and delivery of process heat; and (4) to lower the industrial production costs and improve the competitive position of U.S. industry relative to foreign-based industry.

The areas of interest of the Solicitation are centered on four main targeted areas that economically conserve energy while minimizing or reducing waste materials. They are (1) optimization of heat transfer to furnace loads, (2) development of adjustable co-fired combustors/combustion chambers for converting industrial waste to process heat or electric power, (3) development of low-cost combustion controls for improving efficiency of multi-burner boilers and industrial furnaces, and (4) high temperature (Order of 2000 degrees F) particulate removal system for application to solid-fueled gas turbines. The Solicitation will apply to any or all of the DOE Industries of the Future, which are high consumers of heating fuel. These industries presently include petroleum, chemicals, pulp/paper, aluminum, glass and steel. Initial funding will favor proposals that apply to the glass industry, and to more than one of the

Industries of the Future. Broader coverage, which includes glass, is most desirable. Applicants must demonstrate that the proposed technology can economically accomplish more energy efficient and environmentally acceptable production, that the proposed technology if implemented, can result in 20 percent energy efficiency, and that DOE funding is necessary for development and ultimate commercialization of the proposed technology.

Each project will consist of up to three phases: Phase I, R&D Definition; Phase II, Development; and Phase II, Demonstration Testing and Commercialization Planning. If any of the Phase I work has already been performed, the applicant may propose a project for only the uncompleted Phase I work and the remaining Phases; however, the proposal must fully document and demonstrate that the previous work has been successfully completed. The estimated DOE funding for Phase I is $725,000 (to be spent in GFYs 1995 and 1996). A minimum of 20 percent cost sharing (non-federal) is required for Phase I. Cost sharing for Phase II and Phase III will be in accordance with the Energy Policy Act (EPACT), P.L. 102–486, 42 U.S.C. 13525. The resultant agreement will be managed by the DOE, Chicago Operations Office. The period of performance may vary, depending on the project, from one to six years. Proposals will be due by June 1, 1995. If you are interested in receiving the FASCAP, contact Cynthia Anderson at the above address or (708) 252–2844. All responsible sources may submit a proposal which will be considered.

The Solicitation is subject to the Energy Policy Act, P.L. 102–486, 42 U.S.C. 13525. Section 2306 imposes eligibility requirements on companies seeking financial assistance under Titles XX through XXIII of the Act. A company shall be eligible to receive financial assistance under Titles XX through XXIII of the Act only if the Secretary finds that the company's participation in any program under such titles would be in the economic interest of the United States, as evidence by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions of employment in the United States; an agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers.

Issued in Chicago, Illinois on April 12, 1995.

Timothy S. Crawford,

Assistant Manager for Human Resources and Administration.

[FR Doc. 95–10516 Filed 4–27–95; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act. The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed on or before May 30, 1995. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place N.W., Washington, D.C. 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Jay Casselberry, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Mr. Casselberry may be telephoned at (202) 254–5348.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Energy Information Administration
2. EIA–871A/F
3. 1905–0145
4. Commercial Buildings Energy Consumption Survey (CBECS)
5. Revision
6. Triennially
7. Voluntary
8. Business or other for-profit; State, Local, or Tribal Government
9. 7448 respondents
10. .333 responses annually
11. 1.275 hours per response
12. 3,167 hours respondent burden
13. EIA–871A/F collects data on energy consumption by commercial buildings and the characteristics of these buildings. The surveys fulfill planning, analyses and decision-making needs of DOE, other Federal agencies, State governments, and the private sector. Respondents are owners/managers of selected commercial buildings and their energy suppliers.

Statutory Authority: Sec. 2(a) of the Paperwork Reduction Act of 1980, (Pub. L. No. 96–511), which amended Chapter 35 of Title 44 United States Code (See 44 U.S.C. § 3506(a) and (c)(1).

Issued in Washington DC, April 24, 1995.

Yvonne M. Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 95–10518 Filed 4–27–95; 8:45 am]

BILLING CODE 6450–01–P

Solicitation of Comments on Proposed Changes to Collection of Monthly Electricity Generation Data; Notice

SUMMARY: The Energy Information Administration (EIA) proposes to revise the scope of its monthly data collections

to conduct an integrated survey of both electric utilities and nonutility power producers. This would only affect the Form EIA–759, ''Monthly Power Plant Report.'' EIA's objective is to publish monthly summary statistics for both utilities and nonutilities in 1996 including net generation by prime mover and fuel type, fuel consumption, and end-of-the-month fuel stocks.

EIA is currently evaluating the two proposed alternatives described in this notice for the collection of monthly generation, fuel consumption, and fuel stocks from utilities and nonutilities.

DATES: Written comments must be submitted by no later than May 30, 1995. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Howard L. Walton, Director of the Coal and Electric Data and Renewables Division (EI–52), Office of Coal, Nuclear, Electric and Alternative Fuels, 1000 Independence Avenue, S.W., Washington, DC 20585. Alternatively, Mr. Walton can be reached at HWALTON@EIA.DOE.GOV (Internet E-mail), 202–254–6234 or 5765 (fax), or 202–254–5500 (voice).

FOR FURTHER INFORMATION: Requests for additional information or copies of EIA forms and instructions should be directed to Dean A. Fennell at DFENNELL@EIA.DOE.GOV (Internet E-mail) or 202–254–5660 (voice).

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

Created by Congress in 1977 as an independent entity within the Department of Energy, the Energy Information Administration (EIA) is the principal and authoritative source of comprehensive energy data for the Congress, the Federal government, the States, and the public. With the mandate to ''collect, assemble, evaluate, analyze, and disseminate data and information,'' EIA's mission is to:

- Maintain a comprehensive data and information program relevant to energy resources and reserves, energy production, energy demand, energy technologies, and related financial and statistical information relevant to the adequacy of energy resources to meet the Nation's demands in the near and longer term future; and
- Develop and maintain analytical tools and collection and processing systems; provide analyses that are accurate, timely, and objective; and provide information dissemination services.

The legal authority for EIA's collection of electric power data is provided by Sections 5(a), 5(b), 13(b), and 52 of the Federal Energy Administration Act of 1974 as amended, Public Law 93–275.

EIA's electric power data and analyses have been used extensively in the development and evaluation of today's Federal policies and regulations regarding the electric power industry. Continued support to the Department, the Federal Energy Regulatory Commission (FERC), the Congress, and the industry is dependent upon EIA's ability to collect and disseminate relevant information about the industry during its transition from a tightly regulated, cost-of service utility industry to an open access, competitively priced power industry.

EIA periodically reviews data requirements and survey instruments to determine if information system enhancements are necessary due to changing environments. EIA recently initiated an overall evaluation of its electric power data systems. Results of this effort will, among other things, identify improvements to survey forms, respondent mailing lists, automated data processing methodologies, publication formats, and electronic dissemination methods. As currently scheduled, revised electric power forms will be published in the Federal Register for public comments in late Spring of 1995. When approved by the Office of Management and Budget (OMB), these revised forms will be mailed to electric power respondents—utilities and nonutilities—in late 1995 and early 1996.

EIA's electric power data requirements review was started in late 1994, and consists of (1) reviewing what electric power data are currently collected by EIA and other Federal agencies, (2) identifying those data that are needed by the Department of Energy, other Federal departments, and the public to monitor the electric power industry, (3) evaluating how well current information systems satisfy identified requirements, and (4) proposing better ways of collecting and disseminating electric power data. Primary objectives of the requirements review are to ensure that data user requirements are being met to the extent practicable, ensuring that data are not being collected unless needed, and minimizing respondent burden.

As part of the requirements review, EIA has interviewed about 30 Federal offices that use EIA electric power information and made site visits to 15 utilities and nonutilities providing electric power data to EIA. EIA also conducted a workshop on November 2, 1994 at the conclusion of the first Department of Energy—National Association of Regulatory Utility Commissioners (DOE-NARUC) National Electricity Forum held in Washington, D.C. A similar workshop is scheduled for April 21, 1995 at the second DOE-NARUC Forum to be held in Providence, Rhode Island. Additionally, EIA and the North American Electric Reliability Council (NERC) have formed a data coordination task force to streamline the collection of electric power reliability data.

One of the earliest findings of the requirements review was that monthly electricity production statistics published by EIA are incomplete. Generation and fuel consumption data are currently collected from nonutility power producers only annually so that EIA monthly electric statistics systematically understate U.S. electricity production by about 10 percent. This situation is expected to grow worse in the future as the electric power industry becomes more competitive and its composition more diverse. The primary EIA publications that contain monthly electric power information are the Electric Power Monthly (EPM), the Monthly Energy Review (MER), and the Short-Term Energy Outlook (quarterly data).

The Form EIA–759 is a monthly census of all operators of electric utility power plants and is used to collect monthly data on net generation by prime mover and fuel-type combination; consumption of coal, petroleum, and natural gas; and end-of-the-month stocks of coal and petroleum for each plant. Summary statistics from the Form EIA–759 are published in EIA's Electric Power Monthly (EPM), Electric Power Annual (EPA), Monthly Energy Review (MER), and the Annual Energy Review (AER). These reports present aggregated data for electric utilities at the U.S., Census division levels and NERC levels.

Prior to 1935, the Bureau of the Census and the U.S. Geological Survey collected, compiled, and published data on the electric power industry. In 1936, the Federal Power Commission (FPC) assumed all data collection and publication responsibilities for the electric power industry and implemented the FPC Form 4, ''Monthly Power Plant Report.'' The Federal Power Act, Sections 311 and 312, and FPC Order 141 define the legislative authority to collect power production data. The Form EIA–759 replaced the

FPC Form 4 in January 1982. EIA's collection authority for the Form EIA–759 is provided by the Federal Energy Administration Act of 1974 (Public Law 93–275), sections 5(a), 5(b), 13(b), and 52.

Prior to 1980, the FPC Form 4 collected monthly data from all U.S. electric power plants operated by utilities and about 250 industrial power plants of 10 megawatts or more. In this timeframe, nonutilities consisted primarily of industrial manufacturers that produced electricity mainly for internal consumption. Due to the decreasing importance of nonutility generation, collection of monthly generation, fuel consumption, and fuel stocks from industrial power plants was discontinued in January 1981.

The role of nonutility power producers in the Nation's electricity supply has grown significantly since 1981 and reflects the emerging competition within the wholesale electric power markets. The near monopoly of electric generation by regulated electric utilities has ended, as many new industry participants generate and sell electric power to electric utilities, thus changing long-established institutional relationships. In 1993, net generation by nonutilities was over 300 billion kilowatthours (kWh) or about 10 percent of the total 3,200 billion kWh generated in the United States. The outlook is for greater participation by nonutility power producers in wholesale power supply.

The changing roles and relationships between utilities and nonutilities in the Nation's electric power industry prompted EIA to reinstitute data collection from nonutilities in 1989. The Form EIA–867, ''Annual Nonutility Power Producer Report,'' was implemented to collect generation, fuel consumption, and other electricity-related data from nonutility power plants with a generating capacity of 1 megawatt or more. Data reported on the mandatory Form EIA–867 are considered confidential and summary statistics published by EIA from the Form EIA–867 are aggregated in a way to protect the confidentiality of individual respondents. Data reported on the Form EIA–759 are not confidential.

II. Current Actions

To overcome the lack of monthly data from nonutilities—generation, fuel consumption, and fuel stocks—EIA is considering two data collection alternatives.

Alternative 1—Electric Control Area Reporting

The first alternative is to acquire monthly electronic data from U.S. electric control area operators. A control area is an electric power system or combination of electric power systems to which a common automatic generation control scheme is applied in order to: (1) Match, at all times, the power output of the generators within the electric power system(s) and capacity and energy purchased from entities outside the electric power system(s), with the load within the electric power system(s); (2) maintain scheduled interchange with other Control Areas; (3) maintain the frequency of the electric power system(s) within reasonable limits; and (4) provide sufficient generating capacity to maintain operating reserves. There are about 150 electric control areas operating in the United States each with a unique computer and telecommunication system for monitoring and controlling the generators and external interconnections in its area. Typically, remote meter readings are electronically transmitted every few seconds or minutes to the electric control area computers so that system performance can be continuously assessed and controlled.

The real-time data acquired and maintained by electric control area operators represents a potential new data source for EIA's monthly electric power statistics. Instead of surveying thousands of power plants each month, this alternative envisions electric control area operators providing electronic summaries of operational data for generators and power plants each month. Under this reporting scheme, real-time data for utility and nonutility generators (or plants) would be aggregated each month and transmitted electronically to EIA. Data file transfer could be accomplished using Internet, commercial E-mail systems, or modem-to-modem communication protocols. EIA would develop one or more standard formats that electric control area operators could use for the monthly filings.

If this alternative is technically feasible and will significantly reduce monthly respondent burden, implementation could begin in 1996. EIA would continue to use the Form EIA–759 until electric control area operators are filing monthly and the data have been validated for consistency. Implementation activities would include developing standard file formats, establishing electronic communication procedures, ensuring the completeness and accuracy of data to be submitted, and working with respondents to overcome any technical challenges. EIA would consider conducting 1-day regional workshops for electric control area personnel to coordinate and facilitate the implementation of this alternative. There would be a phase-in period in which the Form EIA–759 could be used for any power plants not monitored by electric control area operators.

Alternative 2—Form EIA–759 Sample

The second alternative is to revise the coverage of the current Form EIA–759 and sample both utilities and nonutility power producers. Nonutilities would receive the Form EIA–759 by mail and be required to report monthly generation provided to the electric grid by each prime mover and fuel combination, fuel consumption by each prime mover, and end-of-month fuel stocks. Current procedures of preprinting static administrative information on the form would be continued to help respondents complete their submissions by the 10th working day of the month following the reporting month.

If monthly electric power data collection is extended to nonutility power producers, the EIA–759 survey methodology would be changed from a census of utility power plants to a statistical sample of utility and nonutility power plants. EIA has determined that a sample of approximately 1,700 power plants would provide sufficient data to accurately estimate U.S. and NERC region monthly electricity generation by fuel type, fuel consumption, and end-of-the-month fuel stocks. Implementation of this sampling methodology means that State and company-level information will no longer be available on a monthly basis. Monthly estimates of net generation aggregated by calendar year would be verified against annual electric power data collected by EIA (e.g., Forms EIA–861 and EIA–867) to ensure the accuracy of statistical estimates. There are about 5,100 power plants of 1 megawatt and greater in the United States—3,000 operated by electric utilities and 2,100 operated by nonutility power producers.

Implementation of this alternative would start with the January 1996 reporting period. Implementation activities would primarily consist of combining the utility and nonutility universes of power plants and selecting a statistical sample of about one-third of all power plants. EIA would work with all new Form EIA–759 respondents to

ensure that the forms are completed accurately and filed on time.

III. Request for Comments

Prospective respondents and other interested parties are requested to comment on the alternatives described above and to prepare modifications or refinements deemed useful. The following general questions provide a framework for the preparation of responses and will be used by EIA in its evaluation of the two alternatives.

For electric control area operators:

1. Do electric control area operators telemeter each utility and nonutility generators 10 megawatts and over? Is output from generators under 10 megawatts telemetered by individual unit or aggregated by type of unit at each power plant? Are power plants under 1 megawatt telemetered?

2. Do electric control area operators acquire monthly data (either electronic or manual) on fuel consumption by power plant or by generating unit? Is fuel consumption by nonutilities collected on any basis?

3. Do electric control area operators acquire data (either electronically or manually) on fuel stocks at power plants?

4. What format(s) would electric control area operators prefer when providing electronic data to EIA? What facilities/equipment do control area operators have to electronically send data to EIA?

5. How soon after the end of each month could electric control area operators provide electronic data to EIA? Manually prepared data?

6. What modifications to electric control area computer systems would be necessary to provide monthly electronic data on generation from all generators 10 megawatts and over? What length of time would be necessary to implement those modifications? How much would these modifications cost?

7. What modifications to systems and/or manual procedures would be necessary to provide monthly data on fuel consumption from all generators 10 megawatts and over? What length of time would be necessary to implement these modifications? How much would these modifications cost?

8. What modifications to systems and/or manual procedures would be necessary to provide monthly data on power plant fuel stocks. What length of time would be necessary to implement these modifications? How much would these modifications cost?

9. What is the estimated monthly burden in person-hours to provide electronic data on electricity output from all generators 10 megawatts and more? Fuel consumption by generating unit? Plant fuel stocks?

10. Is monthly electricity output by generator, monthly fuel consumption by generating unit, or plant fuel stocks considered confidential? Why?

For nonutility power producers:

11. Do nonutility power producers maintain monthly records on electricity output by generator, fuel consumption by generating unit, and plant fuel stocks? Are these data currently recorded in an electronic format?

12. What format(s) would nonutilities prefer when providing generation, fuel consumption, and fuel stock data to EIA? What facilities/equipment do nonutilities have to electronically send data to EIA?

13. How soon after the end of each month could nonutility power producers provide generation and fuel consumption by unit, and plant fuel stock data to EIA?

14. What modifications to systems and/or manual procedures would be necessary to provide monthly generation and fuel consumption by unit, and plant fuel stock data to EIA?

15. What is the estimated monthly burden in person-hours to provide generation and fuel consumption by unit, and plant fuel stocks data to EIA?

16. Are monthly generation, fuel consumption, or fuel stock data considered confidential? Why?

For data users:

17. Does the lack of monthly electricity output from nonutility producers adversely impact your use of EIA data? Lack of monthly fuel consumption data from nonutilities? Lack of fuel stock data from nonutilities? How?

18. What level of accuracy do you need for monthly U.S. electricity generation and fuel consumption by the electric power industry?

19. Do you need generation, fuel consumption, or fuel stock data by unit, plant, or company? What level(s) of aggregation are useful to you?

20. For what purposes do you or would you use monthly generation, fuel consumption and/or fuel stock data? Please be specific.

21. What are the weaknesses and strengths of the data collection alternatives under consideration by EIA? Please be specific as it relates to your use of the data.

22. Would a determination by EIA that generation, fuel consumption, or fuel stock data by plant are confidential affect your use of the data?

Comments submitted in response to this notice will become a matter of public record.

Statutory Authorities: Section 2(a) of the Paperwork Reduction Act of 1980 (Pub. L. No. 96–511), which amended Chapter 35 of Title 44 of the United States Code [See 44 U.S.C. § 3506(a) and (c)(1)].

Issued in Washington, DC, April 24, 1995.

Yvonne M. Bishop,

Director, Office of Statistical Standards, Energy Information Administration.

[FR Doc. 95–10517 Filed 4–27–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. ER95–748–000, et al.]

Western Gas Resources Power Marketing, Inc., et al.; Electric Rate and Corporate Regulation Filings

April 21, 1995.

Take notice that the following filings have been made with the Commission:

1. Western Gas Resources Power Marketing, Inc.

[Docket No. ER95–748–000]

Take notice that on April 14, 1995, Western Gas Resources Power Marketing, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: May 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Washington Water Power Co.

[Docket No. ER95–806–000]

Take notice that on March 27, 1995, The Washington Water Power Company (WWP), tendered for filing Service Agreements previously accepted under Electric Tariff No. 4 as unsigned service agreements: Associated Power Services, Inc., Citizens Power & Light Corporation, Electric Clearinghouse, Inc., Enron Power Marketing, Inc. InterCoast Power Marketing Company, LG&E Power Marketing, Inc., National Electric Associates (L.P.) and Power Exchange Corporation.

Comment date: May 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. CNG Power Services Corporation

[Docket No. ER95–840–000, Docket No. ER95–846–000]

Take notice that on April 6, 1995, CNG Power Services Corporation filed a letter withdrawing its filings in the above-referenced dockets.

Comment date: May 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power Corp.

[Docket No. ER95–848–000]

Take notice that on March 28, 1995, Florida Power Corporation tendered for filing an amendment to its agreement with Seminole Electric Cooperative for supplemental resale service and distribution service.

Comment date: May 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. UtiliCorp United Inc.

[Docket No. ES95–29–000]

Take notice that on April 13, 1995, UtiliCorp United Inc. filed an application under § 204 of the Federal Power Act seeking authorization to issue, from time to time, unsecured notes and other obligations, including guarantees of securities issued by subsidiaries or affiliates, up to and including $400 million in the aggregate at any one time outstanding, during the period commencing July 1, 1995 and ending June 30, 1997, with a final maturity date not later than June 30, 1998.

Comment date: May 12, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10532 Filed 4–27–95; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EL95–40–000 and Docket No. QF89–58–001]

Mega-Racine Associates, Inc.; Notice of Filing

April 24, 1995

On April 21, 1995, Niagara Mohawk Power Corporation (Niagara Mohawk) filed a petition for a declaratory order revoking the qualifying status of a topping-cycle cogeneration facility owned by Megan-Racine Associates, Inc. in Canton, New York. The facility was granted certification as a qualifying cogeneration facility in an order dated January 27, 1989. *Megan-Racine Associates, Inc.*, 46 FERC ¶ 62,074, (1989). Niagara Mohawk claims in its petition that for the years 1991, 1992, 1993, and 1994 the facility did not meet the applicable operating and efficiency standards applicable to natural gas-fired, topping-cycle qualifying cogeneration facilities under section 292.205 of the Commission's regulations. 18 CFR 292.205. Niagara Mohawk asks the Commission to declare that the facility was not a qualifying facility for the years 1991, 1992, 1993, and 1994 and asks the Commission to revoked certification for the years 1991, 1992, 1993 and 1994.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 285.211 and 385.214 (1992)). All such motions or protests should be filed on or before May 22, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10482 Filed 4–27–95; 8:45 am]

BILLING CODE 6717–01–M

[RP95–31–000]

National Fuel Gas Supply Corp.; Notice of Informal Settlement Conference

April 24, 1995.

Take notice that an informal settlement conference will be convened in these proceedings on May 3, 1995 at 10 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street, N.E., Washington, D.C., 20426, for the purpose of exploring the possible settlement of the issues in this proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the commission's Regulations (18 CFR 385.214).

For additional information, contact Marc G. Denkinger (202) 208–2215 or Arnold H. Meltz (202) 208–2161.

Lois D. Cashell,

Secretary.

[FR Doc. 95–10451 Filed 4–27–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 5196–7]

Sole Source Aquifer Designation for the Broad Brook Basin of the Barnes Aquifer

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice.

SUMMARY: In response to a petition from the Barnes Aquifer Protection Advisory Committee and the Town of Easthampton, Massachusetts, notice is hereby given that the Regional Administrator of the U.S. Environmental Protection Agency—New England (EPA) has determined that the Broad Brook Basin of the Barnes Aquifer satisfies all determination criteria for designation as a sole source aquifer, pursuant to Section 1424(e) of the Safe Drinking Water Act, 42 U.S.C., section 300h–3(e). The following findings were made in accordance with the designation criteria: the Broad Brook Basin of the Barnes Aquifer supplies more than 50% of the water needs for the communities within the service area boundaries; there are no viable alternative sources of sufficient supply; the boundaries of the designated area and the project review area have been reviewed and approved by the EPA; and, if contamination were to occur, it would pose a significant public hazard and a serious financial burden to the communities within the aquifer service area. As a result of this action, the EPA may review, suggest modifications to, or withhold funding for, any federally financially assisted projects proposed for construction within the Broad Brook Basin of the Barnes Aquifer that may pose an adverse risk of ground water contamination.

DATES: This determination shall become effective May 12, 1995.

ADDRESSES: The data upon which these findings are based are available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency—New

England, Water Management Division, One Congress Street, Boston, MA 02203.

FOR FURTHER INFORMATION CONTACT: Jerome J. Healey, Chief of the Water Management and Water Supply Branch, EPA—New England, JFK Federal Building, WSB, Boston, MA 02203; (617) 565–3610.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1424(e) of the Safe Drinking Water Act, 42 U.S.C., section 300h–3(e), states:

> If the Administrator determines, on his own intiative or petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

On December 17, 1993, the EPA received a petition from the Barnes Aquifer Protection Advisory Committee and the Town of Easthampton, Massachusetts, requesting the designation of the Broad Brook Basin of the Barnes Aquifer as a sole source aquifer Section 1424(e) of the SDWA. The Sole Source Aquifer designation process consists of four phases, as outlined in the Sole Source Aquifer Designation Petitioner Guidance: Phase I—Petition Preparation, Phase II—Initial Petition Review/Determination of Completeness, Phase III—Detailed Review/Technical Verification, and Phase IV—Designation Determination. The Water Management Division has determined that the Barnes Aquifer Protection Advisory Committee's and the Town of Easthampton's petition fully satisfies the first three phases of the designation process.

II. Basis for Determination

Among the factors considered by the Regional Administrator as part of the detailed review and technical verification process for designating an area under Section 1424(e) were:

1. The Broad Brook Basin of the Barnes Aquifer is a high-yielding stratified drift aquifer which the service area population relies on for more than 50% of its drinking water needs.

2. There exists no viable economical alternative drinking water source or combination of sources to supply the designated service area.

3. The EPA has found that the Barnes Aquifer Protection Advisory Committee and the Town of Easthampton have appropriately delineated the boundaries of the aquifer recharge area, project designation area and project review area.

4. While the quality of the Broad Brook Basin of the Barnes Aquifer's ground water is considered to be good, it is highly vulnerable to contamination due to its geological characteristics and possible land-use activities. The designated area is a stratified drift aquifer consisting of shallow sand and gravel deposits. The shallow nature of the aquifer allows contaminants to be rapidly introduced into the ground water with minimal assimilation. It is this high vulnerability to contamination, especially in the southern portion of the Basin, coupled with the aquifer's value as the principal source of drinking water for the residents served, that could pose a significant public health hazard.

III. Description of the Broad Brook Basin of the Barnes Aquifer Designated Area and Project Area

The Broad Brook Basin of the Barnes Aquifer is located in Hampshire and Hampden Counties, Massachusetts, approximately 100 miles west of Boston. Part of the Connecticut River watershed, the Broad Brook Basin is approximately nine square miles in area, and encompasses portions of the Towns of Easthampton, Southampton (Hampshire County), and the City of Holyoke (Hampden County).

Broad Brook begins its headwaters south of Mount Tom and flows south for approximately three miles, then north about four miles from Rock Valley to Nashawannuck Pond in Easthampton. The topography of the aquifer ranges from level ground at 150 feet above mean sea level to the summit of Mount Tom at 1,200 feet above mean sea level. Volcanic and sedimentary rocks of Triassic age underlie the basin. These formations are overlain with unconsolidated deposits of sand, gravel, silt and clay laid down by glacial ice, meltwater streams and proglacial lakes during and following the advance and retreat of the Wisconsinan (Laurentide) Ice Sheet, approximately 22,000 to 14,000 years ago. Ground water in these deposits flows predominantly south to north, and is partially confined by clay deposits in the northern portion of the area.

The aquifer includes a mixture of open space, forests and wetlands, and supports agriculture, recreation, and an increasing number of residential and commercial uses. The Easthampton Water Department operates three municipal wells that draw ground water from the Broad Brook Basin and serve approximately 15,600 people in Easthampton and bordering areas of Northampton and Southampton. The aquifer provides 64% of drinking water in the service area, making it eligible for designation as a Sole Source Aquifer. Use of alternative supplies of water outside the aquifer was found to be economically infeasible.

The quality of ground water in the Broad Brook Basin is generally excellent, but both the highly permeable nature of the aquifer material and the shallow depths to the water table reduce the capacity for pollution attention, making the aquifer vulnerable to contamination. Ground water contamination by Trichloroethylene (TCE) has forced the Town of Easthampton to take a well off-line and investigate treatment options, and has forced the City of Holyoke to close a well permanently. Local government has acted to protect the water quality of the Barnes Aquifer through formation of a multi-town Barnes Aquifer Protection Advisory Committee and adoption of an Aquifer Protection District in Easthampton. The residents of Easthampton are considering amendment of the Aquifer Protection District to comply with more recent State Drinking Water Regulations. The petitioners think that a Sole Source Aquifer Designation would augment their ground water protection efforts by providing a forum for public education and by increasing awareness about the importance and vulnerability of the aquifer which overlies the municipal boundaries of three communities.

IV. Information Utilized in Determination

The information utilized in this determination includes: the petition submitted to the EPA—New England Water Management Division by the Barnes Aquifer Protection Advisory Committee and the Town of Easthampton, letters of support received during the public comment period, and public comments received during the public hearing. This information is available to the public and may be inspected at the address listed above.

V. Project Review

The EPA—New England office is working with the federal agencies most likely to provide financial assistance to projects in the project review area. Interagency procedures and Memoranda

of Understanding have been developed through which the EPA will be notified of proposed commitments by federal agencies to projects which could contaminate the Broad Brook Basin of the Barnes Aquifer. The EPA will evaluate such projects, and where necessary, conduct an in-depth review, including soliciting public comments when appropriate. Should the Regional Administrator determine that a project may contaminate the aquifer through its recharge zone so as to create a significant hazard to public health, no commitment for federal financial assistance may be entered into for that project. However, a commitment for federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to ensure that it will not contaminate the aquifer. Included in the review of any federal financially assisted projects will be the coordination with state and local agencies and the project's developers. Their comments will be given full consideration and the EPA's review will attempt to complement and support state and local ground water protection measures. Although the project review process cannot be delegated, the EPA will rely to the maximum extent possible on any existing or future state and/or local control measures to protect the quality of ground water in the Broad Brook Basin Project Review Area.

VI. Summary and Discussion of Public Comments

A total of three written comments were received in support of the petition during the comment period. Four people spoke in favor of the petition at the November 15, 1994 public hearing. In addition, letters of designation endorsement were received from the Easthampton Water Department, the Towns of Easthampton, Southhampton and the City of Holyoke, Massachusetts. There were no comments opposing the petition, either in written form or at the public hearing.

Dated: April 10, 1995.

John P. DeVillars,

Regional Administrator, U.S. Environmental Protection Agency—New England.

[FR Doc. 95–10507 Filed 4–27–95; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4722–5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075. Weekly receipt of Environmental Impact Statements Filed April 17, 1995 Through April 21, 1995 Pursuant to 40 CFR 1506.9.

EIS No. 950147, FINAL EIS, NPS, HI, Haleakala National Park General Management Plan and Conceptual Framework, Implementation, Island of Maui, Maui County, HI, Due: May 29, 1995, Contact: Donald Reeser (808) 572–9306.

EIS No. 950148, FINAL EIS, EPA, CA, Adoption—Southeast Regional Wastewater Treatment Plant and Geysers Effluent Pipeline Injection Project, Improvements, Funding, COE Section 404 Permit and NPDES Permit, City of Clearlake, Lake County, CA, Due: May 29, 1995, Contact: Elizabeth Borowiec (415) 744–1948.

The US Environmental Protection Agency (EPA) has adopted the Department of Interior's, Bureau of Land Management final EIS filed 8–18–94. EPA was not a cooperating Agency for the above final EIS. Recirculation of the document is necessary under Section 1506.3(c) of the Council on Environmental Quality Regulations.

EIS No. 950149, DRAFT EIS, IBR, AZ, Tucson Aqueduct System Reliability Investigation (TASRI), Central Arizona Project, Surface Storage Reservoir Construction, COE Section 404 Permit, Gila River, City of Tucson, Pima County, AZ, Due: June 12, 1995, Contact: Bruce D. Ellis (602) 870–6767.

EIS No. 950150, DRAFT EIS, BLM, NV, Bald Mountain Gold Mine Expansion Project, within the Horseshoe/Galaxy Mine, Plan of Operation Approval and COE Section 404 Permit, White Pine and Elko Counties, NV, Due: June 16, 1995, Contact: Dan Netcher (702) 289–1872.

EIS No. 950151, DRAFT EIS, AFS, UT, Brian Head Recovery Project, Timber Harvest, Implementation, Dixie National Forest, Cadar City Ranger District, Iron County, UT, Due: June 12, 1995, Contact: Ronald S. Wilson (801) 865–0627.

EIS No. 950152, FINAL EIS, COE, NJ, Atlantic Coast of New Jersey, Beach Erosion Control Project, Implementation, Sandy Hook to Barnegat Inlet within the Borough of Asbury Park to Manasquan, Monmouth County, NJ, Due: May 29, 1995, Contact: Mark H. Burlas (212) 264–4663.

EIS No. 950153, DRAFT EIS, FAA, NY, Syracuse Hancock International Airport, Land Acquisition and Construction of Runway 10 L–28R, Funding and Airport Layout Plan Approval, Onondaga County, NY, Due: July 26, 1995, Contact: Frank Squeglia (718) 553–0798.

EIS No. 950154, DRAFT EIS, AFS, CA, Pacific Pipeline Transportation Project, Construction/Operation, Right-of-Way Grant, Special-Use-Permit, COE Section 10 and 404 Permits, Angeles National Forest, Santa Barbara, Ventura, Los Angeles and Kern Counties, CA, Due: June 19, 1995, Contact: Richard Borden (818) 574–5255.

EIS No. 950155, LEGISLATIVE DRAFT EIS, AFS, ID, Upper Selway River Tributaries, Wild and Scenic River Study, for Fifteen Rivers, Suitability and Unsuitability, National Wild and Scenic Rivers Systems, Nez Perce National Forest, Idaho County, ID, Due: June 12, 1995, Contact: James Paradiso (208) 983–1950.

EIS No. 950156, DRAFT EIS, NPS, AZ, Organ Pipe Cactus National Monument General Management Plan and Development Concept Plan, Implementation, Portion of the Sonoran Desert, Pima County, AZ, Due: July 10, 1995, Contact: Dan Olson (415) 744–3968.

EIS No. 950157, DRAFT EIS, BLM, WY, Moxa Arch Area Natural Gas Development Project Expansion, Approvals, Right-of-Way Grants and COE Section 404 Permit(s) Issuance, Sweetwater, Lincoln and Unita Counties, WY, Due: June 12, 1995, Contact: Bill McMahan (307) 382–5350.

EIS No. 950158, DRAFT EIS, COE, UT, Kennecott Tailings Modernization Project, Tailings Impoundment Expansion, COE Section 404 Permit Issuance, Salt Lake County, UT, Due: June 27, 1995, Contact: Michael Schwinn (801) 295–8380.

EIS No. 950159, DRAFT EIS, AFS, ID, Fish Bate Timber Sale, Implementation, North Fork Clearwater River, Clearwater National Forest, North Fork Ranger District, Clearwater County, ID, Due: June 12, 1995, Contact: Jennefer Sundberg (208) 476–3775.

EIS No. 950160, DRAFT EIS, UAF, GU, Andersen Air Force Base (AFB) Solid Waste Management Facility, Construction, Island of Guam, GU, Due: June 12, 1995, Contact: Roy N. Tsutsui (671) 366–2101.

EIS No. 950161, FINAL EIS, AFS, UT, Upper Provo River Reservoirs Stabilization Project, Implementation, Wasatch-Cache National Forest, Kamas Ranger District, Summit County, UT, Due: May 29, 1995, Contact: Melissa Blackwell (801) 783–4338.

EIS No. 950162, FINAL EIS, FRC, CA, NV, OR, Tuscarora Natural Gas Pipeline Project, Construction and Operation, Right-of-Way Grant, Special-Use-Permit, NPDES Permit and COE Section 404 Permit, Lassen County, CA; Washoe and Storey Counties, NV and Klamath County, OR, Due: May 29, 1995, Contact: Alisa Lykens (202) 208–0766.

EIS No. 950163, FINAL EIS, DOE, NAT, Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs, Implementation, Due: May 29, 1995, Contact: Stan Lichtman (208) 586–4600.

Amended Notices

EIS No. 950075, DRAFT SUPPLEMENT, AFS, AK, Bohemia Mountain Timber Sale, Updated Information concerning Resolution of Three Appeal Issues Regarding Harvesting Timber, Tongass National Forest, Stikine Area, AK, Due: June 12, 1995, Contact: David E. Helmick (907) 772–3841. Published FR 03–17–95—Review period extended.

Dated: April 25, 1995.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–10533 Filed 4–27–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5199–6]

Notice of Meeting and Request for Comment on Targeted Legislative Changes to RCRA

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of meetings/request for comment.

SUMMARY: As called for in the President's plan for ''Reinventing Environmental Regulation'', EPA is seeking to identify a package of targeted legislative improvements to the Resource Conservation and Recovery Act (RCRA). The Agency will consider the views of all stakeholders and communicate the results, findings, and recommendations to Congress by July 15, 1995. EPA is providing an opportunity for interested individuals to present their ideas and suggestions for improving the solid and hazardous waste system under RCRA. This notice provides information on the initiative, solicits input from all interested individuals, and announces a series of roundtable meetings that will be open to the public. A limited number of individuals will be invited to sit at the ''roundtable'' to participate in a public, facilitated dialogue on various issues. Space will be available for other members of the public to observe and comment on the dialogue as well.

DATES: EPA will accept public comments until June 15, 1995. Both written and electronic comments must be submitted on or before this date. Representatives from a cross-section of the regulated community, environmental groups, Environmental Justice groups, and states will be invited to participate in roundtable discussions. At each such meeting, there will be an opportunity for public comment. Roundtable Meetings (open to the public) will be held as follows:

May 10, 1995, 9 a.m. until 4 p.m., Lake Michigan Room, EPA Regional Office, 77 West Jackson Boulevard, Chicago, Illinois

May 25, 1995, 9 a.m. until 4 p.m., Sheraton Crown Center Hotel, 15700 J.F.K. Boulevard, Houston, Texas

June 7, 1995, 9 a.m. until 4 p.m., Hyatt Regency Hotel, 2799 Jefferson Davis Highway, Arlington, VA 22202

ADDRESSES: Commentors must send an original and two copies of their comments referencing docket number F–95–LRRA–FFFFF to: RCRA Information Center (5305), U.S. Environmental Protection Agency, 401 M. Street, S.W., Washington, DC 20460.

Comments also may be submitted electronically by sending electronic mail to RCRA-Docket@epamail.epa.gov. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments will also be accepted on 3.5'' disks in WordPerfect in 5.1 file format or ASCII file format. Electronic comments must also be identified by docket number F–95–LRRA–FFFFF. Confidential Business Information (CBI) should not be submitted through electronic mail.

Public comments and relevant documents are available for viewing in the RCRA Information Center (RIC) located in room M2616, at the EPA address listed above. The RIC is open from 9 a.m. to 4 p.m. Monday through Friday, excluding Federal holidays. To review docket materials, the public must make an appointment by calling (202) 260–9327. Materials may be copied for $0.15 per page. Charges under $25.00 are waived.

Roundtable meetings will be at the following locations. These meetings are open to the public. Call Denise Madigan of JAMS-ENDISPUTE at (202) 942–9180 if you wish to attend, as space may be limited.

FOR FURTHER INFORMATION CONTACT: For accessing information electronically, see **SUPPLEMENTARY INFORMATION** below.

For further information, contact one of the following individuals at EPA in the Office of Solid Waste, RCRA Legislative Reform Team: David Hockey at (202) 260–7596, Bob Hall at (202) 260–9355, or Judy Kertcher (202) 260–4522.

SUPPLEMENTARY INFORMATION: This Federal Register and other relevant materials (meeting summaries, public comments) will be available in electronic format on the Internet System through the EPA Public Access Server.

This notice is also available electronically through INDIANnet, operated by Americans for Indian Opportunity. For information and assistance with using INDIANnet, call 1–605–345–9642.

Paper copies are also available in the RCRA Docket at the address listed in the previous section.

This document and the background package for this initiative signed April 13, 1995 are also available on the EPA's Clean-up Information Bulletin Board (CLU–IN). To access CLU-IN with a modem of up to 28,800 baud, dial (301) 589–8366. First-time users will be asked to input some initial registration information. Next, select ''D'' (download) from the main menu. Input the file name ''NOTICE.FR'' to download this notice and ''RCRA.REF'' to download the initiative announcement and background package. Follow the on-line instructions to complete the download. More information about the download procedure is located in Bulletin 614; to read this bulletin type ''B614'' from the main menu. For additional help with these instructions, telephone the CLU–IN help line at (301)589–8368.

The Federal Register notice, minutes of the public meetings, and copies of all comments submitted also 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 public record which will also include all comments submitted directly in writing. The official public record is the paper record maintained at the address in **ADDRESSES** at the beginning of this notice.

Follow these instructions to access information electronically:

1. *Through Gopher:* Go to: gopher.epa.gov. From the main menu, choose ''EPA Offices and Regions''. Next, choose ''Office of Solid Waste and

Emergency Response (OSWER)''. Next, choose ''Office of Solid Waste''. Then choose ''RCRA General/Notice of Meetings''.

2. *Through FTP:* Go to: ftp.epa.gov Login: Anonymous Password: Your Internet Address. Files are located in directories/pub/gopher/OSWRCRA.

3. *MOSAIC:* Go to: http://www.epa.gov Choose the EPA Public Access Gopher. From the main (Gopher) menu, choose ''EPA Offices and Regions''. Next, choose ''Office of Solid Waste and Emergency Response (OSWER)''. Next, choose ''Office of Solid Waste''. Then, choose ''RCRA General/Notice of Meetings''.

4. *Through dial-up access:* Dial (919)558–0335. Choose EPA Public Access Gopher. From the main (Gopher) menu, choose ''EPA Offices and Regions''. Next, choose ''Office of Solid Waste and Emergency Response (OSWER)''. Next, choose ''Office of Solid Waste''. Then choose ''RCRA General/Notice of Meetings''.

Background

The Resource Conservation and Recovery Act has been an enormously effective tool in achieving a dramatic transformation in the way that we manage hazardous waste. RCRA has allowed the Agency to develop a cradle-to-grave system to ensure the protection of human health and the environment when generating, transporting, storing, or disposing of hazardous waste. The Agency believes that a successful legislative process to make targeted changes to RCRA, could make the statute an even more effective tool in safely managing our solid and hazardous waste.

Eleven issue descriptions have been developed by EPA to serve as a starting point for discussions to prepare a package of targeted reforms to RCRA. Each of these issues, regarding certain statutory requirements for managing solid and hazardous waste, has been previously identified by one or more stakeholders as an area of concern in which reforms would be helpful.

EPA will consider all comments received in developing the legislative proposal. However, due to the expedited timeframe, EPA will not prepare formal responses to all comments and suggestions placed in the docket.

We caution the reader not to infer any new EPA policy statements from this list of issues. These papers are staff drafts attempting to summarize stakeholder concerns. The eleven issues proposed for discussion are:

1. RCRA Permits

For low-risk hazardous waste management facilities (e.g., storage-only facilities), the requirement to obtain an RCRA permit (and to meet associated management requirements) can in some cases lead to high administrative costs while resulting in little or no increased environmental benefit. Cumbersome permit requirements can also delay the transition from less stringent interim status standards to other, more appropriate, management standards.

2. Management Requirements

Once a waste is identified as hazardous, through a listing or by exhibiting a characteristic, all of the applicable requirements for the generator, transporter, and facility treating, storing, or disposing of the waste apply. Thus, the regulatory implications of a decision about whether a waste is hazardous are ''all or nothing''; there is currently no middle ground. However, it may be possible that for certain wastes and scenarios the full hazardous waste management requirements are not needed; the application and enforcement of specific, tailored good management practices could negate the risk posed for that waste, and thus the need for a hazardous waste designation.

3. Listing Determinations

When determining whether to list a waste as hazardous, the Agency considers plausible mismanagement scenarios (e.g., management in an unlined surface impoundment) in order to be protective. However, if the waste in question is currently or can be managed under enforceable, good management practices that protect human health and the environment, then mismanagement may no longer be plausible, and full RCRA hazardous waste requirements may not be necessary.

4. Prescriptive Requirements

The RCRA requirements governing certain hazardous wastes can be prescriptive and may be impractical to implement in certain situations (e.g., radioactive waste mixed with hazardous waste). In addition, certain RCRA requirements may be economically unreasonable to implement, where they have a major impact on the regulated entity without a corresponding environmental benefit (e.g., small businesses that do not meet the technical requirements for the small quantity generator exemption from most RCRA requirements).

5. Untreated Waste Disposal

The RCRA requirements preventing the disposal of untreated waste on the land unless it can be proven that the waste will not migrate from the unit as long as the waste remains hazardous (potentially thousands of years), may prevent the safe disposal of low-risk untreated or partially treated waste in certain land based units (i.e., deep well injection).

6. Indian Tribal Program Approval

EPA has explicit statutory authority to authorize states to implement hazardous and solid waste management programs. RCRA does not explicitly mention Indian Tribes in its discussion of authorization authorities; this omission has led some to challenge EPA's authority to approve qualified Tribal programs.

7. Land Disposal Restrictions

The land disposal restrictions prevent the disposal of hazardous waste on the land until levels of treatment are met which ensure that short-term and long-term threats to human health and the environment are minimized. For some wastes, this provision could be interpreted to require the treatment of the waste's hazardous constituents to levels below those which the Agency would consider necessary to protect human health and the environment.

8. Treatment Requirements

The land disposal restrictions require the treatment of waste to specified levels or with a specified technology before the waste can be dispose on the land. However, under some circumstances, the process of treating certain wastes to meet LDR requirements may itself pose a greater risk to human health and the environment than land disposal or other alternative management practices.

9. Recycling of Hazardous Waste

Facilities treating or storing a hazardous waste need to obtain a permit and comply with all applicable management standards (e.g., land disposal restrictions, facility-wide corrective action, financial assurance). However, some facilities that recycle hazardous waste may not pose significant risks to human health and the environment or may need less than full RCRA hazardous waste regulation to ensure safe handling of waste. The need to comply with the full panoply of hazardous waste requirements may discourage the potential safe recycling of hazardous wastes. To better encourage appropriate recycling, certain of these wastes may not need to be

defined and regulated as a solid waste under RCRA.

10. Corrective Action

Under current RCRA requirements, hazardous wastes from cleanup activities (e.g., corrective action and related activities) are subject to the same permitting, treatment, disposal and other requirements as newly generated and managed hazardous waste. However, many of the requirements for as-generated hazardous wastes are inappropriate for soil and groundwater contaminated with such wastes, and EPA may lack sufficient authority to modify these requirements. The application of full RCRA hazardous waste requirements to cleanup wastes may act as a disincentive for cleanup, eliminate practical and effective remedies from consideration, deter the use of innovative technologies, and result in excessively costly cleanups.

11. Hazardous Waste Manifest

EPA may lack clear statutory authority to provide flexibility to the manifest system in order to provide significant reductions in paper work burdens.

Principles for Developing the Legislative Proposal:

In developing the package of targeted legislative reforms for RCRA, EPA will be following the principles for reinventing environmental protection outlined in the President's plan:

- Protecting public health and the environment is an important national goal, and individuals, businesses and government must take responsibility for the impact of their actions.
- Regulation must be designed to achieve environmental goals in a manner that minimizes costs to individuals, businesses, and other levels of government.
- Environmental regulations must be performance-based, providing maximum flexibility in the means of achieving our environmental goals, but requiring accountability for the results.
- Preventing pollution, not just controlling or cleaning it up, is preferred.
- Market incentives should be used to achieve environmental goals, whenever appropriate.
- Environmental regulation should be based on the best science and economics, subject to expert and public scrutiny, and grounded in values Americans share.
- Government regulations must be understandable to those who are affected by them.
- Decisionmaking should be collaborative, not adversarial, and decisionmakers must inform and involve those who must live with the decisions.
- Federal, state, tribal, and local governments must work as partners to achieve common environmental goals, with nonfederal partners taking the lead when appropriate.
- No citizen should be subjected to unjust or disproportionate environmental impacts.

Dated: April 24, 1995.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 95–10510 Filed 4–27–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 19, 1995.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW, Suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Dorothy Conway, Federal Communications Commission, (202) 418–0217 or via internet at DConway@FCC.GOV. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 10214 NEOB, Washington, DC 20503, (202) 395–3561.

OMB Number: 3060–0010.

Title: Ownership Report.

Form No.: FCC 323.

Action: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Frequency of Response: Annually.

Estimated Annual Burden: 10,574 annual responses; 7.166 hours burden per response; 75,773 hours total annual burden.

Needs and Uses: Licensees/permitees of commercial broadcast stations are required to file ownership reports (FCC 323). The data is used by FCC personnel to determine if the licensees/permittees are abiding by FCC's multiple ownership rules and are compliance with the transfer of control provisions, the alien ownership restrictions and the CATV-TV cross-ownership prohibitions set fourth in the Communications Act.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–10417 Filed 4–27–95; 8:45 am]

BILLING CODE 6712–0I–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 528]

National Institute for Occupational Safety and Health; Cooperative Agreement Program for Prevention Center for Occupational Safety and Health in the Construction Industry

Introduction

The Centers for Disease Control and Prevention (CDC), announces the availability of fiscal year (FY) 1995 funds for a cooperative agreement to support a prevention center for occupational safety and health in the construction industry. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of Healthy People 2000, see the Section Where to Obtain Additional Information.)

Authority

This program is authorized under Section 20 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669). Applicable program regulations are found in 42 CFR Part 87—National Institute for Occupational Research and Demonstration Grants.

Smoke-Free Workplace

The PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private non-profit and for-profit organizations and governments and their agencies. Thus universities, colleges, research institutions, hospitals, other public and private organizations, State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority- andor women-owned businesses are eligible to apply.

Applicants must have ongoing national activities related to construction workers and must have established linkages to labor unions and employers in construction as demonstrated in operating programs. The applicant organization may subcontract to address certain ''Recipient Activities'' under the Program Requirements section for which the applicant organization does not have expertise or resources. Collaboration in submitting a joint application is strongly encouraged among the different organizations.

Availability of Funds

Approximately $3,300,000 is available in FY 1995 to fund one award. The award is expected to begin on or about August 1, 1995 for a 12-month budget period within a project period of up to five years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

If requested, Federal personnel may be assigned to a project in lieu of a portion of the financial assistance.

Purpose

The purpose of this cooperative agreement is to support a center that demonstrates effective surveillance mechanisms and prevention processes that are efficacious and effective in preventing injuries, disabilities, and diseases associated with work in the construction industry. At least one-third to one-half of the overall effort should be directed at the prevention of work-related musculoskeletal disorders.

Program Requirements

In the area of prevention, there is specific interest in research that evaluates the effectiveness of interventions in preventing construction-related injuries and diseases or reducing their impact. This research might evaluate different approaches to implementing a specific intervention strategy. In addition, there is a need to examine intervention strategies for which evidence of effectiveness is either sparse or unknown. Interventions chosen for evaluation should have a significant potential for reduction in morbidity, mortality, disability, or cost related to construction work. Surveillance is an integral part of prevention effectiveness studies.

Also of interest is research that more accurately defines the cost of construction injuries and diseases as well as the cost or prevention effectiveness of interventions. Cost analysis should be included in the plans, where appropriate, to evaluate an intervention(s). A more complete discussion of methodologies for assessing cost analysis is presented in A Framework for Assessing the Effectiveness of Disease and Injury Prevention (CDC, Morbidity and Mortality Weekly Report, March 27, 1992, Volume 41, Number RR–3, pages 5–11). (To receive information on these reports see the section Where to Obtain Additional Information.)

In conducting activities to achieve the purposes of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC/NIOSH will be responsible for the activities listed under B. (CDC/NIOSH Activities).

A. Recipient Activities

1. Develop surveillance programs of injuries and diseases (through analysis of medical claims data, workers' compensation data, etc.) among the building trades from which priorities for etiologic research and intervention studies can be determined. Surveillance should be applied to both health and safety status and to associated risk factors and must address unionized, non-unionized, and self-employed construction workers. Particular attention should be given to hazard identification and exposure assessment methodologies for construction workers.

2. Develop and conduct studies to determine long-term health, social and economic consequences of work-related exposures, injuries, musculoskeletal disorders, and related conditions. Prior to conducting a full study, assure that feasibility studies are critically evaluated by an independent review panel with no ties to the awardee. (Methods for these studies may include existing records systems such as case registries.) These studies may be integrated with longitudinal studies of work-related musculoskeletal disorders and should not involve more than 25 percent of the overall effort.

3. Develop and validate prevention effectiveness techniques in reducing or eliminating risk factors in the construction industry and integrating these techniques into continuous improvement and worker participation strategies within the construction process. (Evaluations of the effectiveness of interventions that have proven or obvious efficacy are encouraged.)

4. Provide innovative methods, techniques, and approaches for improving occupational safety and health in construction.

5. Develop and validate exposure assessment tools effective in evaluating exposures of construction workers to hazardous chemicals and substances.

6. Using appropriate exposure assessment methodologies, undertake projects to quantify the extent and magnitude of exposures of construction workers to potentially hazardous substances and chemicals prevalent on construction sites. High priority substances include lead, diesel fumes, particulates and dusts and other prevalent substances.

7. Develop and validate methods to enhance information dissemination of hazards, risk abatement and other health information specific to groups associated with the construction industry. Methods may include innovative training programs/ methods, educational materials, user-friendly software and computerized data, workshops and other relevant methods. Methods should be generalizable to workers in most trades.

8. Develop and validate innovative intervention programs to reduce and prevent occupational noise-induced hearing loss among construction workers. This program may include research to assess barriers to use of hearing protection; demonstration projects to enhance the use of appropriate hearing protection; collaborative studies with tool manufacturers, hearing protection manufacturers, etc.; assessments of the extent of hearing loss among the construction worker community; development/implementation of educational programs, etc.

9. Develop and validate methods to assess the overall impact of lead abatement programs on the health of construction workers.

10. Publish and disseminate findings of studies and projects listed under Program Requirements to individuals involved or interested in the construction industry including, but not limited to, construction workers, labor and management groups, architects, project and design engineers, researchers, etc.

11. Establish collaborative activities with appropriate organizations and agencies, and collaborate with CDC/NIOSH in undertaking surveillance, field, and research investigations in support of the program requirements.

12. Integrate the prevention program within the operational framework of the parent organization.

13. Review technical and scientific merits of proposed intramural projects, including their potential to achieve the stated objectives and the extent to which the plans are consistent with the purpose of the program.

14. Evaluate the extent to which the overall theme and objectives are achieved in regard to progress, efficacy, and effectiveness. Implement a plan for continuously improving the surveillance process that is used for evaluating progress. Meet at least quarterly with CDC/NIOSH to exchange information on activities and collaboration. (These meetings should include the principal investigators of each study conducted under this agreement.)

B. CDC/NIOSH Activities

1. Provide technical assistance through site visits and correspondence in the areas of program development, implementation, maintenance, and priority-setting.

2. Provide for collaborative efforts for appropriate aspects of the program as requested by the grantee.

3. Assist in the reporting of project results to the scientific, public health, labor and industrial communities via presentations, publications in peer-reviewed and technical journals and newsletters, and through other forms of communication.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. Background and Need (15%)

The extent to which the applicant presents data justifying need for the program in terms of magnitude of the related injury and disease problem and identifies suitable target populations. The extent to which a description of related current and previous experiences show:

a. Performance in achieving the purpose of cooperative agreements that preceded this announcement.

b. Efficiency of resources and uniqueness of program including the efficient use of existing and proposed personnel with assurances of a major time commitment of the project director to the program and the novelty of the program approach.

c. Training and experience of the program director and staff to accomplish satisfactorily the proposed program.

2. Goals and Objectives (10%)

The extent to which the applicant has included goals and objectives that are relevant to the purpose of the proposal and are achievable during the budget and project periods and the extent to which these are specific and measurable.

3. Methods (30%)

The extent to which the applicant provides a detailed description of proposed activities that are likely to achieve each objective and overall program goals. The extent to which the applicant provides a reasonable and complete schedule for implementing all activities. The extent to which roles of each unit, organization, or agency are described, and coordination and supervision of staff, organizations and agencies involved in activities are delineated.

4. Evaluation (30%)

The extent to which the proposed evaluation system is detailed and will document program process, effectiveness, impact, and outcome and, if applicable, measure surveillance system sensitivity, timeliness, representativeness, predictive value, and ability to detect the impact of specific interventions on morbidity, mortality, severity, disability, and cost of related diseases and injuries. The extent to which the applicant demonstrates potential data sources for evaluation purposes, and documents staff availability, expertise, and capacity to perform the evaluation. The extent to which a feasible plan for reporting evaluation results and using evaluation information for programmatic decisions is described.

5. Collaboration (15%)

The extent to which relationships between the program and other organizations are described. If applicable, the extent to which collaborative efforts (if any) and roles are clear and appropriate.

6. Budget and Justification (Not Scored)

The extent to which the applicant provides a detailed budget and narrative justification consistent with stated objectives and planned program activities.

Executive Order 12372 Review

This program is not subject to review by Executive Order 12372.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.262.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by this cooperative agreement will be subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicants must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it.

The applicants will be responsible for providing assurance in accordance with the appropriate guidelines and forms provided in the application kit.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (OMB Number 0937–0189) must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Mailstop E–13, 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305, on or before June 26, 1995.

1. Deadline: Applications shall be considered as meeting the deadline if they are either: (a) Received on or before the deadline date, or (b) Sent on or before the deadline date and received in

time for submission to the objective review group. (The applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applicants: Applications that do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicants.

Where to Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and telephone number and will need to refer to Announcement 528. You will be receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Oppie M. Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, telephone (404) 842–6546. Programmatic technical assistance may be obtained from Marie Haring Sweeney, Ph.D., National Institute for Occupational Safety and Health, Division of Surveillance, Hazard Evaluation and Field Studies, Centers for Disease Control and Prevention (CDC), Mailstop R–13, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, OH 45226–1049, telephone (513) 841–4207.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the INTRODUCTION through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Copies of A Framework for Assessing the Effectiveness of Disease and Injury Prevention (CDC, Morbidity and Mortality Weekly Report, March 27, 1992, Volume 41, Number RR–3, pages 5–11) may be obtained by calling (404) 488–4334.

Dated: April 21, 1995.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 95–10454 Filed 4–27–95; 8:45 am]

BILLING CODE 4163–19–P

Food and Drug Administration

[Docket No. 95C–0091]

GNT Gesellshaft für Nahrungsmitteltechnologie mbH; Filing of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that GNT Gesellshaft für Nahrungsmitteltechnologie mbH has filed a petition proposing that the color additive regulations be amended to provide for the safe use of dried fruit juice color additive, dried vegetable juice color additive, and vegetable juice color additive prepared by water infusion of the dried vegetable.

FOR FURTHER INFORMATION CONTACT: Aydin Örstan, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3076.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 721(b)(5) (21 U.S.C. 379e(b)(5))), notice is given that a color additive petition (CAP 5C0245) has been filed by GNT Gesellshaft für Nahrungsmitteltechnologie mbH, c/o Burditt & Radzius, Chtd., 333 West Wacker Dr., suite 2600, Chicago, IL 60606–1218. The petition proposes to amend the color additive regulations in § 73.250 *Fruit juice* (21 CFR 73.250) to provide for the safe use of dried fruit juice color additive and in § 73.260 *Vegetable juice* (21 CFR 73.260) to provide for the safe use of dried vegetable juice color additive, and vegetable juice color additive prepared by water infusion of the dried vegetable.

The agency has determined under 21 CFR 25.24(a)(9) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: April 20, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–10539 Filed 4–27–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93N–0418]

United Blood Services Blood Systems, Inc.; Revocation of U.S. License No. 0183–020

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the revocation of the establishment license (U.S. License No. 0183–020) and product licenses issued to United Blood Services Blood Systems, Inc. (BSI), for the manufacture of Whole Blood (ACD, CPD, CPDA–1), Red Blood Cells, Red Blood Cells Leukocytes Removed, Plasma, Fresh Frozen Plasma, Cryoprecipitated AHF, Platelets, Platelets Pheresis, and Source Leukocytes. BSI has numerous locations throughout the United States; the licenses have been revoked only at the BSI location at Texarkana, TX. In a letter to FDA dated June 28, 1993, BSI voluntarily requested the revocation of its establishment and product licenses and waived its opportunity for hearing.

DATES: The revocation of the establishment license (U.S. License No. 0183–020) and the product licenses became effective July 23, 1993.

FOR FURTHER INFORMATION CONTACT: Jean M. Olson, Center for Biologics Evaluation and Research (HFM–635), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–3074.

SUPPLEMENTARY INFORMATION: FDA is announcing the revocation of the establishment license (U.S. License No. 0183–020) and the product licenses issued to BSI, 1321 College Dr., Texarkana, TX 75503, for the manufacture of Whole Blood (ACD, CPD, CPDA–1), Red Blood Cells, Red Blood Cells Leukocytes Removed, Plasma, Fresh Frozen Plasma, Cryoprecipitated AHF, Platelets, Platelets Pheresis, and Source Leukocytes. The current mailing address is United Blood Services Blood Systems, Inc., c/o Blood Systems, Inc., 6210 East Oak St., P.O. Box 1867, Scottsdale, AZ 85252. BSI has numerous locations throughout the United States. The licenses were revoked for the Texarkana, TX, location only.

FDA conducted an inspection and concurrent investigation of BSI from March 23 through April 14, 1993. The inspection and concurrent inspection revealed serious deviations from the standards established in the applicable Federal regulations and approved license.

The concurrent investigation revealed significant deficiencies that occurred routinely in quality control recordkeeping, as well as in personnel training and supervision. BSI employees, with the knowledge of management, falsified blood storage temperature records whenever the temperature was outside the range specified in written procedures. BSI employees also routinely discarded donor registration forms of temporarily deferred donors because the staff would receive negative performance evaluations if a high number of donors were deferred.

During the inspection, FDA observed deviations that included, but were not limited to, the following: (1) Failure to determine donor suitability, in that BSI accepted donations from individuals who reported disqualifying information (21 CFR 640.3(b)); (2) failure to adequately prepare the donor's phlebotomy site by a method that gives maximum assurance of sterility, in that the site was sometimes repalpated after the arm scrub was performed, and the arm scrubs were performed for less than the 30 seconds required by BSI's standard operating procedures (21 CFR 640.4(f)); and (3) failure to assure that the personnel responsible for the collection of blood on mobile drives were adequate in number, in that it was observed that donors were rushed through medical history questions, were not provided with adequate privacy during medical history interviews, and were only allowed 1 to 2 minutes of recovery time following blood donation (21 CFR 606.20(b)).

The inspection observations and the concurrent investigation showed that BSI knowingly falsified blood storage records. Consequently, FDA determined that BSI willfully failed to comply with the standards established in the approved license and in the applicable regulations. In accordance with that determination, FDA initiated proceedings under 21 CFR 601.5(b) for license revocation without providing BSI with an opportunity to achieve or demonstrate compliance.

In a letter to BSI dated June 1, 1993, FDA delineated the observations listed above and announced its intent to offer an opportunity for a hearing on FDA's proposal to revoke U.S. License 0183–020 issued to BSI. In a letter to FDA dated June 28, 1993, BSI requested voluntary revocation of its license and waived its opportunity for a hearing under 21 CFR 601.5(a). In a letter dated July 23, 1993, FDA acknowledged voluntary revocation of the establishment license (U.S. License No. 0183–020) and the aforementioned product licenses of BSI at the Texarkana, TX, location.

FDA has placed copies of documents relevant to the license revocation on file under the docket number found in brackets in the heading of this notice with the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. These documents are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Accordingly, under 21 CFR 601.5, section 351 of the Public Health Service Act (42 U.S.C. 262), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Biologics Evaluation and Research (21 CFR 5.68), the establishment license (U.S. License No. 0183–020) and product licenses for Whole Blood (ACD, CPD, CPDA–1), Red Blood Cells, Red Blood Cells Leukocytes Removed, Plasma, Fresh Frozen Plasma, Cryoprecipitated AHF, Platelets, Platelets Pheresis, and Source Leukocytes issued to BSI at the Texarcana, TX, location were revoked, effective July 23, 1993.

This notice is issued and published under 21 CFR 601.8 and the redelegation at (21 CFR 5.67).

Dated: April 8, 1995.

Kathryn C. Zoon,

Director, Center for Biologics Evaluation and Research.

[FR Doc. 95–10541 Filed 4–27–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 88G–0388]

Fuji Oil Co., Ltd.; Filing of Petition for Affirmation of GRAS Status; Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notice for a petition (GRASP 8G0348) filed by Fuji Oil Co., Ltd., proposing to affirm that cocoa butter substitutes from safflower oil and sunflower oil are generally recognized as safe (GRAS) for use as direct human food ingredients. This amendment is intended to clarify that the sunflower and safflower oils used in the manufacture of the petitioned cocoa butter substitute are the high-oleic rather than the typical high-linoleic varieties.

DATES: Comments by July 12, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nega Beru, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3097.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of January 26, 1989 (54 FR 3853), FDA announced that Fuji Oil Co., Ltd., 6–1, Hachiman-cho, Minami-ku, Osaka 542 Japan, had filed a petition (GRASP 8G0348) proposing to affirm that cocoa butter substitutes from safflower oil and sunflower oil are GRAS for use as direct human food ingredients. The agency recognizes that the terms ''safflower oil'' and ''sunflower oil'' normally refer to the traditional high-linoleic varieties. However, the agency has determined that the proposed starting materials for the manufacture of the petitioned cocoa butter substitutes are the high-oleic rather than the typical high-linoleic safflower or sunflower oils. Therefore, the agency is amending the filing notice to make this distinction clear.

Interested persons may, on or before July 12, 1995, submit to the Dockets Management Branch (address above) written comments with respect to the above mentioned change only. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comment are to be identified with the docket number found in brackets in the heading of this document. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 19, 1995.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–10540 Filed 4–27–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95M–0057]

Medtronic CardioRhythm; Premarket Approval of Atakr Radio Frequency Catheter Ablation System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Medtronic CardioRhythm, San Jose, CA, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the Atakr Radio Frequency Catheter Ablation System. After reviewing the recommendation of the Circulatory System Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of February 9, 1995, of the approval of the application.

DATES: Petitions for administrative review by May 30, 1995.

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, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mark Massi, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8609.

SUPPLEMENTARY INFORMATION: On August 26, 1993, Medtronic CardioRhythm, San Jose, CA 95134, submitted to CDRH an application for premarket approval of the Atakr Radio Frequency Catheter Ablation System. The device is a radio frequency power cardiac catheter ablation system, and it is indicated for interruption of accessory atrioventricular (AV) conduction pathways associated with tachycardia, for the treatment of AV nodal re-entrant tachycardia, and for creation of complete AV block in patients with a difficult to control ventricular response to an atrial arrhythmia.

On December 5, 1994, the Circulatory System Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application. On February 9, 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 part 12 (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 § 10.33(b) (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 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 (*insert date 30 days after date of publication in the* Federal Register), 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: April 3, 1995.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 95–10429 Filed 4–27–95; 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 (Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the months of May and June 1995.

Name: Advisory Commission on Childhood Vaccines (ACCV) Subcommittee on Vaccine Safety.

Date and Time: May 31, 1995; 9:00 am–5:00 pm.

Place: Parklawn Building, Conference Room D, 5600 Fishers Lane, Rockville, Maryland 20857.

The meeting is open to the public.

Purpose: The subcommittee will review issues relevant to vaccine safety and adverse reactions to vaccines.

Agenda: Agenda items will include, but not be limited to: establishing a charge for the Subcommittee; reviewing current vaccine safety efforts; and examining the current status of vaccine safety research.

Name: Advisory Commission on Childhood Vaccines (ACCV)

Date and Time: June 1, 1995; 9:00 am–5:00 pm.

Place: Parklawn Building, Conference Room D, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The Commission: (1) advises the Secretary on the implementation of the Program, (2) on its own initiative or as the result of the filing of a petition, recommends changes in the Vaccine Injury Table, (3) advises the Secretary in implementing the Secretary's responsibilities under section 2127 regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions, (4) surveys Federal, State, and local programs and activities relating to the gathering of information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirements of section 2125(b), and advises the Secretary on means to obtain, compile, publish, and use credible data related to the frequency and severity of adverse reactions associated with childhood vaccines, and (5) recommends to the Director of the National Vaccine Program research related to vaccine injuries which should be conducted to carry out the National Vaccine Injury Compensation Program.

Agenda: Agenda items will include, but not be limited to: a report on Acellular Pertussis Vaccine Clinical Trials; a vaccine safety update from the Centers for Disease Control and Prevention and the Food and Drug Administration; and routine Program reports.

Public comment will be permitted before the Subcommittee adjourns on May 31; and at the end of the full Commission meeting on June 1. Oral presentations will be limited to 5 minutes per public speaker.

Persons interested in providing an oral presentation should submit a written request,

along with a copy of their presentation to Mr. Jerry Anderson, Principal Staff Liaison, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, Room 8A–35, 5600 Fishers Lane, Rockville, MD 20852; Telephone (301) 443–6593. Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Division of Vaccine Injury Compensation will notify each presenter by mail or telephone of their assigned presentation time. Persons who do not file an advance request for presentation, but desire to make an oral statement, may sign up in Conference Room D on May 31 and June 1. These persons will be allocated time as time permits. Anyone requiring information regarding the Commission should contact Mr. Anderson, Division of Vaccine Injury Compensation, Bureau of Health Professions, Room 8A–35, 5600 Fishers Lane, Rockville, Maryland 20852; Telephone (301) 443–6593.

Name: National Advisory Committee on Rural Health

Date and Time: June 11–14, 1995; 1:00 p.m.

Place: The Sheraton Tara Hotel, 363 Maine Mall Road, South Portland, ME 04016, (207) 775–6161.

The meeting is open to the public.

Purpose: The Committee provides advice and recommendations to the Secretary with respect to the delivery, financing, research, development and administration of health care services in rural areas.

Agenda: The Plenary Session will begin on Sunday, June 11 with an update on legislation that affects rural health care delivery. This will be followed by a presentation on Rural Health Perspectives from the Department of Health and Human Services. Dr. Jo Ivey Boufford, Deputy Assistant Secretary for Health, has agreed to make this presentation. The Committee will devote the remainder of the plenary session to a discussion of managed care and network development in rural areas and to medicare's payment methodology for managed care risk contracts—the Adjusted Average Per Capita Costs (AAPCC) methodology.

The Committee will be making site visits to selected rural health delivery facilities all day on Monday. The meeting is open to the public; however, no transportation will be provided to the sites.

The Education and Health Services Work Group and the Health Care Finance Work Group will meet all day on Tuesday to continue developing recommendations and strategies for improving health services delivery in rural areas. The meeting will adjourn on Wednesday, June 14, at noon.

Anyone requiring information regarding the subject Committee should contact Dena S. Puskin, Executive Secretary, National Advisory Committee on Rural Health, Health Resources and Services Administration, Room 9–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–0835, FAX (301) 443–2803.

Persons interested in attending any portion of the meeting should contact Ms. Arlene Granderson, Office of Rural Health Policy, Health Resources and Services Administration, Telephone (301) 443–0835.

Agenda Items are subject to change as priorities dictate.

Dated: April 25, 1995.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 95–10529 Filed 4–27–95; 8:45 am]

BILLING CODE 4160–15–P

Public Health Service

Agency Forms Undergoing Paperwork Reduction Act Review

Each Friday the Public Health Service (PHS) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the PHS Reports Clearance Officer on 202–690–7100.

The following requests have been submitted for review since the list was last published on Friday, April 7.

1. Survey to Evaluate the Impact of the Coronary Primary Prevention Trial on Medical Practice: 1995—0925–0356 (Reinstatement with change)—The National Heart, Lung, and Blood Institute will sponsor a survey of practicing physicians to assess attitudes and behavior regarding blood cholesterol in order to evaluate the impact of the findings of the Coronary Primary Prevention Trial and the Adult Treatment Panel Guidelines On clinical practices and to discern continuing educational needs for physicians. Respondents: Business or other for-profit; Number of Respondents: 1,600; Number of Responses per Respondent: 1; Average Burden per Response: .501 hours; Estimated Annual Burden: 800 hours. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503.

2. An Epidemiologic Study of the Relation Between Maternal and Parental Preconception Exposure to Ionizing Radiation and Childhood Leukemia—New—This study is designed to determine whether preconception gonadal doses from ionizing radiation are higher in the parents of children with leukemia than in parents of healthy children. The study is designed as a multicenter case-control study. Cases will be children with leukemia and controls will be children without leukemia selected at random from the same population as the cases. Respondents: Individuals or households; Number of Respondents: 911; Number of Responses per Respondent: 1; Average Burden per Response: 1.75 hours; Estimated Annual Burden: 1595 hours. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503.

3. Confidentiality of Alcohol and Drug Abuse Patient Records—0930–0092 (Extension, no change)—States require Federally conducted, regulated, or directly or indirectly assisted alcohol and drug abuse programs to keep patient records confidential. Information requirements are (1) written disclosures to patients, and (2) documenting ''medical personnel'' status of receipt of a disclosure to meet a medical emergency. Respondents: Not-for-profit institutions, Federal Government, State, Local or Tribal Government; Number of Respondents: 10,000; Number of Responses Per Respondent: 348; Average Burden per Response: .0287 hour; Estimated Burden: 100,110 Hours. Send comments to James Scanlon, Office of the Assistant Secretary for Health, Room 737–F, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201.

4. Assessment of Demographic Information on Death Certificates Survey—New—Demographic characteristics of decedents collected on death certificates are a critical source of information for public health surveillance, analysis, and program planning. This information is used in the tracking and analysis of diseases and injuries occurring among different subgroups in the population, which is integral to the mission of CDC. The purpose of this survey is to ascertain the methods currently used by funeral directors. Respondents: Business or other for-profit, State, Local or Tribal Government; Number of Respondents: 100; Number of Responses Per Respondent: 1; Average Burden Per Response: 1 hour; Estimated Annual Burden: 100 hours. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503.

5. Application for the National Institutes of Health AIDS and Clinical Research Loan Repayment Programs—0925–0361 (Reinstatement with change)—The information collection will be used by the PHS to determine an applicant's eligibility for participation in the NIH AIDS and Clinical Research Loan Repayment Programs. Respondents: Individuals or household,

Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local or Tribal Government. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Building, Room 10235, Washington, DC 20503.

	No. of responses	No. of responses/ respondent	Avg. burden/ response
Applicant	70	1	11.58 hrs.—LRP. 12 hrs.—CLRP.
References	210	1	.5 hr.
State/Other Entity	10	1	.5 hr.
Lender	420	1	.33 hr.
Estimated Total Annual Burden: 1,073 hours.			

6. Breast Cancer Incidence in Occupational Cohorts Exposed to Ethylene Oxide and Polychlorinated Biphenyls—New—The primary purpose of this study is to collect information from women regarding incidence of breast cancer and critical factors (such as family history and parity) that may increase the risk of breast cancer in an occupational cohort independent of chemical exposure. Resulting data will contribute to recommendations regarding the safe exposure to the specific chemicals of interest. Respondents: Individuals or households, Business or other for-profit. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, D.C. 20503.

	No. of respondents	No. of responses/ respondent	Avg. burden/response
Cohort Members	7,667	1	.5 hr.
Physicians	667	1	.5 hr.
Estimated Total Annual Burden: 4,167 hours.			

7. A Case-Control Study of Attempted Suicide, Harris County, Texas—0920–0300 (Reinstatement, no change)—The Centers for Disease Control proposes continuing a case-control study of the effects of three risk factors—exposure to another's suicide or suicide attempt, migration, and patterns of alcohol use—on the occurrence of serious attempted suicide among young persons 12–34 years of age. Respondents: Individuals or households; Number of Respondents: 250; Number of Responses Per Respondent: 1; Average Burden Response: .75 hour; Estimated Annual Burden: 188 hours. Send comments to James Scanlon, Office of the Assistant Secretary for Health, Room 737–F, Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C. 20201.

Written comments and recommendations concerning the proposed information collections should be sent within 30 days of this notice directly to the individual designated.

Dated: April 24, 1995.

James Scanlon,

Director, Data Policy Staff, Office of the Assistant Secretary for Health and PHS Reports, Clearance Officer.

[FR Doc. 95–10481 Filed 4–27–95; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–95–1917; FR–3778–N–34]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability four possible use to assist the homeless.

EFFECTIVE DATE: April 28, 1995.

ADDRESSES: For further information, contact David Pollack, Department of Housing and Urban Development, Room 7254, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone number are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88–2503–OG (D.D.C.) HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no aditional properties have been determined suitable or unsuitable this week.

Dated: April 21, 1995.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 95–10214 Filed 4–27–95; 8:45 am]

BILLING CODE 4210–29–M

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–95–3854; FR–3785–N–02]

NOFA for Service Coordinators for Public Housing Agencies; Correction

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

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year 1995; Correction.

SUMMARY: This notice extends the application deadline for applicants in the San Antonio, Texas area for the NOFA for the Service Coordinators for Public Housing Agencies program, published in the Federal Register on

February 27, 1995 (60 FR 10764). Due to local events in San Antonio that will cause HUD's office to close at noon on April 28, 1995, this notice establishes the application deadline for that office to be May 1, 1995.

FOR FURTHER INFORMATION CONTACT: Bertha Jones, Office of Community Relations and Involvement, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4112, Washington, DC 20410; telephone: (202) 708–4214. Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service on 1–800–877–TDDY (1–800–877–8339) or (202) 708–9300. (Other than the ''800'' TDD number, telephone numbers are not toll-Free.).

SUPPLEMENTARY INFORMATION: The Fiscal Year (FY) 1995 Notice of Funding Availability (NOFA) for Service Coordinators for Public Housing Agencies was published in the Federal Register on February 27, 1995 (60 FR 10764). HUD was subsequently informed that local events in San Antonio, Texas will cause HUD's office in that city to close at noon on April 28, 1995. Therefore, this notice establishes that the application deadline for public housing agencies in the jurisdiction of HUD's San Antonio office is extended from April 28, 1995 to May 1, 1995.

Accordingly, FR Doc. 95–4743, the FY 1995 NOFA for Service Coordinators for Public Housing Agencies, published in the Federal Register on February 27, 1995 (60 FR 10764), is amended as follows:

1. On page 10764, column 1, the first paragraph under the heading **DATES** is amended to read as follows:

DATES: The due date for submission of applications in response to this NOFA, for all applicants except those in the jurisdiction of the San Antonio, Texas HUD Office, is April 28, 1995. For applicants in the jurisdiction of the San Antonio, Texas HUD Office, the due date for submission of applications in response to this NOFA is May 1, 1995. Applications must be postmarked by midnight, or hand-delivered to the local HUD Office by 3 p.m. on the applicable due date. A Fax copy is not acceptable. The above-stated application deadline is firm as to date, hour and place. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

2. On page 10766, column 1, in paragraph II.A., the first paragraph is amended to read as follows:

II. Application Process

(A) Application Deadline

The due date for submission of applications in response to this NOFA, for all applicants except those in the jurisdiction of the San Antonio, Texas HUD Office, is April 28, 1995. For applicants in the jurisdiction of the San Antonio, Texas HUD Office, the due date for submission of applications in response to this NOFA is May 1, 1995. Applications must be postmarked by midnight, or hand-delivered to the local HUD Office by 3 p.m. on the applicable due date. (See Appendix A for a listing of local HUD Offices.) A Fax copy is not acceptable. The above-stated application deadline is firm as to date, hour and place. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

Dated: April 24, 1995.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 95–10571 Filed 4–26–95; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*):

PRT–801621

Applicant: Environmental Services, Inc., Raleigh, North Carolina.

The applicant requests a permit to take (survey) the endangered red-cockaded woodpecker, *Picoides borealis*, on public and private lands in South Carolina. These activities are proposed for the purpose of enhancement of survival of the species.

PRT–801591

Applicant: Robert H. Mount, Ph.D., Auburn University, Auburn, Alabama.

The applicant requests a permit to take (trap, survey) the threatened flattened musk turtle *Sternotherus depressus*, throughout the species' range. These activities are proposed for the purpose of enhancement of survival of the species.

PRT–801592

Applicant: CZR, Incorporated., Wilmington, North Carolina.

The applicant requests a permit conduct live surveys of the endangered dwart wedge mussel, *Alasmidonta heterodon*, in North Carolina. These activities are proposed for the purpose of enhancement of survival of the species.

PRT–801593

Applicant: Gene W. Wood, Ph.D., Seneca, South Carolina. The applicant requests to take (survey, population census, and band nestlings) the endangered red-cockaded woodpecker, *Picoides borealis*, on public and private lands throughout the species' range. These activities are proposed for the purpose of enhancement of survival of the species.

PRT–801595

Applicant: Brian D. Moyer, Murray State University, Murray, Kentucky.

The applicant requests to take (survey, mist nest, band) the Gray bat, *Myotis grisescens*, and Indiana bat, *Myotis sodalis*, in the Land between the Lands Region of Kentucky. These activities are proposed for the purpose of enhancement of survival of the species.

PRT–801597

Applicant: Peter Vickery, Massachusetts Audubon Society, Richmond, Massachusetts.

The applicant requests to take (survey, mist nest, band) the endangered Florida grasshopper sparrow, *Ammodramus savannarum floridanus* throughout the species' range in the State of Florida. These activities are proposed for the purpose of enhancement of survival of the species.

Written data or comments on any of these applications should be submitted to: Regional Permit Coordinator, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345. All data and comments must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the

requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Permit Coordinator). Telephone: 404/679–7110; Fax: 404/679–7280.

Dated: April 21, 1995.

Judy L. Jones,

Acting Regional Director.

[FR Doc. 95–10499 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–55–M

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

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*.).

Permit No. PRT–801463

Applicant: Tamara Ross, Ames, Iowa

The applicant requests a permit to take (collect) Iowa. Pleistocene snails (*Discus macclintockii*) in Clayton, Dubuque, and Jackson Counties, in the State of Iowa, for biological analysis for enhancement of propagation or survival of the species.

Permit No. PRT–801465

Applicant: Robert C. Glotzhober, Columbus, Ohio.

The applicant requests a permit to take (collect) Hine's emerald dragonflies (*Somatochlora hineana*) throughout the State of Ohio for enhancement of propagation or survival of the species.

Permit No. PRT–801466

Applicant: TAMS Consultants, Inc., Chicago, Illinois.

The applicant requests a permit to take (collect) Hine's emerald dragonflies (*Somatochlora hineana*) in Will, Cook, and DuPage Counties, Illinois, for enhancement of propagation or survival of the species.

Permit No. PRT–801467

Applicant: The Nature Conservancy, Wisconsin Chapter, Madison, Wisconsin.

The applicant requests a permit to take (collect) Hine's emerald dragonflies (*Somatochlora hineana*) in Door County, Wisconsin, for enhancement of propagation or survival of the species.

Permit No. PRT–801471

Applicant: Marian E. Havlik, LaCrosse, Wisconsin.

The applicant requests a permit to take (live-capture, handle, mark, and release) Higgins' eye pearly mussel (*Lampsilis higginsi*), winged mapleleaf mussel (*Quadrula fragosa*), fat pocketbook mussel (*Potamilus capax*), pink mucket pearly mussel (*Lampsilis abrupta*), and orange-footed pimpleback pearly mussel (*Plethobasus cooperianus*), and salvage moribund or dead specimens in the Upper Mississippi River, its tributaries, and inland rivers in the States of Wisconsin, Minnesota, Iowa, Illinois, Missouri, and Indiana for enhancement of propagation or survival of the species.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Endangered Species, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/725–3536, x250); FAX: (612/725–3526).

Dated: April 24, 1995.

John A. Blankenship,

Assistant Regional Director, Ecological Services, Region 3, Fish and Wildlife Service, Fort Snelling, Minnesota.

[FR Doc. 95–10453 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[MT–930–1430–01; MTM 81002]

Conveyance of Public Lands in Teton County, Montana, and Order Providing for Opening of Public Land in Teton County; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order informs the public and interested state and local governmental officials of the conveyance of 175.36 acres of public lands out of Federal ownership and will open 41.58 acres of surface estate reconveyed to the United States in an exchange under the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq. (FLPMA), to the operation of the public land laws. The land that was acquired in the exchange provides access to other public land and recreation access to the Sun River, additional wetlands, wildlife habitat, and increased opportunity for riparian habitat improvement projects. The exchange also allows for increased management efficiency of public land in the area. No minerals were exchanged by either party. The public interest was well served through completion of this exchange.

EFFECTIVE DATE: June 20, 1995.

FOR FURTHER INFORMATION CONTACT: Dick Thompson, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2829.

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that in an exchange of land made pursuant to Section 206 of FLPMA, the following described lands were transferred to Kelly-Moore Paint Company, Inc.:

Principal Meridian, Montana

T. 20 N., R. 3 W.,
Sec. 18, lots 1–4, inclusive;
T. 21 N., R. 3 W.,
Sec. 15, SE¼SE¼;
T. 21 N., R. 4 W.,
Sec. 20, SE¼SE¼;
T. 19 N., R. 5 W.,
Sec. 18, NW¼NE¼.

Total acreage conveyed: 175.36 acres.

2. In exchange for the above lands, the United States acquired the following described lands from Kelly-Moore Paint Company, Inc.:

Principal Meridian, Montana

Parcel A

T. 20 N., R. 3 W.,
Sec. 4, S½SW¼NE¼SW¼, S½SE¼NW¼SW¼, and W½SE¼SW¼.

Parcel B

A tract of land in SW¼NW¼SW¼, Section 4 and E½SE¼, Section 5, T. 20 N., R. 3 W., more fully described as follows: Beginning at the south 1/16 corner to sections 4 and 5; thence S. 0° 15′ W., 357.3 feet along the line between sections 4 and 5 to the centerline of the Sun River; thence N. 66° 56′ W., 267.5 feet; thence N. 50° 11′ W., 142.8 feet to the centerline of a county road, the last two courses running upstream along the centerline of the Sun River; thence N. 37° 28′ E., 439.7 feet; thence N. 17° 20′ E., 488.2 feet to the north line of the SW¼NW¼SW¼ section 4, the last two courses being along the centerline of a county road; thence S. 89° 04′ 30″ E., 607.7 feet; thence S. 0° 15′ W., 654.9 feet; thence N. 89° 04′ W., 660.4 feet to the point of beginning, the last three courses being along the north, east, and south lines of the SW¼NW¼SW¼ section 4.

Containing 41.58 acres, more or less.

3. The value of the Federal public land was appraised $11,700.00 and the private land was appraised at $10,400.00. An equalization payment was made to the United States for $1,300.00.

4. At 9 a.m. on June 20, 1995, the lands described in paragraph 2 above that were conveyed to the United States will be opened only to the operation of the public land laws generally, subject to valid existing rights and requirements of applicable law. All valid applications received at or prior to 9 a.m. on June 20, 1995, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: April 20, 1995.

James Binando,

Acting Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 95–10437 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–DN–P

[ID–942–7130–00–7660]

Filing of Plats of Survey; Idaho

The supplemental plat of the following described land will be officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., May 31, 1995.

The supplemental plat of partially unsurveyed T. 48 N., R. 5 E., Boise Meridian, Idaho, prepared to create tracts 60–62, was accepted April 20, 1995.

The supplemental 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., April 20, 1995.

The supplemental plat of T. 49 N., R. 5 E., Boise Meridian, Idaho, prepared to amend lots in section 28 and to create a tract in sections 28 and 29, was accepted April 20, 1995.

These supplemental plats were prepared 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, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706.

Dated: April 20, 1995.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 95–10439 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–GG–M

[MT–930–1430–01; MTM 83729]

Proposed Withdrawal and Opportunity for Public Meeting; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 82.19 acres of public lands to protect recreational values along the Madison River. This notice closes the lands for up to 2 years from mining. The lands will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by July 27, 1995.

ADDRESSES: Comments and meeting requests should be sent to the Montana State Director, BLM, P.O. Box 36800, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, 406–255–2949.

SUPPLEMENTARY INFORMATION: On April 21, 1995, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public lands from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not the mineral leasing laws, subject to valid existing rights:

Principal Meridian, Montana

Red Mountain Campground

T. 3 S., R. 1 E.,
Sec. 2, lot 2.

Warm Springs Creek Boat Access Site

T. 3 S., R. 1 E.,
Sec. 10, lots 2 and 4, excluding therefrom the area contained within the state highway right-of-way lines, more particularly described in Bargain and Sale Deed recorded in Book 162, Page 148, Records of Madison County, Montana.

The areas described aggregate 82.19 acres in Madison County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views in writing to the Montana State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Montana State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the Federal Register at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the Federal Register, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are the currently allowed recreational activities.

Dated: April 21, 1995.

James Binando,

Acting Deputy State Director, Division of Lands and Renewal Resources.

[FR Doc. 95–10436 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–DN–M

National Park Service

General Management Plan/ Development Concept Plans Organ Pipe Cactus National Monument, Arizona; Notice of Availability, Draft Environmental Impact Statement

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (P. L. 91–190, as amended), the National Park Service, Department of the Interior, has prepared a draft environmental impact statement (DEIS) that describes and analyzes a proposed action and an alternative strategy for the general management of Organ Pipe Cactus National Monument. The official responsible for a decision on the proposed action is the Regional Director, Western Region, National Park Service.

COMMENTS: Comments on the DEIS must be postmarked no later than July 10, 1995. Public meetings regarding the DEIS will be held in several communities in southern Arizona and northern Sonora, Mexico, and the Tohono O'odham reservation. Written responses to the DEIS should be submitted to the Superintendent, Organ Pipe Cactus National Monument, Route 1, Box 100, Ajo, AZ 85321.

Public Meetings: Public meetings will be held May 8–11, 1995, in Sonoyta, Mexico, and Ajo, Phoenix, and Tucson, Arizona. Meetings to be held on the Tohono O'odham reservation will be scheduled before July 10, 1995. Meetings will be advertised via local media including newspapers and radio. Information can also be obtained from the superintendent of Organ Pipe Cactus National Monument, or the Planning Team Leader, Organ Pipe Cactus General Management Plan, National Park Service, Denver Service Center-TWE, P.O. Box 25287, Denver, CO 80225–0287, (303) 969–2210.

Review Copies: Copies of the DEIS will be available for review at three locations: (1) Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, NW, Washington, DC 20240, (202) 208–6843; (2) Western Regional Office, National Park Service, 600 Harrison St., Suite 600, San Francisco, CA 94107–1372, (415) 744–3968; (3) Headquarters, Organ Pipe Cactus National Monument, Route 1, Box 100, Ajo, AZ 85321, (520) 387–7661. A limited number of copies of the DEIS are available on request from either the superintendent or planning team leader.

SUPPLEMENTARY INFORMATION: The Draft General Management Plan/Development Concept Plans/Environmental Impact Statement presents a proposed action and an alternative strategy for the management, use, and preservation of Organ Pipe Cactus National Monument. The proposed action, designated in the DEIS as Alternative 1, The Preferred Future, recognizes the full range of scientific, wilderness, and recreational values of the Sonoran Desert. The proposal seeks to ensure the continued existence of threatened and endangered species and their habitat; reduce impacts to historic properties; provide facilities that would more adequately serve the needs of visitors and staff; establish trails that minimize impacts on natural and cultural resources; and reduce vandalism and the threat of vandalism, especially in the southern sections of the monument.

Major features of the proposal include increased regional, tri-national, and inter-agency cooperative efforts, preservation treatments for several significant cultural resources, new facilities and other improvements in the Twin Peaks, Lukeville, and Quitobaquito Springs areas, and redesignation of the monument to Sonoran Desert National Park. The National Park Service also proposes to facilitate a cooperative planning effort to make the portion of State Route 85 within the monument more compatible with the wildland setting, enhance protection of monument resources, and increase visitor safety. Major consequences of implementing the proposal would be to enhance protection, understanding, and recognition of the Sonoran Desert and further strengthen relations with local communities, the Tohono O'odham Nation and Mexico. Implementing the proposed actions could also lead to an expansion of the National Wilderness Preservation System by 2,130 acres and help perpetuate the existence of endangered and sensitive species, including the Quitobaquito desert pupfish and Quitobaquito snail.

Alternative 2, A Continuation of Existing Conditions, continues the present course of action as specified in approved documents guiding park management and development. Many actions are similar to Alternative 1, except that fewer developments and programs are proposed. In general, the consequences of this alternative are also similar, but with two major exceptions. The persistent degradation of the only known habitat for the Quitobaquito desert pupfish and Quitobaquito snail could potentially jeopardize their continued existence. Secondly, unregulated traffic along State Route 85 would continue to eliminate wildlife along this corridor. Although the National Park Service would work with the state of Arizona to reduce adverse impacts, this alternative would not result in a cooperative planning effort that addresses reductions in traffic speed and volume within the monument.

The official responsible for a decision on the proposed action is the Regional Director, Western Region, National Park Service.

Dated: April 18, 1995.

Stanley T. Albright

Regional Director, Western Region.

[FR Doc. 95–10545 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–70–P

Gates of Arctic National Park Subsistence Resource Commission; Meetings

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Gates of the Arctic National Park and the Chairperson of the Subsistence Resource Commission for Gates of the Arctic National Park announce a forthcoming meeting of the Gates of the Arctic National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Call to order.
(2) Roll call.
(3) Approval of summary of minutes.
(4) Review agenda.
(5) Superintendent's introductions and review of SRC function and purpose.
(6) Superintendent's management/research reports.
(7) Public and Agency comments.
(8) Old business:
a. Correspondence.
b. Federal Subsistence Program update.
c. Regions 6 and 10 boundary adjustment.
d. Review existing NPS trapping regulations.
e. Hunting Plan Recommendation #11.
(9) New business:
a. Harvest monitoring strategies.
b. Hunting plan work session.
c. Recommendations to Region 10 Council on vacant SRC seat.
(10) Set time and place of next SRC meeting.
(11) Adjournment.

DATES: The meeting will be held Tuesday through Thursday, May 16–18, 1995. The meeting will begin at 7:00 p.m. on Tuesday and end at approximately 11:00 a.m. on Thursday.

LOCATION: The meeting will be held at Commack's Lodge in Shungnak, Alaska.

FOR FURTHER INFORMATION CONTACT: Dave Mills, Acting Superintendent, Gates of the Arctic National Park, P.O. Box 74680, Fairbanks, Alaska 99707. Phone (907) 456–0281.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Ralph Tingey,

Acting Regional Director.

[FR Doc. 95–10546 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–70–M

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Notice of Meeting Changes

Notice is hereby given in accordance with the Federal Advisory Committee Act that the following meetings of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission will be changed from the previously announced dates and places to hear presentations on issues related to management of the Golden Gate National Recreation Area and Point Reyes National Seashore. Meeting changes of the Advisory Commission are as follows:

The meeting previously scheduled for Saturday, May 6 at Point Reyes Station, California is cancelled, and instead a meeting will be scheduled for Wednesday, May 10 in San Francisco.

The meeting previously scheduled for Wednesday, June 14 in San Francisco, California is cancelled, and instead a meeting will be scheduled for Saturday, June 10 at Point Reyes Station, California.

A meeting will be scheduled for Wednesday, July 12 in San Francisco, California.

All meetings of the Advisory Commission will be held at 7:30 p.m. at GGNRA Park Headquarters, Building 201, Fort Mason, Bay and Franklin Streets, San Francisco or at 10:30 a.m. at the Dance Palace, corner of 5th and B Streets, Point Reyes Station, California, unless otherwise noticed. Information confirming the time and location of all Advisory Commission meetings can be received by calling the Office of the Staff Assistant at (415) 556–4484.

The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties. Members of the Commission are as follows:

Mr. Richard Bartke, Chairman
Ms. Amy Meyer, Vice Chair
Ms. Naomi T. Gray
Dr. Howard Cogswell
Mr. Michael Alexander
Mr. Jerry Friedman
Ms. Lennie Roberts
Ms. Yvonne Lee
Ms. Sonia Bolaños
Mr. Trent Orr
Mr. Redmond Kernan
Ms. Jacqueline Young
Mr. Merritt Robinson
Mr. R. H. Sciaroni
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams
Mr. Mel Lane

Anticipated agenda items at meetings this year will include:

- Update reports on the Presidio planning process
- Presentation of the GGNRA mushroom collection staff report
- Reports on work of the Golden Gate National Park Association
- Reports on programs and projects of GGNRA ''park partners''
- Status reports on the proposed Tomales Bay Protection Bill
- Reports on GGNRA education programs
- Report from the National Biological Service
- Presentation on plans for the northern waterfront at Crissy Field
- Planning for the Sutro Historical District
- Updates on issues concerning management and planning at Point Reyes NS

These meetings will also contain Superintendent's and Presidio General Manager's Reports.

Specific final agendas for these meetings will be made available to the public at least 15 days prior to each meeting and can be received by contacting the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123 or by calling (415) 556–4484.

These meetings are open to the public. They will be recorded for documentation and transcribed for dissemination. Minutes of the meetings will be available to the public after approval of the full Advisory Commission. A transcript will be available three weeks after each meeting. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: April 20, 1995.

Brian O'Neill,

General Superintendent, Golden Gate National Recreation Area.

[FR Doc. 95–10543 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–70–M

Upper Delaware Scenic and Recreational River Citizens Advisory Council

AGENCY: National Park Service, Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the dates of the meetings of the Upper Delaware Citizens Advisory Council for calendar year 1995.

TYPE OF FOUL WEATHER

Dates	Meeting	Date	Address
Apr. 11, 1995	Business	None	NPS Resource Management Office, River Road, Milanville, Pennsylvania.
Jun. 13, 1995	Business	None	NPS Headquarters, River Road, Beach Lake, Pennsylvania.
Sept. 12, 1995	Business	None	NPS Headquarters, River Road, Beach Lake, Pennsylvania.
Nov. 14, 1995	Business	None	Zane Grey House and Museum, Delaware Drive, Lackawaxen, Pennsylvania.

Press Releases containing specific information regarding the subject of each meeting, as well as special informational programs, will be published in the following area newspapers:

The Sullivan County Democrat
The Times Herald Record
The River Reporter
The Tri-state Gazette
The Pike County Dispatch
The Wayne Independent
The Hawley News Eagle
The Weekly Almanac

Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, WJFF and WVOS.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent; Upper Delaware Scenic and Recreational River,

P.O. Box C, Narrowsburg, New York 12764–0159; 717–729–8251.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704 (f) of the National Parks and Recreation Act of 1978, Public Law 95–625, 16 USC 1724 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation and implementation of the management plan, and on programs which relate to land and water use in the Upper Delaware Region. All meetings are open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the Upper Delaware Scenic and Recreational River; River Road, 13/4 miles north of Narrowsburg, New York; Damascus Township, Pennsylvania.

Dated: April 17, 1995.

Marie Rust,

Regional Director, Mid-Atlantic Region.

[FR Doc. 95–10544 Filed 4–27–95; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–701 (Final)]

Disposable Lighters From Thailand

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Thailand of disposable pocket lighters, provided for in subheadings 9613.10.00 and 9613.20.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective October 24, 1994, following a preliminary determination by the Department of Commerce that imports of disposable pocket lighters from Thailand were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of November 9, 1994 (59 F.R. 55853). The hearing was held in Washington, DC, on March 21, 1995, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on April 21, 1995. The views of the Commission are contained in USITC Publication 2876 (April 1995), entitled ''Disposable Lighters from Thailand: Investigation No. 731–TA–701 (Final).''

Issued: April 24, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–10444 Filed 4–27–95; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioners Rohr and Newquist dissenting.

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32669]

Wisconsin Central Ltd. and Fox Valley & Western Ltd.—Joint Relocation Project Exemption—in Green Bay, WI

On March 28, 1995, Wisconsin Central Ltd. (WCL) and Fox Valley & Western Ltd. (FVW) filed a notice of exemption under 49 CFR 1180.2(d)(5) to relocate lines of railroad in Green Bay, WI. WCL and FVW stated that the transaction would be consummated no sooner than April 4, 1995.

WCL is a class II rail carrier operating approximately 2,000 miles of rail line in four upper midwestern states, and FVW is a class II rail carrier operating approximately 500 miles of rail line entirely in WI. Both WCL and FVW are commonly controlled by Wisconsin Central Transportation Corporation. Within the City of Green Bay, WCL and FVW own and operate several adjacent and parallel lines of railroad. The proposed joint relocation will reroute operations from, and allow removal of, several of these duplicative rail lines.

Under the joint relocation project, WCL and FVW propose the following transactions: (1) WCL will abandon its line of railroad between milepost 198.34 at Oneida and Hudson Streets and milepost 196.90 at State Street, a distance of approximately 1.44 miles, in Green Bay, WI; [1] (2) WCL will construct a connecting track of approximately 525 feet in length between the WCL and FVW lines of railroad in the vicinity of Oneida and Hudson Streets; (3) FVW will grant WCL trackage rights over FVW's East-West Line between milepost 1.37 at Hudson and Oneida Streets and milepost 0.26 at Maple Street, a distance of approximately 1.11 miles, and from milepost 0.26 at Maple Street to milepost -0.32 [2] on FVW's State Street Spur at the crossing of WCL's Green Bay Line (WCL milepost 196.90), a distance of approximately 0.58 mile; (4) FVW will construct a connecting track of approximately 1,260 feet in length between milepost 0.26 at Maple Street on FVW's East-West Line and milepost 242.46 at Bridge Street on FVW's North-South Line, and will grant WCL trackage rights over the connecting track; (5) WCL will construct a connecting track of approximately 550 feet in length between approximately milepost -0.32 at 5th Street on FVW's State Street Spur and a connection with WCL's Greenleaf Line at milepost 196.90 at State Street; [3] and (6) FVW will abandon its Norwood Line between milepost 0.32 at Ashland Avenue and milepost 2.26 at McDonald Street, a distance of approximately 1.94 miles.[4]

[1] As a result of track reconfiguration work in the Oakland Avenue Yard, WCL has already removed approximately 475 feet of track which is part of the Green Bay Line, between a point on the east side of Broadway Avenue (milepost 196.93) and the diamond crossover of the FVW North-South Line (milepost 197.02).

[2] Milepost -0.32 is so designated to indicate its measurement backwards from milepost 0.00 on the FVW East-West Line.

[3] In *Wisconsin Central, Ltd.—Abandonment Exemption—in Brown County, WI,* Docket No. AB–303 (Sub-No. 13X) (ICC served Oct. 31, 1994), WCL was granted an exemption to abandon approximately 13.9 miles of rail line between milepost 183.0 at Greenleaf, and milepost 196.90 at Green Bay, WI. However, WCL has an agreement with a third-party carrier which gives the carrier a right of first refusal to acquire the 13.9-mile segment, and thus the line may remain in active rail service. If the line is not acquired by the carrier and is abandoned, WCL will not construct the connecting track between the FVW State Street Spur and the WCL Greenleaf Line.

[4] Milepost 0.47 on FVW's North-South Line is coincident with milepost 2.26 on FVW's Norwood Line. A change in the milepost numbering system on FVW's North-South Line occurs at

Continued

The joint relocation project will simplify and improve rail operations in the Green Bay terminal area, permit the removal of unnecessary trackage, and relieve traffic congestion in the surrounding area.

WCL and FVW state that no shippers are located on either of the rail lines to be abandoned and that no shippers will be adversely affected by this joint relocation project or lose access to any rail service currently provided by WCL or FVW. The joint project involves the relocation of existing overhead operations onto nearby, parallel rail lines. It will not change service to shippers, expand the operations of WCL or FVW into new territory, or alter the existing competitive balance.

The Commission will exercise jurisdiction over the abandonment or construction components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into new territory. *See City of Detroit v. Canadian National Ry. Co., et al.,* 9 I.C.C.2d 1208 (1993). The Commission has determined that line relocation projects may embrace trackage rights transactions such as the one involved here. *See D.T.&I.R.—Trackage Rights,* 363 I.C.C. 878 (1981). Under these standards, the embraced incidental abandonment, construction, and trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to the use of this exemption, any employees affected by the trackage rights agreement will be protected by the conditions in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Janet H. Gilbert, Wisconsin Central Ltd. and Fox Valley & Western Ltd., 6250 North River Road, Suite 9000, Rosemont, IL 60018; and Kevin M. Sheys, 1020 Nineteenth Street, N.W., Suite 600, Washington, DC 20036.

Decided: April 24, 1995.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–10491 Filed 4–27–95; 8:45 am]

BILLING CODE 7035–01–P

approximately Elmore Street, where milepost 243.0 and milepost 0.0 designate the same point.

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination No. TX950109 dated February 10, 1995.

Agencies with construction projects pending, to which this wage decision would have been applicable, should utilize Wage Decision TX950001. Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determination Issued Under the Davis-

Bacon and Related Acts'' are listed by Volume and State:

VOLUME V

Nebraska
NE950059 (APR.28,1995)
NE950060 (APR.28,1995)

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the Federal Register are in parentheses following the decisions being modified.

VOLUME I

Massachusetts
MA950001 (FEB.10,1995)
MA950002 (FEB.10,1995)
MA950003 (FEB.10,1995)
MA950009 (FEB.10,1995)
MA950017 (FEB.10,1995)
MA950019 (FEB.10,1995)
New York
NY950077 (FEB.17,1995)
Rhode Island
RI950001 (FEB.10,1995)
RI950002 (FEB.10,1995)
RI950003 (FEB.10,1995)

VOLUME II

Delaware
DE950001 (FEB.10,1995)
DE950002 (FEB.10,1995)
DE950005 (FEB.10,1995)
DE950009 (FEB.10,1995)
Pennsylvania
PA950010 (FEB.10,1995)

VOLUME III

Georgia
GA950040 (FEB.10,1995)

VOLUME IV

Michigan
MI950001 (FEB.10,1995)
MI950002 (FEB.10,1995)
MI950003 (FEB.10,1995)
MI950004 (FEB.10,1995)
MI950005 (FEB.10,1995)
MI950007 (FEB.10,1995)
MI950012 (FEB.10,1995)
MI950017 (FEB.10,1995)

VOLUME V

Iowa
IA950005 (FEB.10,1995)
Kansas
KS950006 (FEB.10,1995)
KS950008 (FEB.10,1995)
KS950012 (FEB.10,1995)
Missouri
MO950003 (FEB.10,1995)
MO950005 (FEB.10,1995)
MO950007 (FEB.10,1995)
MO950010 (FEB.10,1995)
MO950014 (FEB.10,1995)
MO950016 (FEB.10,1995)
MO950020 (FEB.10,1995)
MO950046 (FEB.10,1995)
MO950053 (FEB.10,1995)
MO950056 (FEB.10,1995)
MO950059 (FEB.10,1995)
MO950063 (FEB.10,1995)
MO950064 (FEB.10,1995)
MO950066 (FEB.10,1995)
MO950068 (FEB.10,1995)
MO950069 (FEB.10,1995)
MO950070 (FEB.10,1995)
MO950074 (FEB.10,1995)
MO950075 (FEB.10,1995)
MO950076 (FEB.10,1995)
MO950077 (FEB.10,1995)
MO950078 (FEB.10,1995)
Nebraska
NE950001 (FEB.10,1995)
NE950002 (FEB.10,1995)
NE950007 (FEB.10,1995)
Oklahoma
OK950013 (FEB.10,1995)
OK950018 (FEB.10,1995)

VOLUME VI

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and Related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 21st day of April 1995.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 95–10353 Filed 4–27–95; 8:45 am]

BILLING CODE 4510–29–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–254 and 50–265]

Commonwealth Edison Co.; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–29 and DPR–30 issued to Commonwealth Edison Company (ComEd, the licensee) for operation of the Quad Cities Nuclear Power Station, Units 1 and 2, located in Rock Island County, Illinois.

The proposed amendments would change the Technical Specifications by: (1) Revising the low pressure value at which the High Pressure Coolant Injection (HPCI) and Reactor Core Isolation Cooling (RCIC) systems can be tested to 150 psig, and (2) to test these systems against a system head corresponding to reactor vessel pressure when steam is supplied to the turbines at 920 psig to 1005 psig for high pressure testing and 150 psig to 325 psig for low pressure testing.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:

The proposed changes revise the testing requirements for the low pressure HPCI and RCIC systems, and as such do not affect any accident precursors or initiators. Therefore, the proposed changes do not increase the probability of any previously evaluated accident.

Similarly, the proposed changes implement testing requirements which will

reduce unnecessary strain on the HPCI and RCIC systems during testing, and provide added assurance that the HPCI and RCIC will perform their design functions throughout the entire operating pressure range of the equipment. Therefore, the proposed changes enhance the ability of the HPCI and RCIC systems and equipment to mitigate the consequences of an accident.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

The proposed changes do not modify the HPCI or RCIC design or reduce the capability of the systems to perform their design function. The proposed changes will implement testing requirements which will reduce unnecessary strain on the HPCI and RCIC systems during testing, and provide added assurance that the systems are capable of performing their design functions throughout the entire operating pressure range of the equipment. As such, the proposed changes are more conservative than the current requirements. Since the design basis of the HPCI or RCIC system is not changed, there is no possibility of a new or different kind of accident from any previously evaluated.

(3) Involve a significant reduction in the margin of safety because:

The proposed changes implement testing requirements which will reduce unnecessary strain on the HPCI and RCIC systems during testing, and provide added assurance that the HPCI and RCIC systems will perform their design functions throughout the entire operating pressure range of the equipment. The proposed changes will not reduce the availability and capability of the HPCI and RCIC systems to mitigate the consequences of an accident. The proposed changes do not involve a relaxation of the criteria used to establish safety limits, a relaxation of the bases for limiting safety settings, or a relaxation of the bases for limiting conditions of operation. Therefore the proposed changes do not impact the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 30, 1995, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to

participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Mr. Robert A. Capra: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael I. Miller, Esquire, Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated April 10, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois.

Dated at Rockville, Maryland, this 24th day of April 1995.

For the Nuclear Regulatory Commission.

Robert M. Pulsifer,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–10479 Filed 4–27–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 70–7001; 70–7002]

United States Enrichment Corporation: Paducah Gaseous Plant; Portsmouth Gaseous Diffusion Plant; Notice of Receipt of Application for Certification for the Gaseous Diffusion Plants and Notice of Comment Period and Notice of Public Meetings

I. Receipt of Application and Availability of Documents

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC or the Commission) has received by letter dated April 18, 1995, an application from the United States Enrichment Corporation (USEC) for the initial certification of the gaseous diffusion plants (GDPs) located near Paducah, Kentucky and Piketon, Ohio. The Energy Policy Act of 1992 established the USEC to operate the GDPs under lease from the U.S. Department of Energy and required the NRC to establish a certification process and standards for the GDPs to assure protection of public and workers' health and safety and adequate safeguards and security.

Copies of the application for certification (except for classified and proprietary portions withheld in accordance with 10 CFR 2.790, ''Availability of Public Records'') are available for public inspection and copying at the Commission's Public Document Room in the Gelman Building, 2120 L Street, NW, Washington, DC 20555 and in the Local Public Document Rooms established for these facilities. A copy of the application for the Paducah plant is available at the Paducah Public Library, 555 Washington Street, Paducah, Kentucky 42003. A copy of the application for the Portsmouth plant is available at the Portsmouth Public Library, 1220 Gallia Street, Portsmouth, Ohio 45662. Copies of related correspondence and staff evaluations (except for portions withheld in accordance with 10 CFR 2.790) will also be made available at these locations.

II. Notice of Comment Period

Any interested party may submit written comments on the application for certification for either the Paducah plant or the Portsmouth plant for consideration by the staff. To be certain of consideration, comments on the application must be received by June 15, 1995. Comments received after the due date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date. Written comments on the application should be mailed to the Chief, Rules Review and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555 or hand delivered to 11545 Rockville Pike, Rockville, MD 20852 between 7:45 am and 4:15 pm Federal workdays. Comments should be legible and reproducible, and include the name, affiliation (if any), and address of the commenter. All comments received by the Commission will be made available for public inspection at the Commission's Public Document Room located in Washington, DC and the Local Public Documents Rooms located in Paducah, Kentucky and Portsmouth, Ohio. In accordance with 10 CFR 76.62 and 76.64, a member of the public must submit written comments or provide oral comments at the public meeting described below to petition the Commission requesting review of the Director's decision on certification.

III. Notice of Public Meeting

The NRC will hold two meetings concerning the applications for certification for the Portsmouth and Paducah gaseous diffusion plants. These meetings are being held to solicit public input on the initial certification of these facilities. The meeting on the Paducah Gaseous Diffusion Plant will be held at the *Paducah Information Age Park Resource Center,* 200 McCracken Boulevard in Paducah, Kentucky on May 23, 1995, 7 pm. The meeting on the Portsmouth Gaseous Diffusion Plant will be held at the *Vern Riffe Joint Vocational School,* 23365 State Rt. 124 in Piketon, Ohio on May 24, 1995, 7 pm.

In order to allow a maximum number of speakers, statements by the public will be limited to 5 minutes per individual. Those interested in speaking at the meetings may register in advance or may register at the meeting. Any person interested in registering in advance may do so by sending a written request to Ms. Rocio Castaneira, U.S. Nuclear Regulatory Commission,

T–8A33, Washington, DC 20555. The request should clearly state the individual's name and for which meeting the individual is registering. Written requests must be received by May 16, 1995. Speakers will be taken in the order the requests are received. After all pre-registered speakers have presented their comments, those individuals that register at the door will be taken in the order of sign-up. A record of the public meeting will be placed in the Public Document Room and the Local Public Document Rooms. Written comments will also be accepted at the meetings.

FOR FURTHER INFORMATION CONTACT: Ms. Rocio Castaneira, telephone (301) 415–8103; Mr. Carl B. Sawyer, telephone (301) 415–8174; or Ms. Merri Horn, telephone (301) 415–8126; Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Rockville, Maryland, this 24th day of April 1995.

For the Nuclear Regulatory Commission.

John W. N. Hickey,

Chief, Enrichment Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 95–10480 Filed 4–27–95; 8:45 am]

BILLING CODE 7590–01–M

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 March 29, 1995 (60 FR 16213). Individual authorities established or revoked under Schedules A and B and established under Schedule C between March 1, 1995, and March 31, 1995, 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 exception was revoked:

Department of Agriculture, Forest Service

Positions in Alaska of Laborers, Boat Operators, Mechanics, Equipment Operators, and Carpenters whose duties require the operation of boats in coastal waters and/or the establishment of work camps in remote areas. Effective March 30, 1995.

Schedule B

No Schedule B authorities were established or revoked in March 1995.

Schedule C

The following exceptions were established:

Department of Agriculture

Executive Assistant to the Administrator, Farmers Home Administration. Effective March 16, 1995.

Confidential Assistant to the Assistant Secretary for Administration. Effective March 24, 1995.

Confidential Assistant to the Administrator, Rural Development Administration. Effective March 30, 1995.

Department of Commerce

Confidential Assistant to the Director, Office of Policy Coordination and Management. Effective March 1, 1995.

Special Assistant to the Assistant Secretary for Export Administration. Effective March 3, 1995.

Confidential Assistant to the Deputy Director, Office of Public Affairs. Effective March 6, 1995.

Special Assistant to the Director, Office of External Affairs. Effective March 6, 1995.

Confidential Assistant to the Director, Office of External Affairs. Effective March 6, 1995.

Confidential Assistant to the Director, Office of Business Liaison. Effective March 13, 1995.

Confidential Assistant to the Director, Office of Public, Congressional and Intergovernmental Affairs, International Trade Administration. Effective March 13, 1995.

Confidential Assistant to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning. Effective March 24, 1995.

Special Assistant to the Assistant Secretary for Communications and Information. Effective March 30, 1995.

Department of Defense

Special Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense. Effective March 1, 1995.

Staff Assistant to the Counselor and Special Assistant to the Secretary and Deputy Secretary of Defense. Effective March 24, 1995.

Personal and Confidential Assistant to the Principal Deputy Under Secretary of Defense (Acquisition and Technology). Effective March 28, 1995.

Department of Education

Confidential Assistant to the Special Advisor to the Secretary. Effective March 24, 1995.

Confidential Assistant to the Director, Scheduling and Briefing Staff. Effective March 24, 1995.

Confidential Assistant to the Deputy Secretary. Effective March 24, 1995.

Department of Housing and Urban Development

Special Assistant to the Deputy Assistant Secretary for Distressed and Troubled Housing. Effective March 30, 1995.

Department of Labor

Special Assistant for Reinvention to the Assistant Secretary for Occupational Safety and Health Administration. Effective March 5, 1995.

Special Assistant to the Deputy Assistant Secretary, Office of Congressional and Intergovernmental Affairs. Effective March 28, 1995.

Department of State

Counselor to the Assistant Secretary, Bureau of Democracy, Human Rights and Labor. Effective March 2, 1995.

Legislative Management Officer to the Deputy Assistant Secretary for the House. Effective March 3, 1995.

Special Assistant to the Legal Advisor, Office of the Legal Advisor. Effective March 24, 1995.

Department of Transportation

Intergovernmental Relations Officer to the Director, Intergovernmental and Consumer Affairs. Effective March 8, 1995.

Special Assistant to the Special Assistant for Scheduling and Advance. Effective March 8, 1995.

Department of the Treasury

Staff Assistant to the Director, Scheduling and Advance, Office of the Secretary. Effective March 30, 1995.

Deputy Director of Scheduling to the Director of Scheduling and Advance. Effective March 30, 1995.

Special Assistant to the Assistant Secretary for Legislative Affairs. Effective March 30, 1995.

Farm Credit Administration

Secretary to the Chairman. Effective March 2, 1995.

Office of Management and Budget

Confidential Assistant to the Associate Director for Human Resources. Effective March 1, 1995.

Writer-Editor to the Associate Director for Communications. Effective March 1, 1995.

United States Information Agency

Senior Advisor to the Director, Office of Public Liaison. Effective March 7, 1995.

Special Assistant to the Associate Director, Office of Program Coordination and Development, Bureau of Policy and Programs. Effective March 16, 1995.

United States Tax Court

Secretary to the Judge. Effective March 29, 1995.

United States Trade and Development Agency

Special Assistant for Policy and Public Affairs to the Director, Trade and Development Agency. Effective March 26, 1995.

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. 95–10455 Filed 4–27–95; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Extension of Comment Period Concerning Negotiations Regarding Chilean Accession to the North American Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Extension of Comment Period Concerning Negotiations regarding Chile's entry into the North American Free Trade Agreement (NAFTA).

SUMMARY: By a Federal Register published March 14, 1995, (60 FR 13746) the Office of the U.S. Trade Representative (USTR) gave notice that the United States, along with the Governments of Canada and Mexico, expects to undertake negotiations with the Republic of Chile regarding its accession to (i.e., inclusion in) the NAFTA and that the Trade Policy Staff Committee (TPSC) invites public comments on the negotiations. A public hearing was held on April 25. USTR has decided to extend the deadline for the submission of written comments from April 28 to May 12, 1995.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning public comments, contact Carolyn Frank, Executive Secretary, Trade Policy Staff Committee, Office of the USTR, (202) 395–9557. All other questions should be directed to Jane Early, Director for Chilean Affairs, (202) 395–5190, or James Southwick, Assistant General Counsel, (202) 395–7203.

SUPPLEMENTARY INFORMATION:

1. Public Comments and Testimony

In the notice of March 14, 1995, the Chairman of the TPSC, in conformity with TPSC regulations (15 CFR part 2003), invited written comments of interested persons on the desirability and economic effects of Chilean accession to the NAFTA.

Comments were particularly invited on:

(a) Economic costs and benefits to U.S. producers and consumers of removal of all tariff barriers to trade between Chile and the United States and between and among Chile and the current NAFTA parties and, in the case of articles for which immediate elimination of tariffs is not appropriate, the appropriate staging schedule for such elimination.

(b) Existing nontariff barriers to trade in goods between Chile and the United States and between and among Chile and the current NAFTA parties and the economic costs and benefits to U.S. producers and consumers of removing those barriers.

(c) Existing barriers to trade in services between Chile and the United States and between and among Chile and the current NAFTA parties, and economic costs and benefits to U.S. services firms and consumers of removing such barriers.

(d) Existing restrictions on investment flows between Chile and the United States and between and among Chile and the current NAFTA parties, and the costs and benefits to U.S. investors and consumers of eliminating such restrictions.

(e) Any other measures, policies, or practices of the Government of Chile falling within the scope of the NAFTA that should be addressed in the negotiations.

In addition, comments were invited on the possible environmental effects of Chile's accession to the NAFTA, as well as the possible effects on basic workers' rights, working conditions, and living standards.

The March 14, 1995, notice also (1) identified the range of Chilean articles (producers) for which U.S. tariffs and non-tariff measures may be reduced or eliminated as a result of the negotiations; (2) provided notice of a request by the United States Trade Representative to the International Trade Commission (Commission) for advice concerning the economic effects of Chilean accession; and (3) scheduled a public hearing for Tuesday, April 25, 1995.

2. Written Comments

Written comments, in 20 typed copies, may be submitted no later than noon, Friday, May 12, 1995, to Carolyn Frank, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, Room 501, 600 Seventeenth Street, N.W., Washington, D.C. 20506. Comments should state clearly the position taken and should describe with particularity the evidence supporting that position. Any business confidential material must be clearly marked as such on the cover page (or later) and succeeding pages. Such submissions must be accompanied by a nonconfidential summary of the confidential information.

Nonconfidential submissions will be available for public inspection at the USTR Reading Room, Room 101, Office of the United States Trade Representative, 600 Seventeenth Street, N.W., Washington, D.C. An appointment to review the file may be made by calling Brenda Webb (202) 395–6186. The Reading Room is open to the public from 10 a.m. to 12 noon and from 1 p.m. to 4 p.m. Monday through Friday.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 95–10531 Filed 4–27–95; 8:45 am]

BILLING CODE 3190–01–M

POSTAL RATE COMMISSION

[Docket No. A95–10]

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued April 24, 1995.

In the Matter of: Cotesfield, Nebraska 68829 (Marilyn & Errol Well, Petitioners

Before Commissioners: Edward J. Gleiman, Chairman; W.H. ''Trey'' LeBlanc III, Vice-Chairman; George W. Haley; H. Edward Quick, Jr.; Wayne A. Schley

Docket Number: A95–10.

Name of Affected Post Office: Cotesfield, Nebrask 68829.

Name(s) of Petitioner(s): Marilyn and Errol Wells.

Type of Determination: Closing.

Date of Filing of Appeal Papers: April 17, 1995.

Categories of Issues Apparently Raised:

1. Effect on postal services (39 U.S.C. 404(b)(2)(C)).

2. Effect on the community (39 U.S.C. 404(b)(2)(A)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may fine that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission orders:

(a) The Postal Service shall file the record in this appeal by May 2, 1995.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Cyril J. Pittack,

Acting Secretary.

Appendix

April 17, 1995 Filing of Appeal letter

April 24, 1995 Commission Notice and Order of Filing of Appeal

May 12, 1995 Last day of filing of petitions to intervene [see 39 CFR 3001.111(b)]

May 22, 1995 Petitioners' Participant Statement or Initial Brief [see 39 CFR 3001.115 (a) and (b)]

June 12, 1995 Postal Service's Answering Brief [see 39 CFR 3001.115(c)]

June 27, 1995 Petitioners' Relay Brief should Petitioner choose to file one [see 39 CFR § 3001.115(d)]

July 5, 1995 Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR 3001.116]

August 15, 1995 Expiration of the Commission's 120-day decisional schedule [see 39 U.S.C. 404(b)(5)]

[FR Doc. 95–10440 Filed 4–27–95; 8:45 am]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35640; File No. SR–GSCC 94–7]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Changes in Membership Standards

April 24, 1995.

On October 11, 1994, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change to establish minimum financial standards for two current netting system membership categories: insurance companies and registered investment companies. On December 5, 1994, GSCC filed an amendment to the proposed rule change.[2] On December 15, 1994, the Commission published notice of the proposed rule change in the Federal Register to solicit comment from interested persons.[3] On February 14, 1995, GSCC filed a second amendment to the proposed rule change.[4] The amendment was a technical amendment that did not require republication of notice. On April 20, 1995, GSCC filed a third amendment to the proposed rule change.[5] That amendment withdrew that portion of the proposed rule change relating to financial standards for investment companies. No comments were received. This order approves the proposal as amended.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Jerry Carpenter, Assistant Director, Division of Market Regulation (''Division''), Commission (December 1, 1994).

[3] Securities Exchange Act Release No. 35061 (December 7, 1994), 59 FR 64720.

[4] Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Christine Sibille, Staff Attorney [sic], Division, Commission (February 10, 1995).

[5] Letter from Jeffrey F. Ingber, General Counsel and Secretary, GSCC, to Jerry Carpenter, Assistant Director, Division, Commission (April 20, 1995).

I. Description

The proposed rule change establishes minimum financial standards for insurance company applicants for membership in GSCC's Netting System.[6]

(A) Background

GSCC Rule 2, Section 1 currently provides that insurance companies as defined by Section 2(a)(17) of the Investment Company Act of 1940 (''Investment Company Act'') are eligible to become members of GSCC's Netting System if they are in good standing with their primary regulator.[7] Insurance companies are regulated primarily by the states in which they organize and operate. States generally have imposed statutory and administrative requirements for the maintenance of reserves that are intended to bear a reasonable relationship to the risks presented by the insurers' outstanding contractual obligations. These requirements appear generally to have served to ensure that insurance companies are financially responsible.

In December 1992, the National Association of Insurance Commissioners (''NAIC'') adopted a model law that establishes standards for the adequacy of life and health insurance company surplus levels based upon the risk profile of their operations and investments.[8] The model law is to replace the fixed dollar minimum capital requirements under state law with an authorized control level risk-based capital (''RBC'') at or below which an insurance commissioner must act and place an insurer under varying degrees of increased state control.

The RBC is an adjusted capital requirement based on four main risk categories (asset risk, insurance risk, interest rate risk, and business risk). The asset risk category provides for risk of default on investments held by insurance companies by imposing reductions in valuation ranging from .3% of the value of obligations

[6] Currently, no insurance companies are members of GSCC's Netting System.

[7] Section 2(a)(17) of the Investment Company Act provides that ''Insurance company' means a company which is organized as an insurance company, whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and which is subject to supervision by the insurance commissioner or a similar official or agency of a State; or any receiver or similar official or any liquidating agent for such a company, in his capacity as such.''

[8] While only twenty states have adopted the model law as of November 1994, the risk-based capital report has been included in the NAIC financial statement used by all states. As a result, all insurance companies must disclose the risk profile in their annual financial reports.

guaranteed by the U.S. government to 30% of the value of common stock to 100% of the carrying value of foreign domiciled subsidiaries. The insurance risk category imposes capital levels with respect to an insurer's liabilities and obligations. In general, liabilities under health insurance policies require higher capital levels than liabilities under life insurance policies. The interest rate risk category is designed to cover the risk of losses from annuity and other deposit type liabilities with interest guarantees as a result of interest rate swings. Capital requirements range from .75% to 3% of reserve amounts. The business risk category is designed to account for the risk of state guaranty fund assessments and is a percentage of life and annuity premiums.

An insurance company's RBC level is calculated using the company's ''total adjusted capital'' (which is the sum of its statutory surplus, asset valuation reserve, voluntary investment reserves, and half of the annual dividend liability as adjusted for the capital contribution by subsidiaries) as the numerator and its RBC number as the denominator. If an insurance company's RBC level is equal to or greater than the ''company action level,'' then no regulatory intervention is required under the Model Act. A ratio of 200 percent or more is necessary for a life or health insurance company to avoid any regulatory action.[9]

In December 1993, the NAIC adopted similar risk-based standards for property and casualty insurance companies. These standards will take effect for the 1994 annual financial reports. The RBC property and casualty insurance companies is based on asset risk, credit risk, loss reserve risk, and written premium risk. The asset risk capital represents the capital required to support the risk of potential default of invested assets. Credit risk capital represents the capital required to support the risk of default by reinsurers and other creditors. Loss reserve risk capital represents the capital required to support the risk of adverse development in excess of expected investment income from loss reserves. Written premium risk represents the capital required to support the risk of inadequate rates on business written over the coming year. As with life and health insurers, the RBC level for property and casualty insurers is calculated by dividing the insurer's surplus by its calculated RBC. The ''company action level'' for property and casualty insurers is 80%.[10]

There are several private organizations that rate insurance companies. A.M. Best (''Best'') was the first rating agency to report on the condition of insurance companies. Standards & Poor's (''S&P''), Moody's, and Duff & Phelps (''D&P'') also rate insurance companies.

(B) Membership Standards

As a result of the regulation of insurance companies by the states, no uniform regulatory financial standard exists for insurance companies. Instead, the proposed rule change relies on the analysis and rating of each insurance company provided by the rating agencies as a proxy for such a uniform standard. The proposal also establishes a ''size'' test that at least initially only insurance companies of substantial size can meet and requires that insurance company netting members have a satisfactory RBC level.

Specifically, the proposal establishes the following minimum financial standards for insurance company netting members to be accepted into GSCC Netting System membership:

(1) A Best's rating of ''A−'' or better (if the member is rated by Best),[11]

(2) A rating by at least one of the other three major rating agencies (D&P, Moody's, or S&P) of at least ''A−'' or ''A3'', as applicable (or an equivalent rating by either a nationally-recognized statistical rating organization or another rating agency acceptable to GSCC),

(3) No rating by any one of the other three major rating agencies of less than ''A−'' or ''A3'', as applicable,[12]

(4) A RBC level equal to or greater than the applicable ''company action level'' as set forth in the Risk-Based Capital for Insurers Model Act, and

(5) Statutory capital (consisting of adjusted policyholders' surplus plus the company's asset valuation reserve) of no less than $500 million.[13]

(C) Reporting Requirements

Each applicant for membership in GSCC's Netting System that is an insurance company will be required to provide its two most recent annual statements and three most recent quarterly financial statements filed with the NAIC, the Commission, and/or the applicant's regulatory authority in its state of domicile. In order to monitor the financial status of insurance company netting members on an ongoing basis, each such member will be required to provide GSCC with copies of its quarterly and annual financial statements and any intervening amendments and addendums thereto at the time that such statements are filed with the NAIC, the Commission, and/or the member's regulatory authority in its state of domicile.

II. Discussion

Section 17A(b)(3)(B) of the Act[14] provides that the rules of a clearing agency must provide that certain types of entities, including insurance companies, may become participants in such clearing agency. Section 17A(b)(4)(B) of the Act[15] provides that a registered clearing agency may deny participation to or condition the participation of any person if such person does not meet such standards of financial responsibility, operational capacity, experience, and competence as are prescribed by the rules of the clearing agency.

In the Commission's release adopting standards for clearing agency registration (''Standards Release''), the Commission stated that although the categories enumerated by Section 17A(b)(3)(B) are already subject to regulation by various federal and state authorities, such regulation does not necessarily qualify an applicant for participation in a clearing agency.[16] Instead, a clearing agency may impose such additional or higher standards as it deems necessary to protect the clearing agency and it participants from unreasonable risks.

In its registration application, GSCC requested an exemption from Sections 17A(b)(3)(B) and 17A(b)(4)(B) of the Act. At that time GSCC's rules did not

[9] If a life or health insurance company's RBC level is between 150–200%, under the Model Act regulators would require a company to file a plan to increase the capital ratio to greater than 200%. At a RBC level of 100–150%, regulators would do an examination of the company and issue corrective orders. At 70–100%, the regulators would be authorized to take control of the company. Below 70%, the regulators would be reaquired to take control of a company.

[10] Under the Model Act, at an RBC level at 28% or less regulators would be required to take control of a company.

[11] Best's ratings are as follows:

A++ and A+=superior

A and A−=excellent

B++ and B+=very good

B and B−=good

C++ and C+=fair

C and C−=marginal

D=below minimum standards

E=under state supervision

F=in liquidation

Currently, approximately one-third of all life insurance companies rated by Best and over one-half of all property and casualty insurance companies rated by Best have a rating of A− or better.

[12] A rating of below ''A−'' or ''A3'' by one of the other three major rating agencies generally indicates some weakness.

[13] Currently, this standard encompasses roughly the twenty-five largest life insurers and the twenty-five largest property and casualty insurers.

[14] 15 U.S.C. 78q–1(b)(3)(B) (1988).

[15] 15 U.S.C. 78q–1(b)(4)(B) (1988).

[16] Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920.

enumerate all of the statutory categories of membership. In addition, GSCC's rules did not include applicant and membership financial standards as contemplated by Section 17A(b)(4)(B) of the Act. In its initial temporary registration order,[17] the Commission stated that in developing member financial and operation standards, GSCC should ensure that the standards would allow GSCC to allocate losses resulting from member defaults in order to support GSCC's netting system. The Commission believes that GSCC's experience in operating a clearing and settlement facility for government securities transactions has provided GSCC with the necessary guidance to develop applicant and continuing membership standards for insurance companies that are both fair and adequate to protect GSCC and its participants from unreasonable risk.

The proposals also limits Netting System membership to the largest insurance companies in existence. The Standards Release notes that a clearing agency may discriminate among persons in the admission to the clearing agency if such discrimination is based on standards of financial responsibility, operational capability, experience, and competence. The Division believes that, at least initially, the limitations on the basis of capital appear to be reasonable as demonstrations of greater financial responsibility, operational capacity, experience and competence.

III. Conclusion

For the reasons stated above, the Commission finds that the proposed rule change is consistent with Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–94–07) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10485 Filed 4–27–95; 8:45 am]

BILLING CODE 8010–01–M

[17] Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19639.

[Release No. 34–35638; File No. SR–ISCC–95–2]

Self-Regulatory Organizations; International Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Service Fees

April 24, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] (''Act''), notice is hereby given that on April 3, 1995, International Securities Clearing Corporation (''ISCC'') 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 primarily by ISCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISCC is filing the proposed rule change to revise its fee schedule in accord with its current service costs and to make certain technical corrections thereto.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ISCC 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. Summaries are set forth in sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to adjust certain fees charged to ISCC participants for services to accurately reflect ISCC's current cost of providing such services. Fees for receipt of transaction instructions have been increased from $1.50 to $2.25 per item for instructions transmitted by a participant via computer platform and from $3.00 to $5.00 per item for instructions transmitted by a participant via mail, facsimile, or telex. Reporting fees for machine readable output, print image output, and hardcopy (via telex or mail) have doubled to $10.00, $20.00, and $50.00 per report, respectively, and duplicate copies of prior day reports also have doubled to $50.00 per report requested. Participants will be charged for services in accordance with the new fee structure effective April 1, 1995. In addition, ISCC is deleting all references to ''PORTAL'' in the fee schedule which references should have been previously removed in connection with the elimination of the PORTAL program in 1994.[2]

The proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it provides for the equitable allocation of dues, fees, and other charges among ISCC's participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

ISCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments have been solicited or received. ISCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) [3] of the Act, and pursuant to Rule 19b–4(e)(2) [4] promulgated thereunder, insofar as the proposed rule change establishes or changes a due, fee, or other charge imposed by a self-regulatory organization. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 34980, (November 16, 1994), 59 FR 60177 [File No. SR–ISCC–94–05].

[3] 15 U.S.C. 78s(b)(3)(A)(ii) (1988).

[4] 17 CFR 240.19b–4(e)(2) (1994).

Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of ISCC. All submissions should refer to File No. SR–ISCC–95–2 and should be submitted by May 19, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10484 Filed 4–27–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–35639; File No. SR–OCC–95–04]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Enhanced Clearing Member Interface Fees

April 24, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 [1] (''Act''), notice is hereby given that on April 11, 1995, The Options Clearing Corporation (''OCC'') 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 primarily by OCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

OCC is filing the proposed rule change to revise its monthly lease fee charged to clearing members using the Enhanced Clearing Member Interface (''ECMI'') configuration.

[5] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. Summaries of the most significant aspects of such statements are set forth in sections (A), (B), and (C) below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to adjust the monthly lease fee charged to OCC clearing members using ECMI. ECMI consists of equipment and software designed to enhance the ability of OCC's clearing members to interface with OCC's mainframe and local area network systems.[2] The lease fees for ECMI were based on OCC's leasing and other overhead costs and were originally set at $200.00 per month. At this time, OCC's costs associated with providing ECMI to its clearing members have decreased on a per unit basis. Accordingly, as of January 1, 1995, OCC proposes to reduce to $150.00 per month its monthly lease fees charged to clearing members.[3]

OCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it provides for the equitable allocation of dues, fees, and other charges among OCC's clearing members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

[2] ECMI permits clearing members, among other things, to input post-trade transactions via OCC's Clearing Management and Control System, to retrieve clearing reports via OCC's on-line report inquiry service, and to review information memoranda and other notices via OCC's Options News Network service. Securities Exchange Act Release No. 32366 (May 25, 1993) 58 FR 31435 [File No. SR–OCC–93–11] (notice of filing and immediate effectiveness of proposed rule change).

[3] OCC will make the fee reduction retroactive to January 1, 1995, and will credit members' accounts for the reduction of the fee. Telephone conversation between Jean M. Cawley, Special Counsel, OCC, and Peter R. Geraghty, Senior Counsel, Division of Market Regulation, Commission (April 18, 1995).

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments have been solicited or received. OCC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) [4] of the Act and pursuant to Rule 19b–4(e)(2) [5] promulgated thereunder because the proposal establishes or changes a due, fee, or other charge imposed by OCC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–95–04 and should be submitted by May 19, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10486 Filed 4–27–95; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78s(b)(3)(A)(ii) (1988).

[5] 17 CFR 240.19b–4(e)(2) (1994).

[6] 17 CFR 200.30–3(a)(12) (1994).

[Release No. IC–21025; 812–9198]

Integrity Life Insurance Company, et al.

April 24, 1995.

AGENCY: Securities and Exchange Commission (the ''SEC'' or the ''Commission'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: Integrity Life Insurance Company (''Integrity''), National Integrity Life Insurance Company (''National Integrity'') (Integrity and National Integrity shall be referred to hereinafter as the ''Companies''), Integrity Life Insurance Company Separate Account III (the ''Integrity Separate Account''), National Integrity Life Insurance Company Separate Account III (the ''National Integrity Separate Account'') (the Integrity Separate Account and the National Integrity Separate Account shall be referred to collectively hereinafter as the ''Separate Accounts''), and Integrity Financial Services (''IFS'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act for exemptions from Sections 26(a)(2)(C) and 27(c)(2) thereof.

SUMMARY OF APPLICATION: Applicants seek an order to permit the deduction of a mortality and expense risk charge from the assets of the Separate Accounts under certain flexible premium variable annuity contracts (the ''Contracts'') and under any materially similar contracts offered in the future by such Separate Accounts (the ''Future Contracts'') or from the assets of any other separate account established by either of the Companies in the future to support variable annuity contracts which are materially similar to the Contracts, and for which any National Association of Securities Dealers, Inc. (''NASD'') member broker-dealer other than IFS—which is wholly-owned by the ARM Financial Group, Inc. and registered with the Commission under the Securities Exchange Act of 1934—may in the future serve as the principal underwriter.

FILING DATES: The application was filed on August 24, 1994, and amended on March 31, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on May 19, 1995, and must be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests must 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 Commission's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants: c/o Jorden Burt & Berenson, 1025 Thomas Jefferson Street NW., Suite 400 East, Washington, DC 20007–0805, Attention: Michael Berenson, Esq.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, or Patrice M. Pitts, Special Counsel, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicants' Representations

1. Integrity was organized in 1966 as an Arizona stock life insurance company and has redomesticated as an Ohio stock life insurance company. National Integrity was organized in 1968 as a New York stock life insurance company. Each of the Companies is principally engaged in offering life insurance policies and annuity contracts. National Integrity is a subsidiary of Integrity and both Companies are indirectly wholly-owned by The ARM Financial Group, Inc., an insurance holding company. The ARM Financial Group, Inc. is a holding company in the business of owning and managing life insurance companies that specialize in the design, marketing, and management of accumulation products.

2. The Integrity Separate Account is a distinct investment account of Integrity, and the National Integrity Separate Account is a distinct investment account of National Integrity. Each of the Separate Accounts acts as a funding vehicle for the Contracts.

3. Each Separate Account invests solely in the Schabacker Select Fund (the ''Portfolio''), currently the only investment portfolio of United Services Insurance Funds (''USIF''), a diversified, open-end management investment company that has filed a registration statement with the SEC under the 1940 Act. The Portfolio primarily invests in a broad range of other open-end and closed-end investment companies (''underlying funds''). An investor in the Portfolio may have the option of investing directly in the underlying funds, rather than indirectly through the Portfolio which will duplicate some operating expenses. As a result of this duplication of expenses, an investor not only will bear the investor's proportionate share of the expenses of the Portfolio, including operation costs and management fees, but also will indirectly share in a portion of similar expenses of the underlying funds. The shares of the Portfolio are purchased by each Company for the Company's Separate Account at net asset value, without a sales load.

4. The board of directors of each of the Companies may, in the future, establish additional subaccounts within the same Separate Account (''Subaccounts''), which may invest in other portfolios of USIF as and when such portfolios are registered, or in other investments. Each Company may, in the future, establish other contracts which are funded by the Company's Separate Account and which are materially similar to the Contracts. In addition, each Company may, in the future, establish other separate accounts which issue contracts which are materially similar to the Contracts.

5. IFS, a wholly-owned subsidiary of The ARM Financial Group, Inc. which is registered as a broker-dealer under the Securities Exchange Act of 1934, is the distributor of the Contracts.

6. The Contracts are intended to be used in connection with retirement plans that qualify for Federal tax advantages and for plans that do not so qualify. The Contracts are flexible premium variable annuity contracts which provide for an initial contribution and allow for additional contributions at any time before the annuity payments begin, as long as the annuitant is living and subject to certain limitations.

7. No sales load is deducted from the initial contribution or any additional contributions, and there are no sales charges imposed upon withdrawals.

8. The Contracts are subject to an annual maintenance fee of $35 which will be deducted on the last business day of each Contract year. The annual maintenance fee will be waived in any year that the account value of the Contract is $50,000 or more on the last business day of the Contract year.

9. Prior to the retirement date, an administrative charge equal to 0.15% annually of the net asset value of the Separate Account of each Company is assessed daily and will be deducted from the accumulation unit value of the Contract. The administrative charge is intended to cover the Company's ongoing administrative expenses. This charge and the annual maintenance fee

will not in the aggregate exceed the cost of services to be provided over the life of the Contract defined in accordance with the applicable standards in Rule 26a–1 under the 1940 Act. The deductions for the administrative charge and annual maintenance fee represent reimbursement for the costs expected to be incurred by each Company over the life of the Contract for issuing and maintaining each Contract and the Company's Separate Account.

10. The Contract owner will pay premium taxes, where such taxes are imposed by state law, and which taxes currently range up to 3.5%. These taxes will be deducted from the account value or contributions, as incurred by each Company. Any other taxes levied by any government entity regarding the Contracts or the Separate Accounts will be paid by each of the Companies.

11. Each Company will impose a charge as compensation for bearing certain mortality and expense risks under the Contract. The annual charge is assessed daily and is based on the net asset value of each Separate Account. The annual mortality and expense risk charge will not exceed an effective annual rate of 0.50% of the net asset value of each Separate Account, where 0.40% is allocated to the mortality risk and 0.10% is allocated to the expense risk. Likewise, for Future Contracts, the annual mortality and expense risk charge will not exceed an effective annual rate of 0.50% of the net asset value of the Separate Account attributable to such contracts, where 0.40% is allocated to the mortality risk and 0.10% is allocated to the expense risk.

12. The mortality risk borne by each Company under the Contract arises from the Company's obligation to make annuity payments regardless of how long an annuitant may live. Each Company also assumes mortality risk as a result of death benefits which may be paid under the Contract and which guarantee a minimum payment in the event that the annuitant dies prior to the annuity date. The expense risk borne by each Company under the Contract is the risk that the charges for administrative expenses, which charges are guaranteed for the life of the Contract, may be insufficient to cover the actual costs of issuing and administering the Contract.

13. If the mortality and expense risk charges deducted are insufficient to cover the actual cost of the mortality and expense risk, each Company will bear the loss. Conversely, if the mortality and expense risk charges deducted exceed the costs, the excess will be added to each Company's surplus and will be used for any lawful purpose, including any shortfalls on the costs of distributing the Contracts.[1]

Applicants' Legal Analysis and Conditions

1. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the 1940 Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Sections 26(a)(2) and 27(c)(2) of the 1940 Act, in pertinent part, prohibit a registered unit investment trust, and any depositor or underwriter thereof, from selling periodic payment plan certificates unless the proceeds of all payments are deposited with a qualified trustee or custodian and are held under arrangements which prohibit any payment to the depositor or principal underwriter except for a fee, not exceeding such reasonable amounts as the Commission may prescribe, for performing bookkeeping and other administrative services.

3. Applicants request an order under Section 6(e) exempting them from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of a mortality and expense risk charge from the assets of the Separate Account funding the Contracts and Future Contracts. Applicants also request that the order permit the deduction of a mortality and expense risk charge from the assets of any other separate account established by either of the Companies in the future to support variable annuity contracts which are materially similar to the Contracts, and for which any NASD member broker-dealer other than IFS may in the future serve as the principal underwriter. Any such future principal underwriter will be wholly-owned, directly or indirectly, by the ARM Financial Group, Inc., and be registered with the Commission under the Securities Exchange Act of 1934.

4. Applicants submit that the requested relief is appropriate in the public interest because such an order would promote competitiveness in the variable annuity contract market by eliminating the need for the Companies to file redundant exemptive applications, which reduces each Company's resources. Applicants further submit that investors would not receive any benefit or additional protection by the Company being required repeatedly to seek exemptive relief regarding the same issues addressed in this application.

5. Applicants represent that the mortality and expense risk charges under the Contracts are within the range of industry practice for comparable variable annuity contracts. Applicants base this representation on their review of publicly available information regarding the aggregate level of the mortality and expense risk charges under variable annuity contracts currently being offered in the insurance industry which are comparable to the Contracts. In this regard, Applicants have taken into consideration such factors as current charge levels, the manner in which charges are imposed, the presence of charge-level or annuity-rate guarantees, and the markets in which the Contracts will be offered. Applicants will maintain and make available to the Commission upon request a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, the comparative survey.

6. Similarly, prior to making available any Future Contracts and prior to making available any materially similar contracts through other separate accounts established by either of the Companies in the future, Applicants will represent that the mortality and expense risk charges under any such contracts will be within the range of industry practice for comparable contracts. Applicants will maintain and make available to the Commission upon request a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, the comparative survey.

7. The Contracts do not provide for a sales charge to cover the costs incurred in distributing the Contracts, and there are no sales charges imposed upon surrender or partial withdrawal of a Contract. Applicants represent that the costs related to the distribution of the Contracts will be paid from the assets of the general account of the Company, which amounts will be derived in part from gains from operations regarding the Contracts and from the mortality and expense risk charge. Each Company has concluded that there is a reasonable likelihood that the distribution financing arrangement being used in connection with the Contracts and the Future Contracts will benefit the Company's Separate Account and the Contract owners. The Companies will maintain and make available to the Commission upon request a

[1] Applicants represent that, during the notice period, the application will be amended to reflect this representation.

memorandum setting forth the basis for this representation.

8. Applicants further represent that each Separate Account, and other separate accounts established in the future, will invest only in underlying funds which have undertaken to have a board of directors/trustees, a majority of whom are not interested persons of any such funds, formulate and approve any plan under Rule 12b–1 under the 1940 Act to finance distribution expenses.

Applicants' Conclusion

Applicants assert that, for the reasons and upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–10483 Filed 4–27–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 2191]

Notice Convening an Accountability Review Board for the Attack on the Consulate Shuttle Bus in Karachi in Which Two Americans Were Killed

Pursuant to section 301 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4831 *et seq.*), I have determined that the March 8, 1995, terrorist attack on the Consulate shuttle bus in Karachi, Pakistan, involved loss of life related to a U.S. mission abroad. Therefore, I am convening an Accountability Review Board, as required by that statute, to examine the facts and circumstances of the attack and report to me such findings and recommendations as it deems appropriate, in keeping with the attached mandate.

I have appointed former Ambassador Jane Coon as chairperson of the board. She will be assisted by former Ambassador Peter Sebastian, former Ambassador Peter Moffat, Mr. James Higham, and Mr. George Murphy. Mr. Douglas Watson will act as Executive Secretary. The members will bring to their deliberations distinguished backgrounds in government service and private life.

I have asked the Board to submit its conclusions and recommendations to the Secretary within sixty days of its first meeting, unless the Chairperson determines a need for additional time. Appropriate action will be taken and reports submitted to Congress on any recommendations made by the board.

Anyone with information relevant to the board's examination of this incident should contact the board promptly on (202) 647–9403.

Strobe Talbott,

Deputy Secretary of State.

[FR Doc. 95–10438 Filed 4–27–95; 8:45 am]

BILLING CODE 4710–10–M

[Public Notice 2196]

Bureau of Consular Affairs; Visa Office Meeting of U.S. Government Regulators and Outside Interested Parties; Notice

SUMMARY: Pursuant to a Presidential directive, agencies of the U.S. government are convening meetings of the government regulators with representatives of groups whose activities are so regulated. The Visa Office of the State Department will hold such a meeting on May 23, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Office, Department of State, Washington, D.C. 20522–0113; (PHONE) (202) 663–1204; (FAX) (202) 663–3898.

DATES: Interested parties are requested to communicate with the Visa Office by letter addressed to Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Office, (phone) (202) 663–1204; (FAX) (202) 663–3898 to make reservations for the meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss means of establishing better communication between those performing the visa function and interested parties. Additionally, as the Visa Office is in the process of preparing regulations to revamp the immigrant visa form under section 222(a) of the Immigration and Nationality Act pursuant to section 205 of the Immigration and Nationality Technical Corrections Act of 1994, Pub. L. 103–416, comments will be solicited from the participants in this regard. Persons interested in attending the meeting should FAX or telephone the Visa Office two weeks prior to the meeting to indicate their interest in attending. A letter confirming your interest in participating in the meeting, addressed to Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Office, Department of State, Washington, D.C. 20522–0113; (phone) (202) 663–1204; (FAX); (202) 663–3898, must be received two weeks prior to the meeting to make reservations for the meeting. Letters may be faxed to ensure timely receipt. The Visa Office will confirm your participation and provide the time and location of the meeting. The number of representatives per group will be determined by the number of persons responding to this notice.

Dated: April 24, 1995.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 95–10500 Filed 4–27–95; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program; General Mitchell International Airport Milwaukee, WI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by Milwaukee County 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. These findings are made in recognition of the description of federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On September 23, 1994 the FAA determined that the noise exposure maps submitted by Milwaukee County under part 150 were in compliance with applicable requirements. On March 22, 1995, the Administrator approved the General Mitchell International Airport noise compatibility program. Most of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the General Mitchell International Airport noise compatibility program is March 22, 1995.

FOR FURTHER INFORMATION CONTACT: William J. Flanagan, Federal Aviation Administration, Airports District Office, room 102, 6020 28th Avenue South, Minneapolis, Minnesota 55450, (612) 725–4463. Documents reflecting this FAA action may be reviewed at this location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for General

Mitchell International Airport, effective March 22, 1995.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program that sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Minneapolis-Airports District Office in Minneapolis, Minnesota.

Milwaukee County submitted to the FAA on December 2, 1993 the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from September 1989 through December 1993. The General Mitchell International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on September 23, 1994. Notice of this determination was published in the Federal Register on October 13, 1994.

The General Mitchell International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2000. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on September 23, 1994 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained thirty-two (32) proposed actions for noise mitigation on and off the Airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Assistant Administrator for Airports effective March 22, 1995.

Outright approval was granted for twenty-seven (27) of the specific program elements. The five (5) out of nine (9) noise abatement measures approved included new departure procedures and purchase of an engine runup noise suppresser. The fifteen (15) out of sixteen (16) land use measures approved included amendments to zoning regulations, amendments to subdivision regulations, amendments to building codes, amendments to land use plans, preparation of economic development/redevelopment plans, land acquisition, sound insulation of homes, schools, churches and a nursing home, easement acquisitions and a sales assistance program. All seven (7) of the continuing program measures were approved. They included publication of noise abatement procedures, a noise complaint response system, monitoring of aircraft activity and fleet conversion, development of a flight tracking and noise monitoring system, evaluating and updating the NCP and establishment of a noise abatement and mitigation staff.

The one (1) land use measure that was partially approved included acquisition of scattered homes within runway protection zones and DNL 70 contour. The portion removed from approval was the acquisition of vacant lots, pending demonstration at time of acquisition, the property is still within the DNL 65 and has either been or is in imminent danger of being developed incompatibly.

The four (4) noise abatement measures that were disapproved included revision of the informal runway use program and noise abatement departure procedures. The revised informal runway use program resulted in an overall net increase of persons affected by significant noise. The departure procedure encouraging continued use of engine thrust-back techniques was disapproved pending receipt of additional information on the specific proposed procedure for each runway as described in Advisory Circular 91–53A and the resulting noise benefits. The departure procedures from runway 19R using installation of a DME and VOR to define left turns at 2 DME (a point over the departure end of 19R) onto a noise abatement flight track until 4 DME was disapproved as an unsafe operation because it required a turn in close proximity to the ground.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on March 22, 1995. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the airport administrative offices of Milwaukee County.

Issued in Minneapolis, Minnesota on April 17, 1995.

Franklin D. Benson,

Manager, Minneapolis Airports District Office, FAA Great Lakes Region.

[FR Doc. 95–10513 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting to solicit information from the aviation maintenance community concerning maintenance, preventive maintenance, rebuilding and alteration, and inspection of certain aircraft. The information is requested to assist the Aviation Rulemaking Advisory Committee (ARAC) in its deliberations.

DATES: The meeting will be held on May 11, 1995, from 1 p.m. until 5 p.m.

ADDRESSES: The meeting will be held at Dr. Albert Sabin, Cincinnati Convention Center, Cincinnati, Ohio.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Leonard, Professional Aviation Maintenance Association, 1008 Russell Lane, West Chester, PA 19382; telephone (610) 399–1744.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. II), notice is hereby given of a meeting to solicit information from the aviation maintenance community concerning maintenance, preventive maintenance, rebuilding and alteration, and inspection of certain aircraft. The information is requested to assist the Aviation Rulemaking Advisory Committee in its deliberations with regard to a task assigned to ARAC by the Federal Aviation Administration.

Specifically, the task is as follows:

Review Title 14 Code of Federal Regulations, parts 43 and 91, and supporting policy and guidance material for the purpose of determining the course of action to be taken for rulemaking and/or policy relative to the issue of general aviation aircraft inspection and maintenance, specifically § 91.409, part 43, and Appendices A and D of part 43. In your review, consider any inspection and maintenance initiatives underway throughout the aviation industry affecting general aviation with a maximum certificated takeoff weight of 12,500 pounds or less. Also consider ongoing initiatives in the areas of: Maintenance recordkeeping; research and development; the age of the current aircraft fleet; harmonization; the true cost of inspection versus maintenance; and changes in technology.

Attendance is open to the interested public but may be limited to the space available. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the meeting coordinator listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on April 25, 1995.

Dennis H. Piotrowski,

Acting Assistant Executive Director, Air Carrier/General Aviation Maintenance Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–10512 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–13–M

Research and Special Programs Administration

[Notice No. 95–7]

Use of Post-Consumer Recycled Plastic Material in the Manufacture of New Plastic Drums: Request for Comments

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Request for comments.

SUMMARY: RSPA is soliciting comments on a request for approval for the limited use of post-consumer recycled plastic material in the manufacture of new plastic drums. The Hazardous Materials Regulations (HMR) prohibit used plastic material, other than production residues or regrind from the same manufacturing process, in the manufacture of new plastic drums. Because of the general applicability and future effect of such an approval, RSPA is seeking comment on the merits of the request from other interested parties.

DATES: Comments are requested on or before June 30, 1995.

ADDRESSES: Request copies of this request for approval from, and address comments to, the Dockets Unit (DHM–30), Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590–0001. Comments should identify the notice number and be submitted, when possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street, SW., Washington, D.C. Public dockets may be reviewed between the hours of 8:30 a.m. to 5 p.m. Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: Christine Whitney, Office of Hazardous Materials Exemptions and Approvals, telephone (202) 366–4512, or Susan Murphy, Office of Hazardous Materials Technology, telephone (202) 366–4545, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: The Hazardous Materials Regulations have historically prohibited used plastic material, other than production residues or regrind from the same manufacturing process, in the manufacture of new plastic drums for hazardous materials transportation. The use of post-consumer recycled plastic in packagings for hazardous materials raises three concerns. First, the contents of a plastic packaging permeate into the plastic. Materials that have permeated into post-consumer recycled plastic could be incompatible with materials subsequently placed in a packaging made from the post-consumer recycled material. Second, in comparison with virgin polyethylene resin, post-consumer recycled plastic may have inferior strength characteristics. Third, use of post-consumer recycled plastic for the construction of hazardous materials packagings requires rigorous quality assurance control of the post-consumer recycled material. General application of such control measures to plastic packaging has not been practicable.

Due to environmental concerns, packaging manufacturers are coming under increased pressures to use recycled materials in manufacturing new packagings. The HMR, in 49 CFR 178.601(h), state that a packaging having specifications different from those in §§ 178.504–178.523 may be used if approved by the Associate Administrator for Hazardous Materials Safety. RSPA has received a request for an approval for the manufacture of plastic drums which do not meet the specifications of § 178.509, because the drums would be constructed, in part, from post-consumer recycled plastic. Use of the drums would be limited to transportation of hazardous waste for disposal.

RSPA is requesting comments in response to the following questions:

1. Should RSPA authorize the limited use of recycled (post-consumer) plastic in the manufacture of new drums?

2. What controls (e.g., cleaning, testing, etc.) are needed to ensure the recycled plastic used will consistently result in a quality drum?

3. Should the source of the recycled plastic be limited to certain types of previously used packagings or articles?

In addition to these questions, RSPA is requesting comments on any issues relevant to the approval request. In responding to this notice, commenters should provide information on the potential safety and cost impacts of recommended actions.

Issued in Washington, DC on April 24, 1995.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 95–10460 Filed 4–27–95; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service

AGENCY: Department Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date and time of the next meeting and the agenda for consideration by the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service.

DATES: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on Friday, May 19, 1995, at 9:00 a.m. at the World Trade Center, Number Two Canal Street, Suite 2900, New Orleans, Louisiana; Tel.: (504) 529–1601 (WTC General Information). The duration of the meeting will be approximately three hours.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Director, Office of Tariff and Trade Affairs, Office of the Under Secretary (Enforcement), Room 4004, Department of the Treasury, 1500 Pennsylvania, N.W., Washington, D.C. 20220. Tel.: (202) 622–0220.

SUPPLEMENTARY INFORMATION: At the May 19 session, the regular quarterly meeting of the Advisory Committee, the Committee is expected to consider the agenda items listed below. The agenda may be modified prior to the meeting.

1. Customs reorganization with a special focus on the New Orleans Customs Management Center (CMC).

2. Customs role in a prospective Federal interagency international trade database project (National Performance Review Item IT–06).

3. Administration of the customs brokers' examination and licensing program.

4. Status of implementation of the Customs Modernization Act.

5. Committee recommendations for the Customs FY 1997 budget.

The meeting is open to the public; however participation in the Committee's deliberations is limited to Committee members and Customs and Treasury Department staff. A person other than an Advisory Committee member who wishes to attend the meeting, should give advance notice by contacting Ms. Theresa Manning at (202) 622–0220 no later than May 11, 1995.

Dated: April 21, 1995.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 95–10416 Filed 4–27–95; 8:45 am]

BILLING CODE 4810–25–M

Customs Service

[T.D. 95–40]

Revocation of Customs Broker Licenses

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

ACTION: General notice.

SUMMARY: Notice is hereby given that on March 30, 1995, the Secretary of the Treasury, pursuant to Section 641, Tariff Act of 1930, as amended, (19 U.S.C. 1641), and Part 111.74 of the Customs Regulations, as amended (19 CFR 111.74), ordered the revocation of the following Customs broker licenses due to the failure of the broker to file the status report as required by 19 CFR 111.30(d). These licenses were issued in the Los Angeles District. The list of affected brokers is as follows:

Robert N. Altman 06258
Sheba Arif-Ott 10692
Martha V. Blanchette 06165
Ronald A. Caligagan 07338
Hector N. Cruz 05699
Regina M. Farnin 11771
Steven Goldstein 12782
Sharon A. Herbison 05292
Gary A. Lenthall 09785
Susan Joy Nadler 06254
Lillian A. Nevala 04238
Sharon L. Noel 06191
Brenda K. Osborne 10926
Lane Peterson 12572
Christine Ann Petri 13425
Leroy B. Powers 02742
Jan W. Richard 05120
Dwight E. Richardson, Jr. 04740
Gail Z. Rubenstein 06394
Maureen Theresa Saul 09736
Craig A. Sheppard 09800
Renee E. Stein 07160
Deborah A. Todd 12505
Nancy Ya-Ping Woo 13285

Dated: April 24, 1995.

Philip Metzger,

Director, Trade Compliance Division.

[FR Doc. 95–10445 Filed 4–27–95; 8:45 am]

BILLING CODE 4820–02–P

[T.D. 95–39]

License Cancellations

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

ACTION: General notice.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 111.51(a), the following Customs broker licenses have been cancelled due to the death of the broker. These licenses were issued in various Customs Districts.

Alfred J. Stanoch .....license no. 3407
Raymond Hemerich .....license no. 4752

Dated: April 24, 1995.

Philip Metzger,

Director, Trade Compliance.

[FR Doc. 95–10446 Filed 4–27–95; 8:45 am]

BILLING CODE 4820–02–P

[T.D. 95–36]

Recordation of Trade Name: "California Hipermart"

SUMMARY: On Tuesday, December 20, 1994, a notice of application for the recordation under Section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "CALIFORNIA HIPERMART" used by California Hipermart, a Corporation organized under the laws of the State of California, located at 317 S. Palm Avenue, Alhambra, California 91803 was published in the Federal Register (59 FR 65572). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than February 21, 1995. No responses were received in opposition to the notice.

Accordingly, as provided in Section 133.14, Customs Regulations (19 CFR 133.14), the name "CALIFORNIA HIPERMART," is recorded as the trade name used by California Hipermart, a corporation organized under the laws of the State of California, located at 317 S. Palm Avenue, Alhambra, California 91803.

The application states that the trade name is used in connection with the

following merchandise descripted below:

Toys & Sporting goods: Electrical apparatus
Paper & Plastic goods: Clothing
Houseware & glass: Bicycles
Environmental control apparatus

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Delois P. Johnson, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., (Franklin Court), Washington, D.C. 20229 (202–482–6960).

Dated: April 21, 1995.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 95–10493 Filed 4–27–95; 8:45 am]

BILLING CODE 4820–02–M

[T.D. 95–37]

Recordation of Trade Name: ''CHENGCORP''

SUMMARY: On Tuesday, December 20, 1994, a notice of application for the recordation under Section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name ''CHENGCORP'' used by Chengcorp, a corporation organized under the laws of the State of California, located at 317 S. Palm Avenue, Alhambra, California 91803 was published in the Federal Register (59 FR 65572). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than February 21, 1995. No responses were received in opposition to the notice.

Accordingly, as provided in Section 133.14, Customs Regulations (19 CFR 133.14), the name ''CHENGCORP,'' is recorded as the trade name used by Chengcorp, a corporation organized under the laws of the State of California, located at 317 S. Palm Avenue, Alhambra, California 91803.

The application states that the trade name is used in connection with the following merchandise descripted below:

Toys & Sporting goods: Electrical apparatus
Paper & Plastic goods: Clothing
Houseware & glass: Bicycles
Environmental control apparatus

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Delois P. Johnson, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., (Franklin Court), Washington, DC 20229 (202–482–6960).

Dated: April 21, 1995.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 95–10494 Filed 4–27–95; 8:45 am]

BILLING CODE 4820–02–M

[T.D. 95–38]

Recordation of Trade Name: ''Weighpack International, B.V.''

SUMMARY: On Tuesday, December 20, 1994, a notice of application for the recordation under Section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name ''WEIGHPACK INTERNATIONAL, B.V.,'' used by Weighpack International, B.V., a corporation organized under the laws of The Netherlands, located at Stevinstraat 31 A, 2587 EA Den Haag, The Netherlands was published in the Federal Register (59 FR 65573). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than February 21, 1995. No responses were received in opposition to the notice.

Accordingly, as provided in Section 133.14, Customs Regulations (19 CFR 133.14), the name ''WEIGHPACK INTERNATIONAL, B.V.,'' is recorded as the trade name used by Weighpack International, B.V., a corporation organized under the laws of The Netherlands, located at Stevinstraat 31 A, 2587 EA Den Haag, The Netherlands.

The application states that the trade name is used in connection with weighing, counting packaging and orienting equipment for fasteners and hardware items, including the following equipment:

automatic packaging systems
carton erectors and carton closers
labeling systems
lifting and tipping units
mechanical and magnetic orienters
high speed hardware counters
furnace feeders
pelletizing systems
soft drop systems
fibre packaging and dosage systems
conveyor and transfer systems
vibration tables
universal counters
bulk storage hoppers
form, fill and seal bagmakers
counting/weighing tables and systems

EFFECTIVE DATE: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Delois P. Johnson, Intellectual Property Rights Branch, 1301 Constitution Avenue, NW., (Franklin Court), Washington, D.C. 20229 (202–482–6960).

Dated: April 21, 1995.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 95–10496 Filed 4–27–95; 8:45 am]

BILLING CODE 4820–02–M

Fiscal Service

Treasury Current Value of Funds Rate

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice of revised rate for use in Federal debt collection and discount evaluation.

SUMMARY: Pursuant to Section 11 of the Debt Collection Act of 1982 (31 U.S.C. 3717), the Secretary of the Treasury is responsible for computing and publishing the percentage rate to be used in assessing interest charges for outstanding debts on claims owed the Government. Treasury's Cash Management Regulations (I TFM 6–8000) also prescribe use of this rate by agencies as a comparison point in evaluating the cost-effectiveness of a cash discount. Notice is hereby given that the applicable rate is 5 percent for the second half of calendar year 1995.

DATES: The rate will be in effect for the period beginning on July 1, 1995 and ending on December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to the Program Compliance & Evaluation Division, Financial Management Service, Department of the Treasury, 401 14th Street, S.W., Washington, D.C. 20227 (Telephone: (202) 874–6630).

SUPPLEMENTARY INFORMATION: The rate reflects the current value of funds to the Treasury for use in connection with Federal Cash Management systems and is based on investment rates set for purposes of Pub. L. 95–147, 91 Stat. 1227. Computed each year by averaging investment rates for the 12-month period ending every September 30 for applicability effective January 1, the rate is subject to quarterly revisions if the annual average, on the moving basis, changes by 2 per centum. The rate in effect for the second half of calendar year 1995 reflects the average investment rates for the 12-month period ended March 31, 1995.

Dated: April 14, 1995.

Larry D. Stout,

Assistant Commissioner, Federal Finance.

[FR Doc. 95–10492 Filed 4–27–95; 8:45 am]

BILLING CODE 4810–35–M

Internal Revenue Service

Tax on Certain Imported Substances (Monoethanolamine, et al.); Filing of Petitions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice announces the acceptance, under Notice 89–61, 1989–1 CB 717, of petitions requesting that monoethanolamine, diethanolamine, triethanolamine, monoisopropanolamine, diisopropanolamine, triisopropanolamine, toluene diisocyanate, and chlorinated polyethylene be added to the list of taxable substances in section 4672(a)(3). Publication of this notice is in compliance with Notice 89–61. This is not a determination that the list of taxable substances should be modified.

DATES: Submissions must be received by June 27, 1995. Any modification of the list of taxable substances based upon these petitions would be effective April 1, 1992.

ADDRESSES: Send submissions to: CC:DOM:CORP:T:R (Petition), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:T:R (Petition), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tyrone J. Montague, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 622–3130 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The petitions were received on April 15, 1991 (monoethanolamine, diethanolamine, triethanolamine, monoisopropanolamine, diisopropanolamine, triisopropanolamine), May 2, 1991 (toluene diisocyanate), and July 1, 1991 (chlorinated polyethylene). The petitioner is Dow Chemical Company, a manufacturer and exporter of these substances. The following is a summary of the information contained in the petitions. The complete petitions are available in the Internal Revenue Service Freedom of Information Reading Room.

Monoethanolamine

HTS number: 2922.11.00.00
CAS number: 141–43–5

This substance is derived from the taxable chemicals ethylene and ammonia. Monoethanolamine is a liquid produced predominantly by reacting ethylene oxide and aqueous ammonia.

The stoichiometric material consumption formula for this substance is:

2 C_2H_4 (ethylene) + 2 NH_3 (ammonia) + O_2 (oxygen) ‰ 2 C_2H_7NO (monoethanolamine)

According to the petition, taxable chemicals constitute 73.7 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $3.63 per ton. This is based upon a conversion factor for ethylene of 0.59 and a conversion factor for ammonia of 0.29.

Diethanolamine

HTS number: 2922.12.00.00
CAS number: 111–42–2

This substance is derived from the taxable chemicals ethylene and ammonia. Diethanolamine is a solid produced predominantly by reacting ethylene oxide and aqueous ammonia.

The stoichiometric material consumption formula for this substance is:

2 C_2H_4 (ethylene) + NH_3 (ammonia) + O_2 (oxygen) ‰ $C_4H_{11}NO_2$ (diethanolamine)

According to the petition, taxable chemicals constitute 69.5 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $3.85 per ton. This is based upon a conversion factor for ethylene of 0.70 and a conversion factor for ammonia of 0.17.

Triethanolamine

HTS number: 2922.13.00.00
CAS number: 102–71–6

This substance is derived from the taxable chemicals ethylene and ammonia. Triethanolamine is a liquid produced predominantly by reacting ethylene oxide and aqueous ammonia.

The stoichiometric material consumption formula for this substance is:

6 C_2H_4 (ethylene) + 2 NH_3 (ammonia) + 3 O_2 (oxygen) ‰ 2 $C_6H_{15}NO_3$ (triethanolamine)

According to the petition, taxable chemicals constitute 67.7 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $3.96 per ton. This is based upon a conversion factor for ethylene of 0.75 and a conversion factor for ammonia of 0.12.

Monoisopropanolamine

HTS number: 2922.19.60.00
CAS number: 78–96–6

This substance is derived from the taxable chemicals propylene, chlorine, sodium hydroxide, and ammonia. Monoisopropanolamine is a liquid produced predominantly by the reaction of propylene oxide and ammonia.

The stoichiometric material consumption formula for this substance is:

2 C_3H_6 (propylene) + 2 Cl_2 (chlorine) + 2 NaOH (sodium hydroxide) + NH_3 (ammonia) + ‰ C_3H_9 NO (monoisopropanolamine) + $C_3H_6Cl_2$ (propylene dichloride) + 2 NaCl (sodium chloride) + H_2O (water)

According to the petition, taxable chemicals constitute 100 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $6.66 per ton. This is based upon a conversion factor for propylene of 0.62, a conversion factor for chlorine of 1.00, a conversion factor for sodium hydroxide of 1.20, and a conversion factor for ammonia of 0.23.

Diisopropanolamine

HTS number: 2922.19.60.00
CAS number: 110–97–3

This substance is derived from the taxable chemicals propylene, chlorine, sodium hydroxide, and ammonia. Diisopropanolamine is a solid produced predominantly by the reaction of propylene oxide and ammonia.

The stoichiometric material consumption formula for this substance is:

3 C_3H_6 (propylene) + 2 Cl_2 (chlorine) + 2 NaOH (sodium hydroxide) + NH_3 (ammonia) ‰ $C_6H_{15}NO_2$ (diisopropanolamine) + $C_3H_6Cl_2$ (propylene dichloride) + 2 NaCl (sodium chloride) + H_2 (hydrogen)

According to the petition, taxable chemicals constitute 100 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $7.08 per ton. This is based upon a conversion factor for propylene of 0.70, a conversion factor for chlorine of 1.10, a conversion factor for sodium hydroxide of 1.30, and a conversion factor for ammonia of 0.13.

Triisopropanolamine

HTS number: 2922.19.60.00
CAS number: 122–20–3

This substance is derived from the taxable chemicals propylene, chlorine, sodium hydroxide, and ammonia. Triisopropanolamine is a solid produced predominantly by the reaction of propylene oxide and ammonia.

The stoichiometric material consumption formula for this substance is:

4 C_3H_6 (propylene) + 3 Cl_2 (chlorine) + 4 NaOH (sodium hydroxide) + NH_3 (ammonia) ‰ $C_9H_{21}NO_3$ (triisopropanolamine) + $C_3H_6Cl_2$ (propylene dichloride) + 4 NaCl (sodium chloride) + H_2O (water) + H_2 (hydrogen)

According to the petition, taxable chemicals constitute 100 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $7.49 per ton. This is based upon a conversion factor for propylene of 0.74, a conversion factor for chlorine of 1.20, a conversion factor for sodium hydroxide of 1.40, and a conversion factor for ammonia of 0.10.

Toluene diisocyanate

HTS number: 2929.10.15.00
CAS number: 584–84–9

This substance is derived from the taxable chemicals toluene, nitric acid, and chlorine. Toluene diisocyanate is a liquid produced predominantly by the phosgenation of primary amines.

The stoichiometric material consumption formula for this substance is:

C_7H_8 (toluene) + 2 HNO_3 (nitric acid) + 2 Cl_2 (chlorine) + 2 CO (carbon monoxide) + 6 H_2 (hydrogen) ‰ $C_9H_6N_2O_2$ (toluene diisocyanate) + 6 H_2O (water) + 4 HCl (hydrogen chloride)

According to the petition, taxable chemicals constitute 84 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $4.90 per ton. This is based upon a conversion factor for toluene of 0.53, a conversion factor for nitric acid of 0.7, and a conversion factor for chlorine of 0.8.

Chlorinated polyethylene

HTS number: 3901.90.50.00
CAS number: 064754–90–1

This substance is derived from the taxable chemicals ethylene and chlorine. Chlorinated polyethylene is a solid produced predominantly by chlorination of polyethylene resins.

The stoichiometric material consumption formula for this substance is:

857 C_2H_4 (ethylene) + 375 Cl_2 (chlorine) ‰ $C_{1714}H_{3053}Cl_{375}$ (chlorinated polyethylene) + 375 HCl (hydrogen chloride)

According to the petition, taxable chemicals constitute 100 percent by weight of the materials used to produce this substance. The rate of tax for this substance would be $5.05 per ton. This is based upon a conversion factor for ethylene of 0.65 and a conversion factor for chlorine of 0.70.

Comments and Requests for a Public Hearing

Before a determination is made, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the Federal Register.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 95–10412 Filed 4–27–95; 8:45 am]

BILLING CODE 4830–01–U

Office of Thrift Supervision

[AC–23; OTS No. 0216]

Citizens Savings & Loan Association, Baton Rouge, Louisiana; Approval of Conversion Application

Notice is hereby given that on April 21, 1995, the Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Citizens Savings & Loan Association, Baton Rouge, Louisiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Irving, Texas 75039–2010.

Dated: April 25, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–10463 Filed 4–27–95; 8:45 am]

BILLING CODE 6720–01–M

[AC–25; OTS No. 3892]

First Federal Savings Bank, Huntington, Indiana; Approval of Conversion Application

Notice is hereby given that on April 21, 1995, the Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of First Federal Savings Bank, Huntington, Indiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

Dated: April 25, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–10464 Filed 4–27–95; 8:45 am]

BILLING CODE 6720–01–M

[AC–24; OTS No. 2383]

Hemet Federal Savings and Loan Association, Hemet, California; Approval of Conversion Application

Notice is hereby given that on April 21, 1995, the Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Hemet Federal Savings and Loan Association, Hemet, California, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the West Regional Office, Office of Thrift Supervision, 1 Montgomery Street, Suite 400, San Francisco, California 94104.

Dated: April 25, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–10458 Filed 4–27–95; 8:45 am]

BILLING CODE 6720–01–M

[AC–26; OTS No. 2775]

The Industrial Savings and Loan Association, Bellevue, Ohio; Approval of Conversion Application

Notice is hereby given that on April 24, 1995, the Assistant Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of the Industrial Savings and Loan Association, Bellevue, Ohio, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Central Regional Office, Office of Thrift Supervision, 111 East

Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

Dated: April 25, 1995.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 95–10465 Filed 4–27–95; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Report of Amended Matching Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

Notice is hereby given that the Department of Veterans Affairs (VA) intends to conduct a recurring computer matching program matching Office of Personnel Management (OPM) benefit recipient records with VA pension and parents' dependency and indemnity compensation records.

The goal of this match is to compare income status as reported to VA with benefit records maintained by OPM.

The Department of Veterans Affairs (VA) plans to match records of veterans and surviving spouses and children who receive pension and parents who receive dependency and indemnity compensation (DIC) from VA with Office of Personnel Management benefit records maintained by OPM. The match with OPM will provide VA with data from OPM civil service benefit records. VA will use the data to update the master records of VA beneficiaries receiving income dependent benefits and to adjust VA benefit payments as prescribed by law. Otherwise, information about a VA beneficiary's receipt of OPM benefits is obtained from reporting by the beneficiary. The proposed matching program will enable VA to ensure accurate reporting of income.

This notice is provided in accordance with the provisions of the Privacy Act of 1974 as amended by Public Law 100–503.

The match is estimated to start June 1, 1995, but will start no sooner than 40 days after publication of this notice in the Federal Register, or 40 days after copies of this Notice and the agreement of the parties is submitted to Congress and the Office of Management and Budget, whichever is later, and end not more than 18 months after the agreement is properly implemented by the parties. The involved agencies' Data Integrity Boards (DIB) may extend this match for 12 months provided the agencies certify to their DIBs, within three months of the ending date of the original match, that the matching program will be conducted without change and that the matching program has been conducted in compliance with the original matching program.

ADDRESSES: Interested individuals may comment on the proposed matches by writing to the Director, Compensation and Pension Service (21), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: David G. Spivey (213B), (202) 273–7258.

RECORDS TO BE MATCHED: The VA records involved in the match are the VA system of records, Compensation, Pension, Education and Rehabilitation Records—VA (58 VA 21/22) published at 41 FR 9294 (03/03/76), and amended at 43 FR 3984 (01/30/78), 43 FR 15026 (04/10/78), 43 FR 23797 (06/01/78), 45 FR 57641 (08/28/80), 45 FR 77220 (11/21/80), 47 FR 367 (01/05/82), 47 FR 16132 (04/14/82), 47 FR 40742 (09/15/82), 48 FR 1384 (01/12/83), 48 FR 15994 (04/13/83), 48 FR 39197 (08/29/83), 48 FR 52798 (11/22/83), 49 FR 23974 (06/08/84), 49 FR 36046 (09/13/84), 50 FR 10886 (03/18/85), 50 FR 31453 (06/28/85), 50 FR 31453 (08/02/85), 51 FR 24781 (07/08/86), 51 FR 25141 (07/10/86), 51 FR 28289 (08/06/86), 51 FR 36894 (10/16/86), 52 FR 4078 (02/09/87), 54 FR 36933 (09/05/89), 55 FR 28508 (07/11/90), 55 FR 42540 (10/19/90), 56 FR 15667 (04/17/91), 56 FR 16354 (04/22/91), 57 FR 12374 (04/09/92), 57 FR 44007 (09/23/92), 58 FR 38164 (07/15/93), 58 FR 54643 (10/22/93).

The OPM records consist of information from the system identified as OPM Central-1 Civil Service Retirement and Insurance Records published at 58 FR 19154, April 12, 1993.

In accordance with Title 5 U.S.C. subsection 552a (o)(2) and (r), copies of the agreement are being sent to both Houses of Congress and to the Office of Management and Budget.

SUPPLEMENTARY INFORMATION: This information is required by Title 5 U.S.C. subsection 552a(e)(12), the Privacy Act of 1974. A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Jesse Brown,

Secretary.

[FR Doc. 95–10450 Filed 4–27–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 82
Friday, April 28, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 9:30 a.m., Tuesday, May 2, 1995.

PLACE: 2033 K St., NW., Washington DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 95–10657 Filed 4–26–95; 3:41 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 5, 1995.

PLACE: 2033 K St., NW., Washington, DC 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 95–10658 Filed 4–26–95; 3:41 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, May 9, 1995.

PLACE: 2033 K St., N.W., Washington, D.C. 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 95–10659 Filed 4–26–95; 3:41 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 12, 1995.

PLACE: 2033 K St., N.W., Washington, D.C. 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 95–10660 Filed 4–26–95; 3:41 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 19, 1995.

PLACE: 2033 K St., N.W., Washington, D.C. 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 95–10661 Filed 4–26–95; 3:41 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, May 26, 1995.

PLACE: 2033 K St., N.W., Washington, D.C. 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 95–10662 Filed 4–26–95; 3:41 pm]

BILLING CODE 6351–01–M

federal register

Friday
April 28, 1995

Part II

The President

Proclamation 6791—National Crime Victims' Rights Week, 1995

Federal Register
Vol. 60, No. 82
Friday, April 28, 1995

Presidential Documents

Title 3—

The President

Proclamation 6791 of April 26, 1995

National Crime Victims' Rights Week, 1995

By the President of the United States of America

A Proclamation

Every year, more than 36 million people in America become the victims of crime. Offenders prey on our daughters and sons, sisters and brothers, parents, grandparents, and friends. Violent crime is creating fear and insecurity in communities across our Nation.

To ensure justice and promote healing, a grassroots crime victims' movement has worked to enact numerous initiatives in State legislatures across the country—laws that now provide crucial rights for crime victims and their families. As we mark National Crime Victims' Rights Week this year, Americans join in remembering the fallen, in celebrating criminal justice reforms, and in envisioning a future free from violence.

The Violent Crime Control and Law Enforcement Act of 1994, which I signed into law this past September, ensures that our criminal justice system recognizes the victims. Its provisions include allocution rights for victims of violent crime and sexual abuse, truth in sentencing guidelines to ensure that violent offenders serve longer sentences, and sex offender registries designed to monitor offenders more effectively. This Act will help put 100,000 more police officers on the streets of our communities. And the landmark Violence Against Women Act is the first comprehensive Federal effort to address violence against women.

But no government can be truly effective without the active involvement of its citizens. Victim advocacy—the work of the more than 8,000 organizations and the countless individuals we honor this week—can be a lifeline to emotional survival. When random bullets wound a child, when a battered woman needs shelter in the night, when a rape survivor seeks help—victim advocates are there to comfort and support. Many of our Nation's crime victims and advocates work tirelessly in schools, neighborhoods, and youth custody facilities. They give faces and names to the statistics of crime, opening young peoples' eyes to the reality of violence and helping to plant seeds of responsibility that can last a lifetime.

We nonetheless recognize that much remains to be done. But with continued partnerships between every level of government, criminal justice and victim advocacy organizations, and crime survivors and their families, America can begin to replace the nightmare of crime with a bright new day of hope.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 23 through April 29, 1995, as ''National Crime Victims' Rights Week.'' I urge all Americans to pause and remember the victims of crime and to join in honoring those who serve crime victims and their families by working to reduce violence, to assist those harmed by crime, and to make our homes and communities safer places in which to live.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of April, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.

William J. Clinton

[FR Doc. 95–10715
Filed 4–27–95; 10:35 am]
Billing code 3195–01–P

Reader Aids

Federal Register

Vol. 60, No. 82

Friday, April 28, 1995

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	**202–523–5227**
Public inspection announcement line	**523–5215**
Corrections to published documents	**523–5237**
Document drafting information	**523–3187**
Machine readable documents	**523–4534**

Code of Federal Regulations

Index, finding aids & general information	**523–5227**
Printing schedules	**523–3419**

Laws

Public Laws Update Service (numbers, dates, etc.)	**523–6641**
Additional information	**523–5230**

Presidential Documents

Executive orders and proclamations	**523–5230**
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Weekly Compilation of Presidential Documents	**523–5230**

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General information	**523–5230**

Other Services

Data base and machine readable specifications	**523–4534**
Guide to Record Retention Requirements	**523–3187**
Legal staff	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (PLUS)	**523–6641**
TDD for the hearing impaired	**523–5229**

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