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Thursday
March 7, 1996

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

[Two Sessions]

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

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

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

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

GENERAL ACCOUNTING OFFICE

4 CFR Part 28

Personnel Appeals Board; Procedural Regulations

AGENCY: General Accounting Office Personnel Appeals Board.

ACTION: Interim rule with request for comments.

SUMMARY: The Personnel Appeals Board (PAB) has authority with respect to employment practices within the General Accounting Office (GAO or the agency), pursuant to the General Accounting Office Personnel Act of 1980 (GAOPA), 31 U.S.C. 751–755. The PAB's jurisdiction includes authority over appeals from Reduction in Force (RIF) actions taken by the agency. The GAO has recently revised Order 2351.1, Reduction in Force, applicable to GAO employees. The Personnel Appeals Board hereby amends its regulations to provide employees who are separated from employment as a result of a RIF action with the option of appealing directly to the PAB without first filing a charge with the Board's Office of General Counsel (PAB/OGC), as prescribed in § 28.11 of this part, and obtaining a Right to Appeal Letter. This change is designed to expedite the appeal process, at the employee's option, in situations in which the RIF action results in separation from employment. Because of the need to have procedures in place in the event of agency implementation of the Reduction in Force Order, these revisions are being made effective immediately, on an interim basis. The Board is, however, very interested in receiving comments from the public before it finalizes these regulations.

DATES: These interim regulations are effective March 7, 1996. Comments on these regulations must be received by the Board on or before May 31, 1996.

ADDRESSES: Comments should be addressed to Sarah Hollis, Acting Clerk of the Board, General Accounting Office Personnel Appeals Board, Suite 560, Union Center Plaza II, 441 G Street NW., Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Catherine McNamara, Solicitor, Personnel Appeals Board, 202–512–6137.

SUPPLEMENTARY INFORMATION: The Board has jurisdiction to hear cases brought either through the PAB's Office of General Counsel or directly to the Board. Pursuant to its authority under 31 U.S.C. 753(d), the Board has long had published regulations which define the role of the Office of General Counsel and the procedures to be followed in pursuing an appeal before the Board. *See* 4 CFR Part 28. Under regulations currently in effect, an individual must first obtain a Right to Appeal Letter from the PAB's Office of General Counsel before filing with the Board. *See* 4 CFR 28.18(a). The regulations authorize the Board or an administrative judge to waive a Board regulation in an individual case for good cause shown, consistent with the requirements of the GAOPA. 4 CFR 28.16(b).

The new regulations set forth in Part 28 below provide the procedures to enable an individual whose employment has been terminated as a result of a Reduction in Force to choose between pursuing his or her rights through the Office of General Counsel of the Board or more directly, through appeal to the Board itself. By allowing an employee who has been separated from employment because of a RIF to bypass the General Counsel's office, the proposed regulatory change would, at petitioner's option, shorten the time between the RIF-based separation and any hearing before the Board. Under the new provisions, such an individual may challenge a separation based upon a Reduction in Force by filing an appeal directly with the Clerk of the Board within 30 days after the effective date of the Reduction in Force action.

Because the Board needs to have procedures in place to address any charge that may be filed as a result of an action taken pursuant to the new RIF rules of the agency, these regulations are being made effective immediately, on an interim basis. At the same time, however, the Board is soliciting comments on the regulations. These comments will be considered fully before final regulations are adopted.

The provisions governing the procedures for an individual separated because of a RIF action who prefers to pursue his or her rights through the PAB's Office of General Counsel remain unaltered. In that event, the PAB/OGC conducts an investigation. If it concludes that there are reasonable grounds to believe that the employee's rights have been violated, the PAB/OGC will represent the individual before the Board, unless the individual elects not to be represented by the Office of General Counsel. 4 CFR 28.12(d). If the PAB/OGC does not find reasonable grounds to believe that the employee's rights have been violated, the employee may still pursue the matter before the Board on his or her own or with private counsel, after receiving a Right to Appeal Letter from the PAB/OGC. 4 CFR 28.18(a).

List of Subjects in 4 CFR Part 28

Administrative practice and procedure, Government employees, Labor-management relations, Reduction in force.

For the reasons set out in the preamble, Title 4, Chapter I, Subchapter B, Code of Federal Regulations, is amended as follows:

PART 28—GENERAL ACCOUNTING OFFICE PERSONNEL APPEALS BOARD; PROCEDURES APPLICABLE TO CLAIMS CONCERNING EMPLOYMENT PRACTICES AT THE GENERAL ACCOUNTING OFFICE

1. The authority citation for Part 28 continues to read as follows:

Authority: 31 U.S.C. 753.

2. A new § 28.13 is added to read as follows:

§ 28.13 Special procedure for Reduction in Force.

In the event of a Reduction in Force resulting in an individual's separation from employment, an aggrieved employee may choose to file an appeal directly with the Personnel Appeals Board, without first filing the charge with the PAB's Office of General Counsel pursuant to § 28.11 of this part.

3. Section 28.18, paragraphs (a) and (b), are revised to read as follows:

§ 28.18 Filing a petition for review with the Board.

(a) *Who may file.* Any person who has received a Right to Appeal Letter from the Office of General Counsel and who is claiming to be affected adversely by GAO action or inaction which is within the Board's jurisdiction under Subchapter IV of Chapter 7 of Title 31, United States Code, may file a petition for review. A petition for review may also be filed by any person who has received a Right to Appeal Letter from the Office of General Counsel and who is alleging that the GAO or a labor organization engaged or is engaging in an unfair labor practice. A person whose employment was terminated as a result of a Reduction in Force may choose to file an appeal of that action directly with the Personnel Appeals Board, without first filing with the Board's Office of General Counsel.

(b) *When to file.* Petitions for review must be filed within 30 days after service upon the charging party of the Right to Appeal Letter from the Office of General Counsel. In the case of a person whose action involves a challenge to a separation based upon a Reduction in Force, and who chooses to bypass the Office of General Counsel of the Board, the appeal must be filed with the Clerk of the Board within 30 days after the effective date of the RIF action.

* * * * *

Nancy A. McBride,

Chair, Personnel Appeals Board, U.S. General Accounting Office.

[FR Doc. 96–5244 Filed 3–6–96; 8:45 am]

BILLING CODE 1610–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–272–AD; Amendment 39–9532; AD 96–05–06]

Airworthiness Directives; Canadair Model CL–215–1A10 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Canadair Model CL–215–1A10 series airplanes. This action requires a one-time inspection of the main distribution center for loose or missing attachment hardware, and correction of any discrepancy identified. This amendment is prompted by a report of total loss of electrical power on one airplane during flight, which was caused by shorting out of the voltage regulator in the main distribution center. The actions specified in this AD are intended to prevent total electrical failure during flight, which could adversely affect the continued safe flight of the airplane.

DATES: Effective March 22, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 22, 1996.

Comments for inclusion in the Rules Docket must be received on or before May 6, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–272–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair Aerospace Group, P.O. Box 6087, Station Centreville, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 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: Peter Cuneo, Aerospace Engineer, Systems and Equipment Branch, ANE–173, FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7506; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: Transport Canada Aviation, which is the airworthiness authority for Canada, has notified the FAA that an unsafe condition may exist on all Canadair Model CL–215–1A10 series airplanes. Transport Canada Aviation advises that there has been a report of the total loss of electrical power on one airplane during flight. Investigation revealed that the electrical failure occurred when loose hardware (nut and washers) on a terminal from an inverter power relay shorted out a voltage regulator in the main distribution center. Total loss of electrical power during flight, if not corrected, could adversely affect the continued safe flight of the airplane.

Canadair has issued Alert Service Bulletin 215–A439, dated July 24, 1991, which describes procedures for inspecting the main distribution center and all electrical components for loose attaching hardware, and for inspecting the attaching hardware itself for looseness. It also provides instructions for:

1. verifying and adjusting the torque values of those items;
2. restoring or applying a humiseal coating at required locations;
3. safety-wiring electrical connectors and components, as necessary; and
4. removing any loose hardware, lockwire, or foreign objects found between electrical wires, around electrical components, and at the bottom or hidden areas of the main distribution center.

Transport Canada Aviation classified this service bulletin as mandatory and issued Canadian Airworthiness Directive CF–91–23, dated July 17, 1991, in order to assure the continued airworthiness of these airplanes in Canada.

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada Aviation has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada Aviation, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent total loss of electrical power on the airplane. This AD requires a one-time inspection to detect looseness of components and attaching hardware of the main distribution center, and correction of any discrepancy identified. The actions are required to be accomplished in accordance with the service bulletin described previously.

None of the Model CL–215–1A10 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these

subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 2 work hours to accomplish the required actions, at an average labor charge of $60 per work hour. Based on these figures, the cost impact of this AD would be $120 per airplane.

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the Federal Register.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and 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–272–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.

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. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

96–05–06 Canadair: Amendment 39–9532. Docket 95–NM–272–AD.

Applicability: Model CL–215–1A10 series airplanes, 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 request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent total loss of electrical power on the airplane, accomplish the following:

(a) Within 10 flight hours after the effective date of this AD, inspect the complete main distribution center and all electrical components for loose or missing hardware, in accordance with paragraphs 2.A., 2.B., 2.C., and 2.D of the Accomplishment Instructions of Canadair Alert Service Bulletin 215–A439, dated July 24, 1991. If any discrepancy is identified during the inspection, prior to further flight, correct the discrepancy in accordance with the alert service bulletin.

(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, New York Aircraft Certification Office (ACO), 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.

(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) The inspection and corrective action shall be done in accordance with Canadair Alert Service Bulletin 215–A439, dated July 24, 1991. 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., Canadair Aerospace Group, P.O. Box 6087, Station Centre-ville, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, Engine and Propeller Directorate, 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.

(e) This amendment becomes effective on March 22, 1996.

Issued in Renton, Washington, on February 28, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–5078 Filed 3–6–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 94–NM–28–AD; Amendment 39–9528; AD 95–13–12 R1]

Airworthiness Directives; Boeing Model 767 Series Airplanes Equipped With General Electric CF6–80C2 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This amendment clarifies information in an existing airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that currently requires tests, inspections, and adjustments of the thrust reverser system. That AD also requires installation of a terminating modification and repetitive follow-on actions. The actions specified in that AD are intended to prevent possible discrepancies that exist in the current thrust reverser control system, which could result in inadvertent deployment of a thrust reverser during flight. This amendment clarifies the requirements of the current AD by specifying a revised number of pound-inches of torque operators should use when performing the torque check of the cone brake of the center drive unit (CDU). This amendment is prompted by information from the manufacturer that a current requirement of the AD requires clarification.

DATES: Effective August 18, 1995.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of August 18, 1995 (60 FR 36976, July 19, 1995).

FOR FURTHER INFORMATION CONTACT: Nancy Hanowski, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2684; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: On June 22, 1995, the FAA issued AD 95–13–12, amendment 39–9292 (60 FR 36976, July 19, 1995), which is applicable to certain Boeing Model 767 series airplanes. That AD requires tests, inspections, and adjustments of the thrust reverser system. That AD also requires installation of a terminating modification and repetitive follow-on actions. That action was prompted by the identification of a modification that ensures that the level of safety inherent in the original type design of the thrust reverser system is further enhanced. The actions required by that AD are intended to prevent possible discrepancies that exist in the current thrust reverser control system, which could result in inadvertent deployment of a thrust reverser during flight.

Since the issuance of that AD, the manufacturer has advised the FAA that a torque check value specified in Appendix 1 of the AD requires clarification. The procedures originally provided to the FAA for accomplishment of a torque check of the cone brake of the center drive unit (CDU) indicate that operators should not use more than 130 pound-inches of torque when performing the check. While using 130 pound-inches of torque would not damage the CDU, the manufacturer has advised the FAA that 100 pound-inches of torque is the appropriate value. Accomplishing the torque check up to 100 pound-inches is intended to identify a CDU having a decaying torque level due to a soft shaft problem, while at the same time not exposing the brake to unnecessarily high torque/stress levels.

Action is taken herein to clarify this requirement of AD 95–13–12 and to correctly add the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The final rule is being reprinted in its entirety for the convenience of affected operators. The effective date remains August 18, 1995.

Since this action only clarifies a current requirement, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary.

List of Subjects in 14 CFR Part 39

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

Adoption of the Correction

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 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9292 (60 FR 36976, July 19, 1995), and by adding a new airworthiness directive (AD), amendment 39–9528, to read as follows:

95–13–12 R1 Boeing: Amendment 39–9528. Docket 94–NM–28–AD. Revises AD 95–13–12, Amendment 39–9292.

Applicability: Model 767 series airplanes equipped with General Electric CF6–80C2 series engines, 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 (f) of this AD 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 ensure the integrity of the fail-safe features of the thrust reverser system, accomplish the following:

(a) Within 30 days after October 15, 1991 (the effective date of AD 91–22–02, amendment 39–8062), perform tests, inspections, and adjustments of the thrust reverser system in accordance with Boeing Service Bulletin 767–78–0047, dated August 22, 1991; Revision 1, dated March 26, 1992; Revision 2, dated January 21, 1993; or Revision 3, dated July 28, 1994. After the effective date of this AD, those actions shall be accomplished only in accordance with Revision 3 of the service bulletin.

(1) Except as provided by paragraph (a)(2) of this AD, repeat all tests and inspections thereafter at intervals not to exceed 3,000 flight hours until the modification required by paragraph (c) of this AD is accomplished.

(2) Repeat the check of the grounding wire for the Directional Pilot Valve (DPV) of the thrust reverser in accordance with the service bulletin at intervals not to exceed 1,500 flight hours, and whenever maintenance action is taken that would disturb the DPV grounding circuit, until the modification required by paragraph (c) of this AD is accomplished.

(b) If any of the tests and/or inspections required by paragraph (a) of this AD cannot be successfully performed, or if those tests and/or inspections result in findings that are unacceptable in accordance with Boeing Service Bulletin 767–78–0047, dated August 22, 1991; Revision 1, dated March 26, 1992; Revision 2, dated January 21, 1993; or Revision 3, dated July 28, 1994; accomplish paragraphs (b)(1) and (b)(2) of this AD. After the effective date of this AD, the actions required by paragraphs (b)(1) and (b)(2) shall be accomplished only in accordance with Revision 3 of the service bulletin.

(1) Prior to further flight, deactivate the associated thrust reverser in accordance with Section 78–31–1 of Boeing Document D630T002, ''Boeing 767 Dispatch Deviation

Guide,'' Revision 9, dated May 1, 1991; or Revision 10, dated September 1, 1992. After the effective date of this AD, this action shall be accomplished only in accordance with Revision 10 of the Boeing document. No more than one reverser on any airplane may be deactivated under the provisions of this paragraph.

(2) Within 10 days after deactivation of any thrust reverser in accordance with this paragraph, the thrust reverser must be repaired in accordance with Boeing Service Bulletin 767–78–0047, dated August 22, 1991; Revision 1, dated March 26, 1992; Revision 2, dated January 21, 1993; or Revision 3, dated July 28, 1994. After the effective date of this AD, the repair shall be accomplished only in accordance with Revision 3 of the service bulletin. Additionally, the tests and/or inspections required by paragraph (a) of this AD must be successfully accomplished; once this is accomplished, the thrust reverser must then be reactivated.

(c) Within 3 years after the effective date of this AD, install a third locking system on the left- and right-hand engine thrust reversers in accordance with Boeing Service Bulletin 767–78–0063, Revision 2, dated April 28, 1994.

Note 2: The Boeing service bulletin references General Electric Service Bulletin 78–135 as an additional source of service information for accomplishment of the third locking system on the thrust reversers. However, the Boeing service bulletin does not specify the appropriate revision level for the General Electric service bulletin. The appropriate revision level for the General Electric service bulletin to be used in conjunction with the Boeing service bulletin is Revision 3, dated August 2, 1994.

(d) Within 4,000 flight hours after accomplishing the modification required by paragraph (c) of this AD, or within 4,000 flight hours after the effective date of this AD, whichever occurs later; and thereafter at intervals not to exceed 4,000 flight hours; perform operational checks of the electro-mechanical brake and the cone brake of the center drive unit in accordance with Appendix 1 (including Figure 1) of this AD.

(e) Accomplishment of the modification and periodic operational checks required by paragraphs (c) and (d) of this AD constitutes terminating action for the tests, inspections, and adjustments required by paragraph (a) of this AD.

(f) 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, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(g) 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.

(h) Certain actions shall be done in accordance with the following Boeing service bulletins, which contain the specified effective pages:

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
767–78–0047, Revision 1, March 26, 1992	1–33	1	March 26, 1992.
767–78–0047, Revision 2, January 21, 1993	1–2, 4, 12–13, 20–32	2	January 21, 1993.
	3, 5, 10–11, 14–15, 17–19	1	March 26, 1992.
	6–9, 16	Original	August 22, 1991.
767–78–0047, Revision 3, July 28, 1994	1–32	3	July 28, 1994.
767–78–0063, Revision 2, April 28, 1994	1–292	2	April 28, 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, as of August 18, 1995 (60 FR 36976, July 19, 1995). Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment is effective on August 18, 1995.

Appendix 1

Thrust Reverser Electro-Mechanical Brake and CDU Cone Brake Test

1. *General*

A. This procedure contains steps to do two checks:
(1) A check of the holding torque of the electro-mechanical brake
(2) A check of the holding torque of the CDU cone brake.

2. *Electroc-Mechanical Brake and CDU Cone Brake Torque Check (Fig. 1)*

A. Prepare to do the checks:
(1) Open the fan cowl panels.

B. Do a check of the torque of the electro-mechanical brake:
(1) Do a check of the running torque of the thrust reverser system:
(a) Manually extend the thrust reverser six inches and measure the running torque.
(1) Make sure the torque is less than 10 pound-inches.
(2) Do a check of the electro-mechanical brake holding torque:
(a) Make sure the thrust reverser translating cowl is extended at least one inch.
(b) Make sure the CDU lock handle is released.
(c) Pull down on the manual release handle on the electro-mechanical brake until the handle fully engages the retaining clip.

Note: This will lock the electro-mechanical brake.

(d) With the manual drive lockout cover removed from the CDU, install a ¼-inch extension tool and dial-type torque wrench into the drive pad.

Note: You will need a 24-inch extension to provide adequate clearance for the torque wrench.

(e) Apply 90 pound-inches of torque to the system.
(1) The electro-mechanical brake system is working correctly if the torque is reached before you turn the wrench 450 degrees (1¼ turns).
(2) If the flexshaft turns more than 450 degrees before you reach the specified torque, you must replace the long flexshaft between the CDU and the upper angle gearbox.
(3) If you do not get 90 pound-inches of torque, you must replace the electro-mechanical brake.
(f) Release the torque by turning the wrench in the opposite direction until you read zero pound-inches.
(1) If the wrench does not return to within 30 degrees of initial starting point, you must replace the long flexshaft between the CDU and upper angle gearbox.
(3) Fully retract the thrust reverser.

C. Do a check of the torque of the CDU cone brake:
(1) Pull up on the manual release handle to unlock the electro-mechanical brake.
(2) Pull the manual brake release lever on the CDU to release the cone brake.

Note: This will release the pre-load tension that may occur during a stow cycle.

(3) Return the manual brake release lever to the locked position to engage the cone brake.
(4) Remove the two bolts that hold the lockout plate to the CDU and remove the lockout plate.
(5) Install a ¼-inch drive and a dial-type torque wrench into the CDU drive pad.

Caution: Do not use more than 100 pound-inches of torque when you do this check. Excessive torque will damage the CDU.

(6) Turn the torque wrench to try to manually extend the translating cowl until you get at least 15 pound-inches.

Note: The cone brake prevents movement in the extend direction only. If you try to measure the holding torque in the retract direction, you will get a false reading.

(a) If the torque is less than 15 pound-inches, you must replace the CDU.

D. Return the airplane to its usual condition:

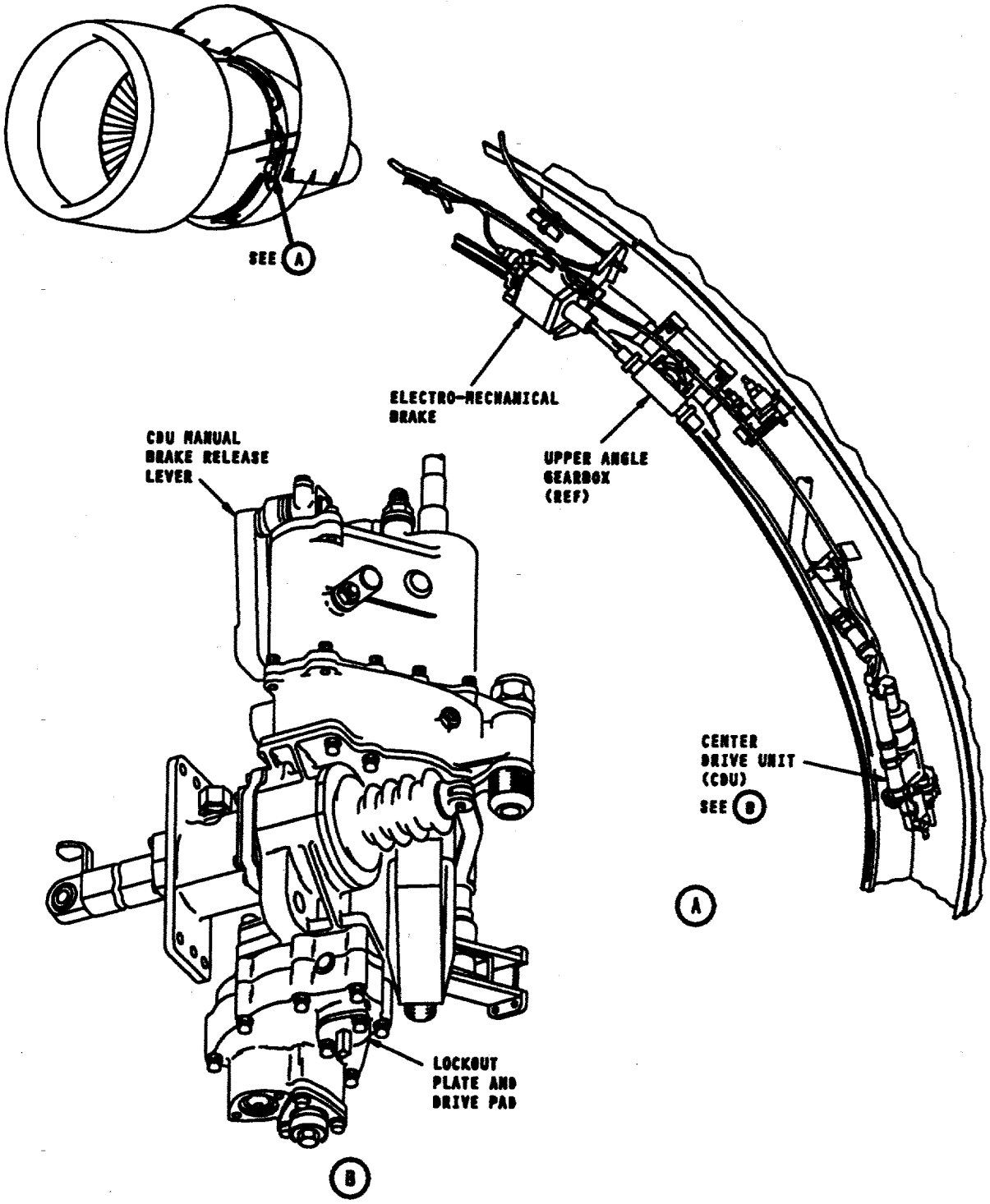
(1) Fully retract the thrust reverser.

(2) Pull down on the manual release handle on the electro-mechanical brake until the handle fully engages the retaining clip.

Note: This will lock the electro-mechanical brake.

(3) Close the fan cowl panels.

BILLING CODE 4910–13–U



Electro-Mechanical Brake and CDU Cone Brake Torque Check
Figure 1

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Issued in Renton, Washington, on February 27, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–5253 Filed 3–6–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–34–AD; Amendment 39–9531; AD 96–05–05]

Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330 and A340 series airplanes. This action requires replacement of the inlet filter in the spoiler servo-controls and installation of a lockwire. This amendment is prompted by reports of leakage of hydraulic fluid at the inlet filter plug of the spoiler actuator as a result of inadequate torque of the filter plug, and reports of broken lockwires. The actions specified in this AD are intended to prevent loss of hydraulic fluid to the extent that a complete failure of the associated hydraulic system could occur. Such a loss, when combined with other hydraulic system failures, could reduce the controllability of the airplane.

DATES: Effective March 22, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 22, 1996.

Comments for inclusion in the Rules Docket must be received on or before May 6, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–34–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2589; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A330 and A340 series airplanes. The DGAC advises that there have been several reports of external leakage of hydraulic fluid on these airplanes due to loose filter plugs of the spoiler actuators. Almost all of the inspected plugs were found to have a torque value below the necessary 69.1 Nm, and had to be re-tightened. Additionally, there have been at least four reports of broken lockwires found on these components. This condition, if not corrected, could result in loss of hydraulic fluid to the extent that a complete failure of the associated hydraulic system could occur. Such a failure, when combined with other hydraulic system failures, could reduce the controllability of the airplane.

Airbus Industrie has issued Service Bulletin A330–27–3034 (for Model A330 series airplanes) and Service Bulletin A340–27–4041 (for Model A340 series airplanes), both dated June 21, 1995. These service bulletins describe procedures for replacement of the inlet filter in each of the 12 spoiler servo-controls located at surface position 1 to 6 (left-hand and right-hand). The service bulletins also describe procedures for securing these filters with lockwires. (These service bulletins also refer to Feinmechanische Werke Mainz Service Bulletin MZ4306000–27–001 for detailed installation instructions.) The actions specified in these service bulletins will prevent leakage and loosening of the spoiler servo-control filter and plug. The DGAC classified the Airbus service bulletins as mandatory and issued French Airworthiness Directive (CN) 95–149–015(B) (applicable to Model A330 series airplanes) and CN 95–147–026(B) (applicable to Model A340 series airplanes), both dated July 29, 1995, in order to assure the continued airworthiness of these airplanes in France.

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent the loss of hydraulic fluid to the extent that a complete failure of the associated hydraulic system could occur. This AD requires replacement of the inlet filter in each of the 12 spoiler servo-controls located at surface position 1 to 6 (left-hand and right-hand); and the installation of associated lockwires. The actions are required to be accomplished in accordance with the service bulletins described previously.

None of the Model A330 or A340 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 14 work hours to accomplish the required actions, at an average labor charge of $60 per work hour. Required parts would be provided by the manufacturer at no charge to the operator. Based on these figures, the cost impact of this AD would be $840 per airplane.

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the Federal Register.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and 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 96–NM–34–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.

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. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

96–05–05 Airbus: Amendment 39–9531. Docket 96–NM–34–AD.

Applicability: Model A330–301, –321, –322, –341, and –342 series airplanes; and Model A340–211, –212, –311, and –312 series airplanes; on which Airbus Modification No. 42724 or its production equivalent has not been installed; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the loss of hydraulic fluid to the extent that a complete failure of the associated hydraulic system could occur, accomplish the following:

(a) Within 18 months after the effective date of this AD, replace the inlet filter in each of the 12 spoiler servo-controls located at surface position 1 through 6 (left-hand and right-hand), inclusive, and secure with lockwire, in accordance with either Airbus Service Bulletin A330–27–3034 (for Model A330 series airplanes) or Airbus Service Bulletin A340–27–4041 (for Model A340 series airplanes), both dated June 21, 1995, as applicable.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(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) The actions shall be done in accordance with Airbus Service Bulletin A330–27–3034 (for Model A330 series airplanes), dated June 21, 1995; or Airbus Service Bulletin A340–27–4041 (for Model A340 series airplanes), dated June 21, 1995. 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 22, 1996.

Issued in Renton, Washington, on February 28, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–5079 Filed 3–6–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–NM–37–AD; Amendment 39–9530; AD 96–05–04]

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 series airplanes. This action requires the installation of a control cable guard to separate the flight control cables from the electrical wiring of the aft left cabin attendant console. This amendment is prompted by reports of burnt electrical wire cable in the cabin attendant console that was caused by chafing of the wire cable against certain flight control cables. The actions specified in this AD are intended to prevent chafing of these wire cables, which could result in a fire hazard or damage to critical flight control cables.

DATES: Effective March 22, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 22, 1996.

Comments for inclusion in the Rules Docket must be received on or before May 6, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–37–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5347; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA has received a report from an operator of McDonnell Douglas Model MD–11 series airplanes, indicating that a burnt electrical wire cable was found in the cabin attendant's console located at door 4 left. Investigation has revealed that the electrical wiring of the cabin attendant console was damaged due to intermittent rubbing (chafing) between the wiring and one or both of the control cables of the rudder and horizontal stabilizer. This condition, if not corrected, could result in a wiring short, which could lead to a fire. It also could result in damage to the control cable of the rudder or the horizontal stabilizer. Further, it could result in damage to and disabling of the evacuation warning system signaling system (EVAC).

McDonnell Douglas has issued Service Bulletin MD11–27–051, dated December 9, 1995, which describes procedures for installing a guard to separate the flight control cables from the electrical wiring of the aft left cabin attendant console. Installation of this guard will prevent the rubbing (chafing) condition and will minimize the possibility of a wiring short.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent chafing of the electrical wire cables in the aft left cabin attendant console against the flight control cables, which could lead to a fire hazard or damage to the control cables of the rudder or the horizontal stabilizer. This AD requires installation of a guard to separate the flight control cables and the electrical wiring of the aft left cabin attendant console. This action is required to be accomplished in accordance with the service bulletin described previously.

None of the Model MD–11 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 2 work hours to accomplish the required actions, at an average labor charge of $60 per work hour. Required parts would cost approximately $1,534 per airplane. Based on these figures, the cost impact of this AD would be $1,654 per airplane.

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the Federal Register.

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and 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 96–NM–37–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.

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. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

96–05–04 McDonnell Douglas: Amendment 39–9530. Docket 96–NM–37–AD.

Applicability: Model MD–11 series airplanes, having manufacturer's Fuselage Number 0458, 0459, 0460, 0463, 0464, 0465, 0472, 0473, 0477, 0484, 0487, 0494, 0498, 0502, 0509, 0533, 0570, and 0571; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of the electrical wiring of the aft left cabin attendant console, which could lead to a potential fire hazard or damage to critical flight control cables, accomplish the following:

(a) Within 60 days after the effective date of this AD, install a control cable guard in accordance with McDonnell Douglas Service Bulletin MD11–27–051, dated December 19, 1995.

(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 Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: 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) The installation shall be done in accordance with McDonnell Douglas Service Bulletin MD11–27–051, dated December 19, 1995. 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 McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on March 22, 1996.

Issued in Renton, Washington, on February 28, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–5080 Filed 3–6–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 123 and 1240

[Docket No. 93N–0195]

Procedures for the Safe and Sanitary Processing and Importing of Fish and Fishery Products; Notice of Public Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meetings.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is sponsoring five public meetings that are intended to promote understanding and implementation of FDA's final rule, titled ''Procedures for the Safe and Sanitary Processing and Importing of Fish and Fishery Products,'' that published in the Federal Register on December 18, 1995. That final rule requires that domestic seafood processors and foreign processors who import seafood into the United States establish hazard analysis critical control point (HACCP) systems to ensure the safety of their products. U.S. importers must take steps to help verify that their foreign suppliers are operating such systems. FDA is arranging these meetings in response to significant public interest, both domestic and foreign, in the requirements of the regulations, as well as in implementation strategies before its effective date of December 18, 1997.

DATES: See Table 1 in the ''Supplementary Information'' section of this document.

ADDRESSES: See Table 1 in the ''Supplementary Information'' section of this document.

FOR FURTHER INFORMATION CONTACT: Ellen D. Nesheim (or the local contact person listed in Table 2 in the ''Supplementary Information'' section of this document) Office of Seafood, Center for Food Safety and Applied Nutrition (HFS–417), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3175.

SUPPLEMENTARY INFORMATION: On December 18, 1995, the Department of Health and Human Services published final regulations for the purpose of further ensuring the safety of seafood for United States consumers. The new regulations require that seafood processors use science-based, state-of-the-art preventive controls known as HACCP, to keep unsafe fish and fishery products from reaching consumers. The key components of the system are identification of potential problems that could make seafood hazardous; establishment and monitoring of targeted control points to minimize identified safety hazards and risks; and keeping a record of the results. HACCP recordkeeping will enable regulators to monitor product safety more effectively. FDA is arranging these meetings in response to significant public interest in the requirements of the regulations and FDA's implementation plans and expectations.

The meetings will be held at the addresses and on the dates listed below in Table 1.

TABLE 1

Meeting Address	Date and Time
The Hynes Convention Center rm. 100, 900 Boylston St., Boston, MA .	March 13, 1996 Wednesday 1 pm to 4:30 pm
Sheraton Inner Harbor Hotel, 300 South Charles St., Baltimore, MD	March 20, 1996 Wednesday 1 pm to 4:30 pm
Sheraton Grand Hotel—West Shore Ballroom East, 4860 Kennedy Blvd., Tampa, FL.	March 28, 1996 Thursday 1 pm to 4:30 pm
Canal Place Shopping Mall, 3d Floor in the Cinema, 100 Rue Iberville, New Orleans, LA.	June 10, 1996 Monday 1 pm to 4:30 pm
Jackson Federal Building Auditorium, 915 2d Ave., North Seattle, WA ..	June 13, 1996 Thursday 1 pm to 4:30 pm

There is no charge to attend these meetings. Advance registration is requested because seating is limited. The deadline for registering is 1 week before each meeting. Late registration will be accepted on a space available basis. Persons interested in attending should FAX, mail, or telephone their name, organization, address, and telephone number to the local contact person listed below in Table 2 for each meeting location.

TABLE 2

Meeting Location	Contact Person
Boston, MA	Sylvia Craven, New England District Office (FDA), One Montvale Ave., Stoneham, MA 02180, 617–279–1675 ext. 101; FAX: 617–279–1742.
Baltimore, MD	Alexander A. Ondis, Baltimore District Office (FDA), 900 Madison Ave., Baltimore, MD 21201, 410–962–4052; FAX: 410–962–2307.
Tampa, FL	Frank R. Goodwin, Florida District Office (FDA), 7200 Lake Ellenor Dr. Ste. 120, Orlando, FL 32809, 407–648–6997 ext. 221; FAX: 407–648–6221
New Orleans, LA	Leon L. Law, New Orleans District Office (FDA), 4298 Elysian Fields Ave., New Orleans, LA 70122, 504–589–7183/6344 ext. 114; FAX: 504–589–4365.
Seattle, WA	Christopher Rezendes, Seattle District Office (FDA), 1000 2d Ave., Suite 2400 Seattle, WA 98104, 206–553–7001 ext. 21; FAX: 206–553–7020.

Prior, less extensive, presentations by FDA of the seafood HACCP regulations have been made at Aquaculture '96 and Bangkok Seafood Show, Bangkok, Thailand, January 31, 1996; the 11th Indian Seafood Trade Fair, Bombay, India, February 10, 1996; Aquaculture America, Arlington, Texas, February 15, 1996; the Pacific Fisheries Technologists Annual Meeting, San Diego, California, February 19, 1996; and the 4th Annual Smoked Fish Conference, Seattle, WA, March 5, 1996.

Additional, less extensive, presentations by FDA are planned in conjunction with the International Conference on Fish Inspection and Quality Control, May 23, 1996, Arlington, VA. Other presentations may be scheduled as time and resources permit.

Dated: March 4, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–5441 Filed 3–4–96; 3:16 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1313

[Docket No. 89–02; Notice 8]

RIN 2127–AD01

Incentive Grant Criteria for Drunk Driving Prevention Programs

AGENCY: National Highway Traffic Safety Administration, (NHTSA), Department of Transportation.

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule amends the regulations on incentive grant criteria for drunk driving prevention programs to reflect changes that were made to the section 410 program by the National Highway System Designation Act of 1995 (NHS Act). As a result of this interim final rule, the Section 410 supplemental grant criterion that requires that States ''deem persons under age 21 who operate a motor vehicle with a BAC of 0.02 or greater to be driving while intoxicated'' has been changed to a basic grant criterion. In addition, the regulation now provides for an alternative method for some States to demonstrate compliance with the basic grant criterion that requires that States have a ''statewide program for stopping vehicles.''

In today's Federal Register, NHTSA and the Federal Highway Administration (FHWA) have published a separate notice of proposed rulemaking (NPRM), which contains a proposal for implementing a new ''zero tolerance'' sanction program enacted by the NHS Act, which is similar to the Section 410 ''0.02 BAC'' basic grant criterion cited above. NHTSA requests comments regarding the changes made by this interim final rule, and regarding whether additional changes should be made to the Section 410 ''0.02 BAC'' basic grant criterion, as a result of the new ''zero tolerance'' sanction program.

DATES: This interim final rule becomes effective March 7, 1996. Comments on this interim rule are due no later than April 22, 1996.

ADDRESSES: Written comments should refer to the docket number and the number of this notice and be submitted (preferably in ten copies) to: Docket Section, National Highway Traffic Safety Administration, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Ms. Marlene Markison, Chief, Program Support Staff, NRO–10, National Highway Traffic Safety Administration, 400 Seventh Street S.W., Washington, DC 20590; telephone (202) 366–2121 or Ms. Heidi L. Coleman, Assistant Chief Counsel for General Law, Office of Chief Counsel, NCC–30, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590, telephone (202) 366–1834.

SUPPLEMENTARY INFORMATION: Section 410, title 23, United States Code, as amended, established an incentive grant program under which States may qualify for basic and supplemental grant funds for adopting and implementing comprehensive drunk driving prevention programs that meet specified statutory criteria.

On November 28, 1995, the National Highway System Designation Act of 1995 (NHS Act) was enacted into law. Section 324 of the NHS Act contained amendments to 23 U.S.C. 410.

Statewide Program for Stopping Motor Vehicles

Before its amendment by the NHS Act, Section 410 contained a basic grant criterion requiring that States must provide for ''a statewide program for stopping motor vehicles.'' To qualify for a basic grant under this criterion, States were required to provide:

A statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether or not the operators of such motor vehicles are driving while under the influence of alcohol.

On June 30, 1992, NHTSA issued an interim final rule to implement this provision. The preamble to the interim final rule stated:

NHTSA is aware * * * that the courts in some States have declared the use of checkpoints or roadblocks to be unconstitutional under their State constitution [and has, therefore, * * *] attempted in this final rule to provide some flexibility to enable these States to describe other Statewide programs for stopping motor vehicles, using alternative methods * * *

The agency [, however,] expects most States will meet this criterion by describing their plans for conducting a Statewide checkpoint or roadblock program.

Section 324(b)(1) of the NHS Act amended Section 410 by providing an alternative method of demonstrating compliance with this Section 410 basic grant criterion, for those States in which checkpoints or roadblocks have been declared to be unconstitutional. Section 324(b)(1) provides:

A State shall be treated as having met the requirement of this paragraph if—

(i) the State provides to the Secretary a written certification that the highest court of the State has issued a decision indicating that implementation of subparagraph (A) would constitute a violation of the constitution of the State; and

(ii) the State demonstrates to the satisfaction of the Secretary that—

(I) the alcohol fatal crash involvement rate in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such rate are available; and

(II) the alcohol fatal crash involvement rate in the State has been lower than the average such rate for all States in each of such calendar years.

As a result of the changes made by today's interim final rule, a State may demonstrate compliance with this criterion using an alternative method, under which the State must submit a certification that the highest court of the State has issued a decision, indicating that a Statewide program for the stopping of motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether or not the operators of such motor vehicles are driving while under the influence of alcohol, would constitute a violation of the State's Constitution. The State must also provide a copy of the court's decision.

NHTSA will then, based on data contained in the Fatal Accident Reporting System (FARS) and using NHTSA's method for estimating alcohol involvement, determine the alcohol involvement rate in fatal crashes in the State in each of the three most recent calendar years for which statistics for determining this rate are available and the average such rate for all States in each of these three years.

The State will qualify, under this criterion, if NHTSA determines that the data show that the alcohol involvement rate in fatal crashes in the State has decreased in each of the three most recent calendar years for which statistics for determining such rate are available, and that the alcohol involvement rate in fatal crashes in the State has been lower than the average such rate for all States in each of such calendar years.

0.02 BAC Per Se Law for Persons Under Age 21

Prior to the enactment of the NHS Act, Section 410 provided that, to qualify for basic grant funds, a State was required to meet five out of six basic grant criteria.[1] If a State qualified for a basic grant, it could also seek to qualify for funds under one or more of seven supplemental grants. To qualify under the first of these seven supplemental grants, a State was required to provide that any person under age 21 with an alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

Section 324(b)(2) of the NHS Act amended Section 410 by converting this ''0.02 BAC'' requirement from a supplemental to a basic grant criterion. Accordingly, as a result of the changes made by this interim final rule, the ''0.02 BAC'' requirement remains the same. However, it is removed from the list of supplemental grants (reducing the number of such grants from seven to six), and added to the list of basic grant criteria under Section 410 (increasing the total of basic grant criteria from six to seven).

To qualify for basic grant funds, States must now meet five out of seven basic grant criteria.[2] As before, if a State qualifies for a basic grant, it can also seek to qualify for funds under one or more of the supplemental grants. However, the number of supplemental grants has been reduced from seven to six.

Interim Final Rule

This notice is published as an interim final rule. Accordingly, the changes to Part 1313 described above are fully in effect and binding upon the notice's publication. No further regulatory action by NHTSA is necessary to make these changes effective.

To ensure that States are able to apply for grant funds in fiscal year 1996 under an implementing regulation that reflects the statutory amendments contained in the NHS Act, these changes have been made as an interim final rule, without prior notice and opportunity to comment. These changes do not impose any additional requirements on States. In fact, they provide additional flexibility to States that wish to apply for Section 410 grants this fiscal year. In addition, the changes made to the regulation, simply reflect the statutory amendments enacted by the NHS Act.

NHTSA requests comments on these changes. All comments submitted in response to this notice will be considered by the agency. Following the close of the comment period, NHTSA will publish a notice responding to the comments and, if appropriate, will further amend the provisions of Part 1313.

NHTSA also requests comments on the issues described below, which involve changes the agency is considering for adoption in future rulemaking, but which have not been made in today's interim final rule.

New Zero Tolerance Sanction

As explained more fully in a separate notice of proposed rulemaking (NPRM), published in the notices section of today's Federal Register, Section 320 of the NHS Act added a new Section 161 to title 23, United States Code, to create a new zero tolerance sanction program, which requires the withholding of certain Federal-aid highway funds from States that do not enact and enforce a ''zero tolerance'' law. The ''zero tolerance'' requirement contained in Section 161 is similar, but not identical, to the ''0.02 BAC'' grant criterion contained in Section 410.

Section 410 provides that, to qualify for funding under the ''0.02 BAC'' grant criterion, a State must provide ''that any person under age 21 with a BAC of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.'' Section 161 provides that, to avoid the withholding of Federal-aid highway funds, a State must enact and enforce ''a law that considers an individual under the age of

[1] To receive a basic grant, States that qualified for section 410 funding in FY 1992 could demonstrate compliance with only four out of the five basic grant criteria that were in effect at that time.

[2] To receive a basic grant, States that qualified for section 410 funding in FY 1992 have two options. They may qualify either by demonstrating compliance with four out of the five basic grant criteria that were in effect at that time, or by demonstrating compliance with five out of the seven current basic grant criteria.

21 who has a BAC of 0.02 percent or greater while operating a motor vehicle in the State to be driving while intoxicated or driving under the influence of alcohol.''

In the NPRM, NHTSA and the Federal Highway Administration (FHWA), the agencies responsible for jointly administering this new sanction program, state that:

> The agencies believe that, while Congress intended to encourage all States to enact and enforce effective zero tolerance laws, it also intended to provide States with sufficient flexibility so they could develop laws that suited the particular conditions that exist in those States. Accordingly, the statute prescribes only a limited number of basic elements that State laws must meet to avoid the withholding of Federal-aid highway funds.

NHTSA and FHWA propose in the NPRM that, to avoid the sanction, States must demonstrate that they have enacted and are enforcing a law that: (1) Applies to all individuals under the age of 21; (2) sets a BAC of not higher than 0.02 percent as the legal limit; (3) makes operating a motor vehicle by an individual under the age of 21 above the legal limit a per se offense; and (4) provides for primary enforcement.

Impact of New Zero Tolerance Sanction on 0.02 BAC Criterion

The proposed requirement under the new zero tolerance sanction differs from the current requirement under the Section 410 ''0.02 BAC'' grant criterion. Currently, to qualify for a Section 410 grant under the ''0.02 BAC'' grant criterion, in addition to the requirements listed above, a State must provide for a 30-day suspension or revocation. The 30-day suspension or revocation period must be a mandatory hard suspension or revocation (i.e., it may not be subject to hardship, conditional or provisional driving privileges). To demonstrate compliance with this criterion, States must submit a law that provides for each element of the criterion, except that States with laws that do not specifically provide for a 30-day suspension period may submit data showing that the average length of the suspension term for offenders meets or exceeds 30 days.

As stated above, today's interim final rule changes the Section 410 ''0.02 BAC'' grant criterion from a supplemental to a basic grant criterion. It does not, however, change the criterion itself or the method for demonstrating compliance.

If the proposed ''zero tolerance'' regulation published in today's NPRM is adopted without change, and no further changes are made to the Section 410 ''0.02 BAC'' grant criterion, the following situation could result: a State could enact and enforce a law that would permit it to avoid the ''zero tolerance'' sanction, but not enable it to qualify for a Section 410 grant under the ''0.02 BAC'' grant criterion.

The current Section 410 ''0.02 BAC'' criterion was first adopted in an interim final rule, dated August 9, 1994 (59 FR 40470), which requested comments from the public. In response to that notice, one commenter (Advocates for Highway Safety) expressed concern that the criterion was not strict enough. Advocates stated:

> We are not convinced * * * that a 30-day period of suspension is sufficient to make an effective impression on under age 21 drivers. * * * We believe that there is a strong argument for requiring a 90-day suspension for under age 21 supplemental grants even for states that meet the basic grant criteria without an ALR law.

Two commenters (the Michigan Department of State Police and the National Association of Governors' Highway Safety Representatives (NAGHSR)) considered the 30-day hard suspension requirement too strict. NAGHSR expressed the view that the 30-day requirement was not contained in the Section 410 statute, and its inclusion in the regulation made it unnecessarily difficult for States to qualify for Section 410 funds.

In light of the comments that NHTSA received in response to its interim final rule dated August 9, 1994, and the proposed implementation of the new ''zero tolerance'' sanction program established by the NHS Act, NHTSA is requesting comments regarding whether to make further revisions to Part 1313. Specifically, NHTSA requests comments regarding whether it should retain different requirements under the ''zero tolerance'' sanction and the Section 410 ''0.02 BAC'' grant criterion, or whether it should amend the Section 410 ''0.02 BAC'' criterion to be the same as the ''zero tolerance'' sanction requirement.

Written Comments

Interested persons are invited to comment on this interim final rule. It is requested, but not required, that ten copies be submitted.

All comments must be limited to 15 pages in length. Necessary attachments may be appended to those submissions without regard to the 15-page limit. (49 CFR 553.21.) This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

Written comments to the public docket must be received by April 22, 1996. All comments received before the close of business on the comment closing date, will be considered and will be available for examination in the docket at the above address before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. Following the close of the comment period, NHTSA will publish a notice responding to the comments and, if appropriate, NHTSA will amend the provisions of this rule. NHTSA will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all comments will be placed in Docket 89–02; Notice 8 of the NHTSA Docket Section in Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Regulatory Analyses and Notice

Executive Order 12778 (Civil Justice Reform)

This interim final rule will not have any preemptive or retroactive effect. The enabling legislation does not establish a procedure for judicial review of final rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or other administrative proceedings before they may file suit in court.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The agency has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or Department of Transportation Regulatory Policies and Procedures. Section 410 is a voluntary program. In addition, the changes made in this interim final rule merely reflect amendments contained in Public Law 104–59. Accordingly, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the agency has evaluated the effects of this action on small entities. Based on the evaluation, we certify that this action will not have a significant impact on a substantial number of small entities. Accordingly, the preparation of

a Regulatory Flexibility Analysis is unnecessary.

Paperwork Reduction Act

The requirements relating to the regulation that this rule is amending that States retain and report to the Federal government information which demonstrates compliance with drunk driving prevention incentive grant criteria, are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320.

Accordingly, these requirements have been submitted previously to and approved by OMB, pursuant to the Paperwork Reduction Act (44 U.S.C. 3501, et seq.). These requirements have been approved under OMB No. 2127–0501. A request for an extension of this approval through 11/30/98 is currently pending.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that it will not have any significant impact on the quality of the human environment.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. Accordingly, the preparation of a Federalism Assessment is not warranted.

List of Subjects in 23 CFR Part 1313

Alcohol abuse, Drug abuse, Grant programs—transportation, Highway safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, NHTSA amends 23 CFR Part 1313 as set forth below:

PART 1313—INCENTIVE GRANT CRITERIA FOR DRUNK DRIVING PREVENTION PROGRAMS

1. The authority citation for Part 1313 continues to read as follows:

Authority: 23 U.S.C. 410; delegation of authority at 49 CFR 1.50.

2. Section 1313.5 is amended by removing the word ''six'' in the introductory text and by adding paragraphs (c)(4) and (g) to read as follows:

§ 1313.5 Requirements for a basic grant.

* * * * *

(c) * * *

(4)(i) A State shall be treated as having met the requirement of this paragraph if the highest court of the State has issued a decision indicating that implementation of paragraph (c)(1) of this section would constitute a violation of the constitution of the State and NHTSA determines, based on data contained in the Fatal Accident Reporting System (FARS) and using NHTSA's method for estimating alcohol involvement, that the alcohol involvement rate in fatal crashes in the State:

(A) Has decreased in each of the 3 most recent calendar years for which statistics for determining such rate are available; and

(B) The alcohol involvement rate in fatal crashes in the State has been lower than the average such rate for all States in each of such calendar years.

(ii) To demonstrate compliance under this paragraph in each fiscal year the State receives a basic grant based on this criterion, the State shall submit:

(A) A certification that the highest court of the State has issued a decision indicating that a Statewide program for the stopping of motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether or not the operators of such motor vehicles are driving while under the influence of alcohol, would constitute a violation of the State's Constitution; and

(B) A copy of the court's decision.

* * * * *

(g) *Per se law for persons under age 21.* (1) Provide that any person under age 21 with an alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated and shall be subject to the temporary debarring of all driving privileges for a term of not less than 30 days.

(2)(i) To demonstrate compliance in each year the State receives a basic grant based on this criterion, a Law State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of the per se law for persons under age 21 criterion.

(ii) For the purpose of this paragraph, ''Law State'' means a State that has a law, regulation or binding policy directive implementing or interpreting an existing law or regulation which provides for each element of the per se law for persons under age 21 criterion.

(3)(i) To demonstrate compliance in each year the State receives a basic grant based on this paragraph, a Data State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of the per se law for persons under age 21 criterion and data showing that the average length of the suspension term for offenders under this law meets or exceeds 30 days.

(ii) The State can provide the necessary data based on a representative sample. Data on the average length of the suspension term must not include license suspension periods which exceed the terms actually prescribed by the State, and must reflect terms only to the extent that they are actually completed.

(iii) For the purpose of this paragraph, ''Data State'' means a State that has a law, regulation or binding policy directive implementing or interpreting an existing law or regulation which provides for each element of the per se law for persons under age 21 criterion, except that it does not specifically provide for the temporary debarring of all driving privileges for a term of not less than 30 days.

§ 1313.6 [Amended]

3. Section 1313.6 is amended by removing paragraph (a) and redesignating paragraphs (b) through (g) as paragraphs (a) through (f), respectively.

Issued on: February 29, 1996.

Ricardo Martinez,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 96–5131 Filed 3–6–96; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS SEAWOLF (SSN 21) is a vessel of the Navy which, due to its special construction and purpose,

cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special functions as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: December 26, 1995.

FOR FURTHER INFORMATION CONTACT: Captain R. R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400. Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS SEAWOLF (SSN 21) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Rule 21(b), pertaining to the arc of visibility of the sidelights; Rule 21(c), pertaining to the arc of visibility of the sternlight; Annex I, section 2(a)(i), pertaining to the height of the masthead light; Annex I, section 2(k), pertaining to the height and relative positions of the anchor lights; and Annex I, section 3(b), pertaining to the location of the sidelights. The Deputy Assistant Judge Advocate General (Admiralty) has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. Table One of § 706.2 is amended by adding the following vessel:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE ONE

Vessel	No.	Distance in meters of forward masthead light below minimum required height; § 2(a)(i), annex I
* * * * *	*	*
USS SEAWOLF	SSN–21	4.62
* * * * *	*	*

3. Table Three of 706.2 is amended by adding the following vessel:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE 3

Vessel	No.	Masthead lights arc of visibility; rule 21(a)	Side lights arc of visibility; rule 21(b)	Stern light arc of visibility; rule 21(c)	Side lights distance inboard of ship's sides in meters; 3(b), annex 1	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; 2(K), annex 1	Anchor lights relationship of aft light to forward light in meters; 2(K), annex 1
* *		*		*	*	*		*
USS SEAWOLF	SSN–21	225°	118.3°	205°	5.1	10.7	2.8	1.8 below
* *		*		*	*	*		*

Dated: December 26, 1995.

R.R. Pixa,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty).

[FR Doc. 96–5329 Filed 3–6–96; 8:45 am]

BILLING CODE 3810–FF–P

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DoD.

ACTION: Final Rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS CHEYENNE (SSN 773) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special functions as

a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: February 21, 1996.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS CHEYENNE (SSN 773) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Rule 21(c), pertaining to the arc of visibility of the sternlight; Annex I, section 2(a)(i), pertaining to the height of the masthead light; Annex I, section 2(k), pertaining to the height and relative positions of the anchor lights; and Annex I, section 3(b), pertaining to the location of the sidelights. The Deputy Assistant Judge Advocate General (Admiralty) has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided that USS CHEYENNE (SSN 773) is a member of the SSN 688 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing table of section 706.3, are equally applicable to USS CHEYENNE (SSN 773).

Moreover, it has been determined, in accordance with 32 CFR Parts 296 to 701, the publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. Table One of § 706.2 is amended by adding the following vessel:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE ONE

Vessel	No.	Distance in meters of forward masthead light below minimum required height; § 2(a)(i), annex I
* * * * *	*	*
USS CHEYENNE	SSN–773	3.5
* * * * *	*	*

3. Table Three of 706.2 is amended by adding the following vessel:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE 3

Vessel	No.	Masthead lights arc of visibility; rule 21(a)	Side lights are of visibility; rule 21(b)	Stern light arc of visibility; rule 21(c)	Side lights distance inboard of ship's sides in meters; 3(b), annex 1	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; 2(K), annex 1	Anchor lights relationship of aft light to forward light in meters; 2(K), annex 1
* *	*	*	*	*	*	*	*	*
USS CHEYENNE	SSN–773	.....	.....	209°	4.4	6.1	3.4	1.7 below
* *	*	*	*	*	*	*	*	*

Dated: February 21, 1996.

R.R. Pixa,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty).

[FR Doc. 96–5346 Filed 3–6–96; 8:45 am]

BILLING CODE 3810–FF–M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS). The Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that a prior certification of noncompliance for USS KITTY HAWK (CV 63) should be amended to reflect compliance with 72 COLREGS. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: December 11, 1995.

FOR FURTHER INFORMATION CONTACT: Captain R. R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has determined that certain navigation lights on USS KITTY HAWK (CV 63), previously certified as not in compliance with 72 COLREGS, now comply with the applicable 72 COLREGS requirements. Specifically, the ship now has a single forward anchor light and a single aft anchor light, as required by Rule 30(a)(i). Furthermore, the forward anchor light and the aft anchor light have been relocated to comply with Annex I, paragraph 2(k), and Rule 30(a)(ii).

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. Table Two of 706.2 is amended by revising the entry for USS KITTY HAWK as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE TWO

Vessel	No.	Masthead lights, distance to stbd of keel in meters; rule 21(a)	Forward anchor light, distance below flight dk in meters; § 2(K), Annex I	Forward anchor light, number of; rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; rule 21(e), rule 30(a)(ii)	AFT anchor light, number of; rule 30(a)(ii)	Side lights, distance below flight dk in meters; § 2(g), annex I	Side lights, distance forward of forward masthead light in meters; § 3(b), annex I	Side lights, distance inboard of ship's sides in meters; § 3(b), annex I
*	*	*	*		*		*		*
USS KITTY HAWK	CV–63	27.8	.....	1	.....	1	0.2	.....	.....
*	*	*	*		*		*		*

Dated: December 11, 1995.

R.R. Pixa,

Captain, JAGC, U.S. Navy Deputy Assistant Judge Advocate General (Admiralty).

[FR Doc. 96–5328 Filed 3–6–96; 8:45 am]

BILLING CODE 3810–FF–P

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS ROBIN (MHC 54) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special functions as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: February 11, 1996.

FOR FURTHER INFORMATION CONTACT: Captain R. R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge

Advocate General, Navy Department, 200 Stovall Street, Alexandria, Virginia, 22332–2400, Telephone Number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS ROBIN (MHC 54) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Rule 27(f), pertaining to the display of all-round lights by a vessel engaged in mineclearance operations; and Annex I, paragraph 9(b), prescribing that all-round lights be located as not to be obscured by masts, topmasts or structures within angular sectors of more than six degrees. The Deputy Assistant Judge Advocate General (Admiralty) of the Navy has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. Section 706.2 is amended by adding the following ship to Table Four, paragraph 18:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	No.	Obscured angles relative to ship's heading	
		Port	STBD
* * * *	*	*	*
ROBIN	MHC 54	59.5° to 78.3°	281.7° to 300.5°
* * * *	*	*	*

Dated: February 13, 1996.

R.R. Pixa,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty).

[FR Doc. 96–5330 Filed 3–6–96; 8:45 am]

BILLING CODE 3810–FF–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–5438–8]

Georgia; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Georgia has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Georgia's revisions consist of the provisions contained in rules promulgated between July 1, 1993, and June 30, 1994, otherwise known as RCRA Cluster IV. These requirements are listed in section B of this document. The Environmental Protection Agency (EPA) has reviewed Georgia's application and has made a decision, subject to public review and comment, that Georgia's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Georgia's hazardous waste program revisions. Georgia's application for program revisions is available for public review and comment.

DATES: Final authorization for Georgia's program revisions shall be effective May 6, 1996 unless EPA publishes a prior Federal Register action withdrawing this immediate final rule.

All comments on Georgia's program revision application must be received by the close of business, April 8, 1996.

ADDRESSES: Copies of Georgia's program revision application are available during normal business hours at the following addresses for inspection and copying: Georgia Department of Natural Resources, Environmental Protection Division, Floyd Towers East, Room 1154, 205 Butler Street, SE, Atlanta, Georgia 30334; U.S. EPA Region 4, Library, 345 Courtland Street, NE, Atlanta, Georgia 30365; (404) 347–4216. Written comments should be sent to Al Hanke at the address listed below.

FOR FURTHER INFORMATION CONTACT: Al Hanke, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365; (404) 347–2234.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the Resource Conservation and Recovery Act (''RCRA'' or ''the Act''), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Public Law 98–616, November 8, 1984, hereinafter ''HSWA'') allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive ''interim authorization'' for the HSWA requirements under Section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to

EPA's regulations in 40 CFR Parts 260–268 and 124 and 270.

B. Georgia

Georgia initially received final authorization for its base RCRA program effective on August 21, 1984. Georgia has received authorization for revisions to its program through RCRA Cluster III on July 10, 1995. On October 30, 1995, Georgia received final authorization for the Boilers and Industrial Furnace (BIF) provisions of RCRA I, II, and III. Today, Georgia is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Georgia's application and has made an immediate final decision that Georgia's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Georgia. The public may submit written comments on EPA's immediate final decision up until April 8, 1996.

Copies of Georgia's application for these program revisions are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Approval of Georgia's program revisions shall become effective May 6, 1996, unless an adverse comment pertaining to the State's revisions discussed in this notice is received by the end of the comment period.

If an adverse comment is received EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

EPA shall administer any RCRA hazardous waste permits, or portions of permits that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

Georgia is today seeking authority to administer the following Federal requirements promulgated between July 1, 1993—June 30, 1994.

Checklist	Description	FR date and page	State rule
125	Revised Guidelines Air Quality Models	58 FR 38816, 7/20/93	391–3–11–.02, 391–3–11–.10, 12–8–62, 12–8–64, 12–8–65
126	Third Edition of SW846	58 FR 46040, 8/31/93	391–3–11–.02, 391–3–11–.07, 391–3–11–.10, 391–3–11–.16, 391–3–11–.11, 12–8–62, 12–8–64, 12–8–65.
127	Burning of Hazardous Waste in Boilers and Industrial Furnaces (BIF)	58 FR 59598, 11/9/93	391–3–11–.10, 12–8–64, 12–8–65, 12–8–66.
128	Wastes from Wood Surface Protection	59 FR 458, 1/4/94	391–3–11–.02, 391–3–11–.07, 12–8–62, 12–8–64, 12–8–65.
129	Revision of Conditional Exemption for Small Scale Treatability Studies from Subtitle C of RCRA.	59 FR 8362, 2/18/94	391–3–11–.07, 12–8–62, 12–8–64, 12–8–65.
130	Recycled Used Oil Management Standards	59 FR 10550, 3/4/94	391–3–11–.17, 12–8–62, 12–8–64, 12–8–65, 12–8–66.
131	Recordkeeping for TSDFs, BIFs, and Miscellaneous Units	59 FR 13891, 3/24/94	391–3–11–.10, 12–8–64, 12–8–65, 12–8–66.
132	Wastes from Wood Surface Protection; Correction	59 FR 28484, 6/2/94	391–3–11–.02, 12–8–62, 12–8–64, 12–8–65.
133	Amendments to Letter of Credit	59 FR 29958, 6/10/94	391–3–11–.05, 12–8–64, 12–8–65, 12–8–66.
134	Listing of PO 15 Beryllium Powder: Correction	59 FR 31551, 6/20/94	391–3–11–.07, 391–3–11–.16, 12–8–62, 12–8–64, 12–8–65.

C. Decision

I conclude that Georgia's application for these program revisions meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Georgia is granted final authorization to operate its hazardous waste program as revised.

Georgia now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitations of its program revision application and previously approved authorities. Georgia also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under Section 3007 of RCRA and to take enforcement actions under Section 3008, 3013, and 7003 of RCRA.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any one year. EPA does not anticipate that the approval of Georgia's hazardous waste program referenced in today's notice will result in annual costs of $100 million or more.

EPA's approval of state programs generally has a deregulatory effect on the private sector because once it is determined that a state hazardous waste program meets the requirements of RCRA section 3006(b) and the regulations promulgated thereunder at 40 CFR Part 271, owners and operators of hazardous waste treatment, storage, or disposal facilities (TSDFs) may take advantage of the flexibility that an approved state may exercise. Such flexibility will reduce, not increase compliance costs for the private sector. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that small governments may own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste program. However, such small governments which own and/or operate TSDFs are already subject to the requirements in 40 CFR Parts 264, 265, and 270. Once EPA authorizes a state to administer its own hazardous waste program and any revisions to that program, these same small governments will be able to own and operate their TSDFs with increased levels of flexibility provided under the approved state program.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Georgia's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926, 6974(b)).

Dated: February 22, 1996.

Phillis P. Harris,

Acting Regional Administrator.

[FR Doc. 96–4960 Filed 3–6–96; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–17

RIN 3090–AF90

Assignment and Utilization of Space

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule begins the process of replacing Part 101–17 of the Federal Property Management Regulations (FPMR). Policy and procedures regarding the assignment and utilization of space have been provided by a series of temporary regulations since 1982, the most current being FPMR Temporary Regulation D–76 which went into effect on August 26, 1991. This interim rule repeals the outdated and superseded permanent FPMR Part 101–17 and provides new guidance concerning the location of Federal facilities in urban areas.

DATES: This interim rule is effective March 7, 1996. Comments should be submitted on or before April 8, 1996. This interim rule shall expire on March 7, 1997.

ADDRESS: Comments should be submitted to the General Services Administration, Public Buildings Service, Office of Commercial Broker (PE), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Hilary Peoples, Assistant Commissioner, Office of Commercial Broker, at (202) 501–1025.

SUPPLEMENTARY INFORMATION: The purpose of this interim rule is to provide new, permanent FPMR guidance regarding the location of Federal facilities in urban areas.

On August 16, 1978, President Carter issued Executive Order 12072, which directs Federal agencies to give first consideration to centralized community business areas when filling federal space needs in urban areas. The objective of the Executive Order is that Federal facilities and Federal use of space in urban areas serve to strengthen the nation's cities and make them attractive places to live and to work. This regulation serves to reaffirm this Administration's commitment to Executive Order 12072 and its goals.

The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866.

This rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. (5 U.S.C. 601, *et seq.*). An initial regulatory flexibility analysis has therefore not been performed.

The Paperwork Reduction Act does not apply to this action because the proposed changes to the Federal Property Management Regulations do not impose reporting, recordkeeping or information collection requirements which require the approval of the Office of Management and Budget pursuant to 44 U.S.C. 3501, *et seq.*

List of Subjects in 41 CFR Part 101–17

Administrative practices and procedures, Federal buildings and facilities, Government real property management.

Authority: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c)

In 41 CFR Chapter 101, the following Interim Rule D–1 is added to the appendix at the end of Subchapter D to read as follows:

Federal Property Management Regulations Interim Rule

To: Heads of Federal Agencies

Subject: Assignment and Utilization of Space

1. *Purpose.* This interim rule begins the process of replacing Part 101–17 of the Federal Property Management Regulations (FPMR). Policy and procedures regarding the assignment and utilization of space have been provided by a series of temporary regulations since 1982, the most current being FPMR Temporary Regulation D–76 which went into effect on August 26, 1991. This interim rule repeals the outdated and superseded permanent FPMR Part 101–17 and provides new guidance concerning the location of Federal facilities in urban areas.

2. *Effective date.* This interim rule is effective March 7, 1996. Comments should be submitted on or before April 8, 1996.

3. *Expiration date.* March 7, 1997.

4. *Comments:* Comments should be submitted to the General Services Administration, Public Buildings Service, Office of Commercial Broker (PE), Washington, DC 20405.

5. *Effect on other directives.* This interim rule amends 41 CFR Part 101–17 by deleting all subparts and sections in their entirety and by adding a new § 101–17.205 entitled ''Location of Space.''

Dated: December 21, 1995.

Thurman M. Davis,

Acting Administrator of General Services.

''Subchapter D—Public Buildings and Space

PART 101–17—ASSIGNMENT AND UTILIZATION OF SPACE

§ 101–17.205 Location of space.

(a) Each Federal agency is responsible for identifying its geographic service area and the delineated area within which it wishes to locate specific activities, consistent with its mission and program requirements, and in accordance with all applicable statutes, regulations and policies. Specifically, under the Rural Development Act of 1972, as amended, 42 U.S.C. § 3122, agencies are required to give first priority to the location of new offices and other facilities in rural areas. When agency mission and program requirements call for location in an urban area, agencies must comply with Executive Order 12072, August 16, 1978, 3 CFR, 1979 Comp., p. 213, which requires that first consideration be given to central business areas (CBAs) and other designated areas. The agency shall submit to GSA a written statement explaining the basis for the delineated area.

(b) GSA shall survey agencies' mission, housing, and location requirements in a community and include these considerations in community-based policies and plans. These plans shall provide for the location of federally-owned and leased facilities, and other interests in real property including purchases, at locations which represent the best overall value to the Government consistent with agency requirements.

(c) Whenever practicable and cost-effective, GSA will consolidate elements of the same agency or multiple agencies in order to achieve the economic and programmatic benefits of consolidation.

(d)(1) GSA will consult with local officials and other appropriate Government officials and consider their recommendations for, and review of, general areas of possible space or site acquisition. GSA will advise local officials of the availability of data on GSA plans and programs, and will agree upon the exchange of planning information with local officials. GSA will consult with local officials to identify CBAs.

(2) With respect to an agency's request for space in an urban area, GSA shall provide appropriate Federal, State, regional, and local officials such notice as will keep them reasonably informed about GSA's proposed space action. For all proposed space actions with delineated areas either partially or wholly outside the CBA, GSA shall consult with such officials by providing them with written notice, by affording them a proper opportunity to respond, and by considering all recommendations for and objections to the proposed space action. All contacts with such officials relating to proposed space actions must be appropriately documented in the official procurement file.

(e) GSA is responsible for reviewing an agency's delineated area to confirm that, where appropriate, there is maximum use of existing Government-controlled space and that established boundaries provide competition when acquiring leased space.

(f) In satisfying agency requirements in an urban area, GSA will review an agency requested delineated area to ensure that the area is within the CBA. If the delineated area requested is outside the CBA, in whole or part, an agency must provide written justification to GSA setting forth facts and considerations sufficient to demonstrate that first consideration has been given to the CBA and to support the determination that the agency program function(s) involved cannot be efficiently performed within the CBA.

(g) Agency justifications for locating outside CBAs must address, at a minimum, the efficient performance of the missions and programs of the agencies, the nature and function of the facilities involved, the convenience of the public served, and the maintenance and improvement of safe and healthful working conditions for employees.

(h) GSA is responsible for approving the final delineated area. As the procuring agency, GSA must conduct all acquisitions in accordance with the requirements of all applicable laws, regulations, and Executive orders. GSA will review the identified delineated area to confirm its compliance with all applicable laws, regulations, and Executive orders, including the Rural Development Act of 1972, as amended, the Competition in Contracting Act, as amended, 41 U.S.C. § 252–266, and Executive Order 12072.

(i) Executive Order 12072 provides that ''space assignments shall take into account the management needs for consolidation of agencies or activities in common or adjacent space in order to improve administration and management and effect economies.'' Justifications that rely on consolidation or adjacency requirements will be carefully reviewed for legitimacy.

(j) Executive Order 12072 directs the Administrator of General Services to ''[e]nsure, in cooperation with the heads of Executive agencies, that their essential space requirements are met in a manner that is economically feasible and prudent.'' Justifications that rely on budget or other fiscal restraints for locating outside the CBA will be carefully reviewed for legitimacy.

(k) Justifications based on executive or personnel preferences or other matters which do not have a material and significant adverse impact on the efficient performance of agency program functions are not acceptable.

(l) In accordance with the Competition in Contracting Act, GSA may consider whether restricting the delineated area to the CBA will provide for competition when acquiring leased space. Where it is determined that an acquisition should not be restricted to the CBA, GSA may expand the delineated area in consultation with the requesting agency and local officials. The CBA must continue to be included in such an expanded area.

(m) If, based on its review of an agency's requested delineated area, GSA concludes that changes are appropriate, GSA will discuss its recommended changes with the requesting agency. If after discussions the requesting agency does not agree with GSA's

delineated area recommendation, the agency may take the steps described in this section. If an agency elects to request a review of the GSA's delineated area recommendation, GSA will continue to work on the requirements development and other activities related to the requesting agency's space request. GSA will not issue a solicitation to satisfy an agency's space request until all requested reviews have been resolved.

(1) For space actions of less than 25,000 square feet, an agency may request a review of GSA's delineated area recommendation by submitting a written request to the responsible Assistant Regional Administrator for the Public Buildings Service. The request for review must state all facts and other considerations and must justify the requesting agency's proposed delineated area in light of Executive Order 12072 and other applicable statutes, regulations, and policies. The Assistant Regional Administrator will issue a decision within fifteen (15) working days. The decision of the Assistant Regional Administrator will be final and conclusive.

(2) For space actions of 25,000 square feet or greater, a requesting agency may request a review of GSA's delineated area recommendation by submitting a written request to the Commissioner of the Public Buildings Service that the matter be referred to an interagency council for decision. The interagency council will be established specifically to consider the appeal and will be comprised of the Administrator of General Services or his/her designee, the Secretary of Housing and Urban Development, or his/her designee, and such other Federal official(s) as the Administrator may appoint.

(n) The presence of the Federal Government in the National Capital Region (NCR) is such that the distribution of Federal installations will continue to be a major influence in the extent and character of development. These policies shall be applied in the GSA National Capital Region, in conjunction with regional policies established by the National Capital Planning Commission and consistent with the general purposes of the National Capital Planning Act of 1959 (66 Stat. 781), as amended. These policies shall guide the development of strategic plans for the housing of Federal agencies within the National Capital Region.

(o) Consistent with the policies cited in paragraphs (a), (b), (c) and (e) of this section, the use of buildings of historic architectural, or cultural significance within the meaning of section 105 of the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2505) will be considered as alternative sources for meeting Federal space needs.

(p) As used in § 101–17.205, the following terms have the following meanings:

(1) ''CBA'' means the centralized community business area and adjacent areas of similar character, including other specific areas which may be recommended by local officials in accordance with Executive order 12072.

(2) ''Delineated area'' means the specific boundaries within which space will be obtained to satisfy an agency space requirement.

(3) ''Rural area'' means any area that (i) is within a city or town if the city or town has a population of less than 10,000 or (ii) is not within the outer boundaries of a city or town if the city or town has a population of 50,000 or more and if the adjacent urbanized and urbanizing areas have a population density of more than 100 per square mile.

(4) ''Urban area'' means any Metropolitan Area (MA) as defined by the Office of Management and Budget (OMB) and any non-MA that meets one of the following criteria:

(i) A geographical area within the jurisdiction of any incorporated city, town, borough, village, or other unit of general local government, except county or parish, having a population of 10,000 or more inhabitants.'

(ii) That portion of the geographical area within the jurisdiction of any county, town, township, or similar governmental entity which contains no incorporated unit of general local government, but has a population density equal to or exceeding 1,500 inhabitants per square mile; or

(iii) That portion of any geographical area having a population density equal to or exceeding 1,500 inhabitants per square mile and situated adjacent to the boundary of any incorporated unit of general local government which has a population of 10,000 or more inhabitants. (Reference: Intergovernmental Cooperation Act of 1968, 40 U.S.C. § 535.)

[FR Doc. 96–5301 Filed 3–6–96; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1201 and 1262

[STB Ex Parte No. 539]

Removal of Obsolete Valuation Regulations

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rule.

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

EFFECTIVE DATE: January 1, 1996.

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

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (ICCTA) abolished the Interstate Commerce Commission (the Commission) and established within the Department of Transportation. Section 204 of the ICCTA provides that ''[t]he Board shall promptly rescind all regulations established by the [Commission] that are based on provisions of law repealed and not substantively reenacted by this Act.'' The rail property valuation provisions of former 49 U.S.C. 10781–10786, including § 10784, which is the statutory basis for the Part 1262 rail valuation regulations, have been repealed. We are therefore removing the now obsolete Part 1262 regulations,[1] as well as Instruction 1–3(g) in Part 1201,[2] which refers to part 1262. Interested persons are encouraged to bring to the Board's attention any other regulations affected by the removal of former 49 U.S.C. 10784.

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

Prior to the elimination of § 10784, in *Uniform System of Records of Property Changes for Railroad Companies*, Ex Parte No. 512 (ICC served Aug. 26, 1992) and published at 57 FR 38810 (1992), the Commission had proposed eliminating the same regulations we are removing here. A comment in opposition to the rule change was filed. Because we are removing here the rules proposed for elimination in Ex Parte No. 512, in a separate decision we are withdrawing the proposed rule changes and discontinuing the Ex Parte No. 512 proceeding. We will address there the comment opposing the change.

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

List of Subjects 49 CFR Parts 1201 and 1262

Railroads, Reporting and recordkeeping requirements.

Decided: February 28, 1996.

[1] The Valuation Act of 1913 directed the Commission to establish a valuation for all railroad property. An initial valuation was completed in 1920. Under 49 U.S.C. former 10784, after the initial valuation, the Commission was required to keep itself informed of changes in costs and valuations of railroad property. It was for that purpose that the Commission promulgated the Part 1262 regulations requiring carriers to provide reports and information about changes in property values.

[2] We are also revising the authority section of Part 1201 by removing the authorities at Subpart A and Subpart B and adding a new authority section for Part 1201. It should be noted that the Subpart B authority referenced sections of the Regional Rail Reorganization Act of 1973 and the Railroad Revitalization and Regulatory Reform Act of 1976 that were codified in Title 49 in the now-repealed § 10362. In place of that section, we are now using for authority new 49 U.S.C. 11142 and 11164.

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

Vernon A. Williams,

Secretary.

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

PART 1201—RAILROAD COMPANIES

1. The authority citations at Subpart A and Subpart B are removed and a new authority citation for part 1201 is added to read as follows:

Authority: 5 U.S.C. 553 and 49 U.S.C. 11142 and 11164.

Subpart A—[Amended]

2. In Subpart A, General Instructions, Instruction 1–3 is amended by removing paragraph (g).

PART 1262—[REMOVED]

3. Part 1262 is removed.

[FR Doc. 96–5412 Filed 3–6–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 960129019–6019–01; I.D. 030196A]

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

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Closure.

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

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 2, 1996, until 12 noon, A.l.t., April 15, 1996.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 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 first allowance of pollock for vessels catching pollock for processing by the offshore component in the AI was established by the Final 1996 Harvest Specifications of Groundfish (61 FR 4311, February 5, 1996) as 19,669 metric tons (mt).

The Director, Alaska Region, NMFS (Regional Director), has determined in accordance with § 675.20(a)(8), that the first allowance of pollock TAC for vessels catching pollock for processing by the offshore component in the AI soon will be reached. Therefore, the Regional Director has established a directed fishing allowance of 18,669 mt with consideration that 1,000 mt will be taken as incidental catch in directed fishing for other species in the AI. Consequently, NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the offshore component in the AI. This closure is effective noon, A.l.t., March 2, 1996, through noon, A.l.t., April 15, 1996. Under § 675.20(a)(2)(ii), the second allowance is available from noon, A.l.t., August 15 through the end of the fishing year.

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

Classification

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

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

Dated: March 1, 1996.

Richard W. Surdi,

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

[FR Doc. 96–5312 Filed 3–1–96; 4:33 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 61, No. 46
Thursday, March 7, 1996

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

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 96–05]

RIN 1557–AB14

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R–0884]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064–AB72

Risk-Based Capital Standards; Market Risk; Internal Models Backtesting

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; and Federal Deposit Insurance Corporation.

ACTION: Joint notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (Agencies) are proposing to amend their July 25, 1995, proposal to incorporate a measure for market risk into their respective risk-based capital standards. The proposed amendment would provide additional guidance to an institution about how the multiplication factor used to calculate capital requirements for market risk under the internal models approach would be adjusted if comparisons of its internal model's previous estimates with actual trading results indicate that the internal model is inaccurate. The proposed amendment would increase the market risk capital charge for an institution with an inaccurate model.

DATES: Comments must be received on or before April 5, 1996.

ADDRESSES: Comments should be directed to:

OCC: Comments may be submitted to Docket No. 96–05, Communications Division, Third Floor, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C., 20219. Comments will be available for inspection and photocopying at that address. In addition, comments may be sent by facsimile transmission to FAX number (202) 874–5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

Board: Comments directed to the Board should refer to Docket No. R–0884 and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C., 20551. Comments may also be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, N.W., (between Constitution Avenue and C Street) at any time. Comments may be inspected in Room MP–500 of the Martin Building between 9 a.m. and 5 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FDIC: Written comments should be sent to Jerry L. Langley, Executive Secretary, Attention: Room F—402, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429. Comments may be hand delivered to Room F—402, 1776 F Street N.W., Washington, D.C. 20429 on business days between 8:30 a.m. and 5 p.m. (Fax number (202) 898–3838; Internet address: comments@fdic.gov). Comments will be available for inspection and photocopying in Room 7118, 550 17th Street, N.W., Washington, D.C. 20429, between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT:

OCC: Margot Schwadron, Financial Analyst, or Christina Benson, Capital Markets Specialist (202/874–5070), Office of the Chief National Bank Examiner. For legal issues, Ronald Shimabukuro, Senior Attorney, or Andrew Gutierrez, Attorney (202/874–5090), Legislative and Regulatory Activities Division.

Board: Roger Cole, Deputy Associate Director (202/452–2618), James Houpt, Assistant Director (202/452–3358), Barbara Bouchard, Supervisory Financial Analyst (202/452–3072), Division of Banking Supervision and Regulation; or Stephanie Martin, Senior Attorney (202/452–3198), Legal Division. For the Hearing impaired only, Telecommunication Device for the Deaf, Dorothea Thompson (202/452–3544).

FDIC: William A. Stark, Assistant Director, (202/898–6972), Miguel D. Browne, Deputy Assistant Director, (202/898–6789), or Kenton Fox, Senior Capital Markets Specialist, (202/898–7119), Division of Supervision; Jamey Basham, Counsel, (202/898–7265) Legal Division, FDIC, 550 17th Street N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

Background

The Agencies' risk-based capital standards are based upon principles contained in the agreement on International Convergence of Capital Measurement and Capital Standards (Accord) issued in July 1988. The Accord, proposed by the Basle Committee on Banking Supervision (Committee) and endorsed by the central bank governors of the Group of Ten (G–10) countries,[1] assesses an institution's capital adequacy by weighting its assets and off-balance-sheet exposures on the basis of credit risk. In April 1995, the Committee issued a consultative proposal to supplement the Accord to cover market risk, specifically market risk in foreign exchange and commodity activities and in debt and equity instruments held in trading portfolios, in addition to credit risk.[2] On July 25, 1995, the Board, the OCC, and the FDIC issued a joint proposal to amend their respective risk-based capital standards in accordance

[1] The Committee is composed of representatives of the central banks and supervisory authorities from the G–10 countries (Belgium, Canada, France, Germany, Italy, Japan, Netherlands, Sweden, Switzerland, the United Kingdom, and the United States) and Luxembourg. The Agencies each adopted risk-based capital standards implementing the Accord in 1989.

[2] The Committee's document is entitled ''Proposal to issue a Supplement to the Basle Capital Accord to cover market risk.'' On December 11, 1995, the G–10 Governors endorsed a final supplement to the Accord incorporating a measure for market risk, subject to the completion of rulemaking procedures in countries that require such action. The final supplement is entitled ''Amendment to the Capital Accord to incorporate market risks.'' The proposal and the final supplement are available through the Board's and the OCC's Freedom of Information Office and the FDIC's Reading Room.

with the consultative proposal (60 FR 38082) (July 1995 proposal). Under the July 1995 proposal, an institution with relatively large trading activities would calculate a capital charge for market risk using either its own internal value-at-risk (VAR)[3] model (internal models approach) or, alternatively, risk measurement techniques that were developed by the Committee (standardized approach). The institution would integrate the market risk capital charge into its risk-based capital ratios.

Under the internal models approach, an institution would calculate a VAR amount using its internal model, subject to certain qualitative and quantitative regulatory parameters. The institution's capital charge for market risk would equal the greater of (1) its previous day's VAR amount (calculated based upon a 99 percent confidence level and a ten-day holding period); or (2) an average of the daily VAR amounts over the preceding 60 business days multiplied by a minimum *multiplication* factor of three.

The July 1995 proposal also provides that the Agencies could adjust the multiplication factor to increase an institution's capital requirement based on an assessment of the quality and historical accuracy of the institution's risk management system. One of the proposal's qualitative criteria, which supervisors would use to evaluate the quality and accuracy of a risk management system, is that an institution would have to conduct regular backtesting. Backtesting involves comparing the VAR amounts generated by the institution's internal model against its actual daily profits and losses (outcomes).

Supervisory Framework for the Use of Backtesting

Since issuing its consultative proposal, the Committee developed a framework that more explicitly incorporates backtesting into the internal models approach and directly links backtesting results to required capital levels.[4] This framework recognizes that backtesting can be useful in evaluating the accuracy of an institution's internal model, and also acknowledges that even accurate models (i.e., models whose true coverage level is 99 percent) can perform poorly under certain conditions.

The Agencies agree with the Committee that backtesting can be a useful tool in evaluating the performance of an institution's internal model but recognize that backtesting techniques are still evolving and that they differ among institutions. The Agencies believe that the framework for backtesting developed by the Committee adequately recognizes the limitations of backtesting, while providing incentives for institutions to improve the efficiency of their internal models. The Agencies, therefore, are proposing to amend their July 1995 proposal to incorporate a backtesting framework similar to the one endorsed by the G–10 Governors, as described later in the supplementary information.

Under the supervisory framework for backtesting, an institution must compare its internal model's daily VAR amount with the following day's trading outcome. The institution must use the daily VAR amount generated for internal risk measurement purposes, not the daily VAR amount generated for supervisory capital purposes. Moreover, when making this comparison, the institution must first adjust the VAR amount, if necessary, to correspond to an assumed one-day holding period and a 99 percent confidence level.

An institution must count the number of times that the magnitude of trading losses on a single day, if any, exceeds the corresponding day's adjusted VAR amount during the most recent 250 business days (approximately one year) to determine the number of exceptions. The number of exceptions, in turn, will determine whether and how much an institution must adjust the multiplication factor it would use when calculating capital requirements for market risk. However, if the institution demonstrates to its supervisor's satisfaction that an exception resulted from an accurate model affected by unusual events, the supervisor may allow the institution to disregard that exception.

The Agencies recognize that there may be several explanations for exceptions. For example, an exception may result when an institution's internal model does not capture the risk of certain positions or when model volatilities or correlations are not calculated correctly. This type of exception reflects a problem with the basic integrity of the model. In other cases, the model may not measure market risk with sufficient precision, implying the need to refine the model. Other types of exceptions, on the other hand, may occur occasionally even with accurate models, such as exceptions resulting from unexpected market volatility or large intra-day changes in the institution's portfolio.

Backtesting results also could prompt the supervisor to require improvements in an institution's risk measurement and management systems or additional capital for market risk. When considering supervisory responses, the Agencies would take into account the extent to which trading losses exceed the VAR amounts, since exceptions that greatly exceed VAR amounts are of greater concern than are exceptions that exceed them only slightly. The Agencies also could consider, for example, other statistical test results provided by the institution, documented explanations for individual exceptions, and the institution's compliance with applicable qualitative and quantitative internal model standards. The first backtesting for regulatory capital purposes is scheduled to begin in January 1999, using VAR amounts and trading outcomes beginning in January 1998.

Framework for Interpreting Backtesting Results

This framework attempts to balance the possibility that an accurate risk model would be determined inaccurate (Type I error) and the possibility that an inaccurate model would be determined accurate (Type II error). Consequently, it divides the number of possible exceptions into three zones:

(1) The green zone (four or fewer exceptions)—Backtest results do not themselves suggest a problem with the quality or accuracy of the institution's internal model. In these cases, backtest results are viewed as acceptable, given the supervisors' concerns of committing a Type I error. Within this zone, there is no presumed increase to an institution's multiplication factor.

(2) The yellow zone (five through nine exceptions)—Backtest results raise questions about a model's accuracy, but could be consistent with either an accurate or inaccurate model. If the number of exceptions places an institution into the yellow zone, then it must adjust its multiplication factor. Because a larger number of exceptions carries a stronger presumption that the model is inaccurate, the adjustment to an institution's multiplication factor increases with the number of exceptions. Accordingly, the institution would adjust its multiplication factor by the amount corresponding to the number of exceptions as shown in Table 1.

(3) The red zone (ten or more exceptions)—Backtest results indicate a

[3] Generally, the VAR is an estimate of the maximum amount that could be lost on a set of positions due to general market movements over a given holding period, measured with a specified confidence level.

[4] The Committee sets out this framework in a document entitled ''Supervisory framework for the use of 'backtesting' in conjunction with the internal models approach to market risk capital requirements,'' which accompanies the document entitled ''Amendment to the Capital Accord to incorporate market risks,'' *supra* note 2.

problem with the institution's internal model, and the probability that the model is accurate is remote. Unless the high number of exceptions is attributed to a *regime shift* involving dramatic changes in financial market conditions that result in a number of exceptions for the same reason in a short period of time, the institution must increase its multiplication factor from three to four, and improve its risk measurement and management system.

The presumed adjustments to an institution's multiplication factor based on the number of exceptions follow:

TABLE 1—ADJUSTMENT IN MULTIPLICATION FACTOR FROM RESULTS OF BACKTESTING BASED ON 250 TRADING OUTCOMES [1]

Zone	No. of exceptions	Adjustment to multiplication factor	Cumulative probability (in percent)
Green Zone	4 or fewer	0.00	89.22
	5	0.40	95.88
	6	0.50	98.63
Yellow Zone	7	0.65	99.60
	8	0.75	99.89
	9	0.85	99.97
Red Zone	10 or more	1.00	99.99

[1] The zones are defined according to the cumulative probability of obtaining up to a given number of exceptions in a sample of 250 independent observations when the true level of coverage is 99 percent. The yellow zone begins where the cumulative probability equals or exceeds 95 percent, and the red zone begins where the cumulative probability equals or exceeds 99.99 percent.

The Agencies urge institutions to continue working on improving the accuracy of backtests that use actual trading outcomes and to develop the capability to perform backtests based on the hypothetical changes in portfolio value that would occur if there were no intra-holding period changes (e.g., from fee income or intra-holding period changes in portfolio composition).

Questions on Which the Agencies Specifically Request Comment

1. Some industry participants have argued that VAR measures cannot be compared against actual trading outcomes because the actual outcomes will be contaminated by intra-day trading and the inclusion of fee income booked in connection with the sale of new products. The results of intra-day trading, they believe, will tend to increase the volatility of trading outcomes while the inclusion of fee income may mask problems with the internal model. Others have argued that the actual trading outcomes experienced by the bank are the most important and relevant figures for risk management and backtesting purposes.

What are the merits and problems associated with performing backtesting on the basis of hypothetical outcomes (e.g., the changes in portfolio values that would occur if end-of-day positions remained unchanged with no intra-day trading or fee income)?

What are the merits and problems associated with performing backtesting on the basis of actual trading profits and losses?

2. What, if any, operational problems may institutions encounter in implementing the proposed backtesting framework? What changes, if any, should the Agencies consider to alleviate those problems?

3. What type of events or regime shifts might generate exceptions that the Agencies should view as not warranting an increase in an institution's multiplication factor? How should the Agencies factor in or exclude the effects of regime shifts from subsequent backtesting exercises?

4. The adjustments to the multiplication factor set forth in Table 1 of the proposal are based on the number of exceptions in a sample of 250 independent observations. Should the Agencies permit institutions to use other sample sizes and, if so, what degree of flexibility should be provided?

5. The Agencies recognize that an institution may utilize different parameters (e.g., historical observation period) for the VAR model that it employs for its own risk management purposes than for the VAR model that determines its market risk capital requirements (as specified in the July 1995 proposal). Should the adjustment to an institution's multiplication factor be determined using trading outcomes backtested against the institution's VAR amounts generated for internal risk management purposes or against the VAR amounts generated for market risk capital requirements? Should the Agencies permit an institution to choose? Should backtesting be required against both sets of VAR amounts?

Regulatory Flexibility Act Analysis

OCC Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Comptroller of the Currency certifies that this proposal would not have a significant impact on a substantial number of small business entities in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Accordingly, a regulatory flexibility analysis is not required. The impact of this proposal on banks regardless of size is expected to be minimal. Further, this proposal generally would apply to larger banks with significant trading activities and would cover only trading activities and foreign exchange and commodity positions throughout the bank.

Board Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Board does not believe this proposal would have a significant impact on a substantial number of small business entities in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Accordingly, a regulatory flexibility analysis is not required. In addition, because the risk-based capital standards generally do not apply to bank holding companies with consolidated assets of less than $150 million, this proposal would not affect such companies.

FDIC Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), it is certified that the proposal would not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

The Agencies have determined that this proposal would not increase the regulatory paperwork burden of banking organizations pursuant to the provisions

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

OCC Executive Order 12866 Determination

The OCC has determined that this proposal is not a significant regulatory action under Executive Order 12866.

OCC Unfunded Mandates Reform Act of 1995 Determination

The OCC has determined that this proposal would not result in expenditures by state, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Reform Act of 1995.

List of Subjects

12 CFR Part 3

Administrative practice and procedure, Capital, National banks, Reporting and recordkeeping requirements, Risk.

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 325

Administrative practice and procedure, Banks, banking, Capital adequacy, Reporting and recordkeeping requirements, Savings associations, State non-member banks.

Authority and Issuance

Office of the Comptroller of the Currency

12 CFR CHAPTER I

For the reasons set out in the preamble, part 3 of title 12 of chapter I of the Code of Federal Regulations, as proposed to be amended at 60 FR 38082, is further proposed to be amended as follows:

PART 3—MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES

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

Authority: 12 U.S.C. 93a, 161, 1818, 1828(n), 1828 note, 1831n note, 3907, and 3909.

2. Appendix B to part 3 as proposed to be added at 60 FR 38095 would be amended by revising paragraph (a)(2) of section 4 and by adding a new paragraph (d) to section 5 to read as follows:

Appendix B to Part 3—Market Risk

* * * * *

Section 4. Market Risk Exposure

* * * * *

(a) * * *

(2) The average of the daily value-at-risk amounts for each of the preceding 60 business days times a multiplication factor of three, except as provided in section 5(d).

* * * * *

Section 5. Qualifying Internal Market Risk Model

* * * * *

(d) *Backtesting.* A bank using an internal market risk model shall conduct backtesting as follows:

(1) The bank shall conduct backtesting quarterly;

(2) For each backtesting, the bank shall compare the previous 250 business days' trading outcomes with the corresponding daily value-at-risk measurements generated for its internal risk measurement purposes, calibrated to a one-day holding period and a 99 percent confidence level;

(3) The bank shall consider each business day for which the trading loss, if any, exceeds the daily value-at-risk measurement as an exception; however, the OCC may allow the bank to disregard an exception if it determines that the exception does not reflect an inaccurate model; and

(4) Depending on the number of exceptions, a bank shall adjust the multiplication factor of three described in section 4(a)(2) of this appendix B by the corresponding amount indicated in Section 5(d)(4) Table, and shall use the adjusted multiplication factor when determining its market risk capital requirements until it obtains the next quarter's backtesting results, unless the OCC determines that a different adjustment or other action is appropriate:

SECTION 5(d)(4) TABLE.—ADJUSTMENT TO MULTIPLICATION FACTOR FROM RESULTS OF BACKTESTING BASED ON 250 TRADING OUTCOMES

No. of exceptions	Adjustment to multiplication factor
4 or fewer	0.00
5	0.40
6	0.50
7	0.65
8	0.75
9	0.85
10 or more	1.00

* * * * *

Dated: February 26, 1996.

Eugene A. Ludwig,

Comptroller of the Currency.

Federal Reserve Board

12 CFR CHAPTER II

For the reasons set forth in the preamble, parts 208 and 225 of title 12 of chapter II of the Code of Federal Regulations, as proposed to be amended at 60 FR 38082 (July 25, 1995) are further proposed to be amended as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for part 208 continues to read as follows:

Authority: 12 U.S.C. 36, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1823(j), 1828(o), 1831o, 1831p–1, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 78l(b), 78l(g), 78l(i), 78o–4(c)(5), 78q, 78q–1, and 78w; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128.

2. In appendix E to part 208 as proposed to be added at 60 FR 38103, section III.B. would be amended by revising paragraph 2.a. and adding a new paragraph 3 to read as follows:

Appendix E to Part 208—Capital Adequacy Guidelines for State Member Banks: Market Risk Measure

* * * * *

III. The Internal Models Approach

* * * * *

B. * * *

2. * * *

a. A bank must have a risk control unit that is independent from its business trading units and reports directly to senior management of the bank. The unit must be responsible for designing and implementing the bank's risk management system and analyzing daily reports on the output of the bank's risk measurement model in the context of trading limits. The unit must conduct regular backtesting[13] and adjust its multiplication factor, if appropriate, in accordance with section III.B.3. of this appendix E.

* * * * *

c. * * *

3. In addition to any backtesting the bank may conduct as part of its internal risk management system, the bank must conduct, for regulatory capital purposes, backtesting that meets the following criteria:

a. The backtesting must be conducted quarterly, using the most recent 250 trading days' outcomes and VAR measures, which encompass approximately twelve months. The VAR measures must be calibrated to a one-day holding period and a 99 percent confidence level.

b. The bank should identify the number of exceptions (that is, cases where the

magnitude of the daily trading loss, if any, exceeds the previous day's VAR measure) to determine its appropriate zone and level within a zone, as set forth in Table A of section III.B.3.c. of this appendix E.

c. A bank should adjust its multiplication factor by the amount indicated in Table A of this paragraph c., unless the Federal Reserve determines that a different adjustment or other action is appropriate:

TABLE A.—ADJUSTMENT TO MULTIPLICATION FACTOR FROM RESULTS OF BACKTESTING BASED ON 250 TRADING OUTCOMES

Zone	Level (No. of exceptions)	Adjustment to multiplication factor	Cumulative [1] probability (in percent)
Green Zone	4 or fewer	0.00	89.22
	5	0.40	95.88
	6	0.50	98.63
Yellow Zone	7	0.65	99.60
	8	0.75	99.89
	9	0.85	99.97
Red Zone	10 or more	1.00	99.99

[1] The zones are defined according to the cumulative probability of obtaining up to a given number of exceptions in a sample of 250 independent observations when the true coverage level is 99 percent. The yellow zone begins where cumulative probability equals or exceeds 95 percent, and the red zone begins where the cumulative probability equals or exceeds 99.99 percent.

* * * * *

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

2. In appendix E to part 225 as proposed to be added at 60 FR 38116, section III.B. would be amended by revising paragraph 2.a. and adding a new paragraph 3 to read as follows:

Appendix E to Part 225—Capital Adequacy Guidelines for Bank Holding Companies: Market Risk Measure

* * * * *

III. The Internal Models Approach

* * * * *

B. * * *

2. * * *

a. A institution must have a risk control unit that is independent from its business trading units and reports directly to senior management of the bank holding company. The unit must be responsible for designing and implementing the institution's risk management system and analyzing daily reports on the output of the institution's risk measurement model in the context of trading limits. The unit must conduct regular backtesting [13] and adjust its multiplication factor, if appropriate, in accordance with section III.B.3. of this appendix E.

* * * * *

c. * * *

3. In addition to any backtesting the bank holding company may conduct as part of its internal risk management system, the bank holding company must conduct, for regulatory capital purposes, backtesting that meets the following criteria:

a. The backtesting must be conducted quarterly, using the most recent 250 trading days' outcomes and VAR measures, which encompass approximately twelve months. The VAR measures must be calibrated to a one-day holding period and a 99 percent confidence level.

b. The bank holding company should identify the number of exceptions (that is, cases where the magnitude of the daily trading loss, if any, exceeds the previous day's VAR measure) to determine its appropriate zone and level within a zone, as set forth in Table A of section III.B.3.c. of this appendix E.

c. An institution should adjust its multiplication factor by the amount indicated in Table A of this paragraph c., unless the Federal Reserve determines that a different adjustment or other action is appropriate:

TABLE A.—ADJUSTMENT TO MULTIPLICATION FACTOR FROM RESULTS OF BACKTESTING BASED ON 250 TRADING OUTCOMES

Zone	Level (No. of exceptions)	Adjustment to multiplication factor	Cumulative [1] probability (in percent)
Green Zone	4 or fewer	0.00	89.22
	5	0.40	95.88
	6	0.50	98.63
Yellow Zone	7	0.65	99.60
	8	0.75	99.89
	9	0.85	99.97
Red Zone	10 or more	1.00	99.99

[1] The zones are defined according to the cumulative probability of obtaining up to a given number of exceptions in a sample of 250 independent observations when the true coverage level is 99 percent. The yellow zone begins where cumulative probability equals or exceeds 95 percent, and the red zone begins where the cumulative probability equals or exceeds 99.99 percent.

* * * * *

By order of the Board of Governors of the Federal Reserve System, February 9, 1996.

William W. Wiles,

Secetary of the Board.

Federal Deposit Insurance Corporation

12 CFR CHAPTER III

For the reasons set forth in the preamble, part 325 of title 12 of chapter III of the Code of Federal Regulations, as proposed to be amended at 60 FR 38082 (July 25, 1995), is further proposed to be amended as follows:

PART 325—CAPITAL MAINTENANCE

1. The authority citation for part 325 continues to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 3907, 3909, 4808; Pub. L. 102–233, 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, 2355, 2386 (12 U.S.C. 1828 note).

2. In appendix C to part 325 as proposed to be added at 60 FR 38129, section III.B.2. introductory text and section III.B.2.a. would be revised and section III.B.3. would be added to read as follows:

Appendix C to Part 325—Risk-Based Capital for State Non-Member Banks: Market Risk

* * * * *

III. The Internal Models Approach

* * * * *

B. * * *

1. * * *

2. A bank must meet the following minimum qualitative criteria before using its internal model to measure its exposure to market risk.[13]

a. A bank must have a risk control unit that is independent from its business trading units and reports directly to senior management of the bank. The unit must be responsible for designing and implementing the bank's risk management system and analyzing daily reports on the output of the bank's risk measurement model in the context of trading limits. The unit must conduct regular backtesting[14] and adjust its multiplication factor, if appropriate, in accordance with section III.B.3. of this appendix C.

* * * * *

3. In addition to any backtesting the bank may conduct as part of its internal risk management system, the bank must conduct, for regulatory capital purposes, backtesting that meets the following criteria:

a. The backtesting must be conducted quarterly, using the most recent 250 trading days' outcomes and VAR measures, which encompass approximately twelve months. The VAR measures must be calibrated to a one-day holding period and a 99 percent confidence level.

b. The bank should identify the number of exceptions (that is, cases where the magnitude of the daily trading loss, if any, exceeds the previous day's VAR measure) to determine its appropriate zone and level within a zone, as set forth in Table A of section III.B.3.c. of this appendix C.

c. A bank should adjust its multiplication factor by the amount indicated in Table A, unless the FDIC determines that a different adjustment or other action is appropriate.

TABLE A.—ADJUSTMENT TO MULTIPLICATION FACTOR FROM RESULTS OF BACKTESTING BASED ON 250 TRADING OUTCOMES

Zone	Level No. of exceptions)	Adjustment to multiplication factor	Cumulative[1] probability (in percent)
Green Zone	4 or fewer	0.00	89.22
	5	0.40	95.88
	6	0.50	98.63
Yellow Zone	7	0.65	99.60
	8	0.75	99.89
	9	0.85	99.97
Red Zone	10 or more	1.00	99.99

[1] The zones are defined according to the cumulative probability of obtaining up to a given number of exceptions in a sample of 250 independent observations when the true coverage level is 99 percent. The yellow zone begins where cumulative probability equals or exceeds 95 percent, and the red zone begins where the cumulative probability equals or exceeds 99.99 percent.

* * * * *

By order of the Board of Directors.

Dated at Washington, D.C., this 27th day of February 1996.

Jerry L. Langley,

Executive Secretary.

[FR Doc. 96–5235 Filed 3–6–96; 8:45 am]

BILLING CODE 4810–33–P (⅓), 6210–01–P (⅓), 6714–01–P (⅓)

[13] Back-testing includes *ex post* comparisons of the risk measures generated by the model against the actual daily changes in portfolio value.

[13] If the FDIC is not satisfied with the extent to which a bank meets these criteria, the FDIC may adjust the multiplication factor used to calculate market risk capital requirements or otherwise increase capital requirements.

[14] Back-testing includes *ex post* comparisons of the risk measures generated by the model against the actual daily changes in portfolio value.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–197–AD]

Airworthiness Directives; Learjet Model 31 and 35A Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Learjet Model 31 and 35A airplanes. This proposal would require replacement of two segments of 16 American Wire Gauge (AWG) wire with 8 AWG wire at the connector that is connected to the auxiliary cabin heater relay box. This proposal is prompted by a report that two segments of the 16 AWG wire in the auxiliary cabin heater that were spliced during production do not provide adequate current-carrying capacity. The actions specified by the proposed AD are intended to prevent electrical arcing and a subsequent fire hazard that could result from wiring with inadequate current-carrying capacity.

DATE: Comments must be received by April 17, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–197–AD, 1601 Lind Avenue, SW.,

Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Dale Bleakney, Aerospace Engineer, Flight Test Branch, ACE–117W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; telephone (316) 946–4135; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–197–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–197–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that, during regularly scheduled maintenance on a Learjet Model 35 series airplane, two segments of the 16 American Wire Gauge (AWG) wire in the auxiliary cabin heat circuit were found to provide inadequate current-carrying capacity. Investigation revealed that, during production, the 16 AWG wire had been spliced into a 10 AWG circuit at the P190 connector that is connected to the E33 auxiliary cabin heater relay box. The use of this manufacturing splicing technique (16 AWG wire into a 10 AWG circuit) can allow the rated current-carrying capability of the wire to be exceeded. This condition, if not corrected, could result in electrical arcing and may lead to a potential fire hazard.

The FAA has reviewed and approved Learjet Service Bulletin SB 31–21–10, dated August 11, 1995 (for Model 31 airplanes), and Learjet Service Bulletin SB 35–21–24, dated August 11, 1995 (for Model 35A airplanes), which describes procedures for replacement of two segments of 16 AWG wire with 8 AWG wire at the P190 connector that is connected to the E33 auxiliary cabin heater relay box. The replacement will ensure that the wire size is adequate for the electrical current requirements of that circuit.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require replacement of two segments of 16 AWG wire with 8 AWG wire at the P190 connector that is connected to the E33 auxiliary cabin heater relay box. The actions would be required to be accomplished in accordance with the applicable service bulletin described previously.

There are approximately 52 Learjet Model 31 and 35A airplanes of the affected design in the worldwide fleet. The FAA estimates that 44 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $10,560, or $240 per airplane.

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

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

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

Learjet, Inc.: Docket 95–NM–197–AD.

Applicability: Model 31 airplanes having serial numbers 31–002 through 31–029 inclusive, and Model 35A airplanes having serial numbers 35–647 through 35–670 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 request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent electrical arcing and subsequent fire hazard, accomplish the following:

(a) Within 6 months after the effective date of this AD, replace two segments of 16 American Wire Gauge (AWG) wire with 8 AWG wire at the P190 connector that is connected to the E33 auxiliary cabin heater relay box, in accordance with Learjet Service Bulletin SB 31–21–10, dated August 11, 1995 (for Model 31 airplanes), or Learjet Service Bulletin SB 35–21–24, dated August 11, 1995 (for Model 35A airplanes), as applicable.

(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 Wichita Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Wichita ACO.

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

Issued in Renton, Washington, on March 1, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–5368 Filed 3–6–96; 8:45 am]

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National Highway Traffic Safety Administration

Federal Highway Administration

23 CFR Part 1210

[NHTSA Docket No. 96–007; Notice 1]

RIN 2127–AG20

Operation of Motor Vehicles by Intoxicated Minors

AGENCY: National Highway Traffic Safety Administration (NHTSA) and Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to implement a new program enacted by the National Highway System Designation (NHS) Act of 1995, which provides for the withholding of Federal-aid highway funds from any State that does not enact and enforce a ''zero tolerance'' law. This notice solicits comments on a proposed regulation to clarify what States must do to avoid the withholding of funds.

DATES: Comments must be received by April 22, 1996.

ADDRESSES: Written comments should refer to the docket number and the number of this notice and be submitted (preferably in ten copies) to: Docket Section, National Highway Traffic Safety Administration, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours are from 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: In NHTSA: Ms. Marlene Markison, Office of State and Community Services, NSC–01, telephone (202) 366–2121; or Ms. Heidi L. Coleman, Office of Chief Counsel, NCC–30, telephone (202) 366–1834.

In FHWA: Ms. Mila Plosky, Office of Highway Safety, HHS–20, telephone (202) 366–6902; or Mr. Raymond W. Cuprill, HCC–20, telephone (202) 366–0834.

SUPPLEMENTARY INFORMATION: The National Highway System Designation (NHS) Act of 1995, Pub. L. 104–59, was signed into law on November 28, 1995. Section 320 of the Act established a new Section 161 of Title 23, United States Code (Section 161), which requires the withholding of certain Federal-aid highway funds from States that do not enact and enforce ''zero tolerance'' laws. Section 161 provides that these ''zero tolerance'' laws must consider an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the State, to be driving while intoxicated or driving under the influence of alcohol.

In a letter to Senator Robert Byrd, who sponsored the zero tolerance legislation, President Clinton stated:

> Drinking and driving by young people is one of the nation's most serious threats to public health and public safety. I am deeply concerned about this ongoing tragedy which kills thousands of young people every year. It's against the law for young people to drink. It should be against the law for young people to drink and drive. * * *
>
> A decade ago, we decided as a nation that the minimum drinking age should be 21. In 1984, President Reagan signed bipartisan legislation to achieve this goal, and today all 50 states have enacted such laws. Our efforts are paying off—drunk driving among people under 21 have been cut in half since 1984.
>
> But we must do more. * * * If all states had [''zero tolerance''] laws hundreds more lives could be saved and thousands of injuries could be prevented.

Senator Byrd stated, when he introduced the legislation:

> My amendment builds upon one of the most important—and successful—Federal initiatives related to alcohol and minors—a 1984 requirement that States adopt laws prohibiting the possession or purchase of alcohol by anyone younger than twenty-one years of age * * *
>
> NHTSA has estimated that the 21-year-old drinking age has saved 8400 lives since 1984. Further, in 1993, * * * the 21-year-old drinking age requirement is estimated to have saved $1.8 billion in economic costs to our society * * *
>
> The Congress should now take the next step, and explicitly state, as a matter of law, that minors are not allowed to drink and drive. My amendment is simple and straight forward—since it is illegal for minors under the age of 21 to * * * publicly possess or purchase alcohol—any level of consumption that is coupled with driving should be treated, under the requirements of each State's laws, as driving while intoxicated * * *
>
> Under my amendment, the message to that minor is clear: you cannot drink and drive. Period. And, hopefully, this type of tough and absolute requirement in the law will encourage our young people not to drink at all.

Similar sentiments were expressed by Congresswoman Lowey, who sponsored zero tolerance legislation in the U.S. House of Representatives.

Adoption of Zero Tolerance Law

Section 161 specifically provides that the Secretary must withhold from apportionment a portion of Federal-aid highway funds from any State that does not meet certain statutory requirements. To avoid such withholding, a State must enact and enforce a law that considers an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the State, to be driving while intoxicated or driving under the influence of alcohol.

Any State that does not enact and enforce a conforming zero tolerance law will be subject to a withholding from apportionment a portion of its Federal-aid highway funds. In accordance with Section 161, if a State does not meet the statutory requirements on October 1, 1998, five percent of its FY 1999 Federal-aid highway apportionment under 23 U.S.C. 104(b)(1), 104(b)(3) and 104(b)(5)(B) shall be withheld on that date. These sections relate to the National Highway System (NHS), the

Surface Transportation Program (STP) and the Interstate System.

If the State does not meet the statutory requirements on October 1, 1999, ten percent of its FY 2000 apportionment will be withheld on that date. Ten percent will continue to be withheld on October 1 of each subsequent fiscal year, if the State does not meet the requirements on those dates.

Compliance Criteria

To avoid the withholding from apportionment of Federal-aid highway funds, Section 161 provides that a State must enact and enforce:

> A law that considers an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the State to be driving while intoxicated or driving under the influence of alcohol.

Section 161 does not define any of these terms, and it does not contain many details about what conforming State laws must provide. For example, it does not specify the penalties that must be imposed on offenders who violate such zero tolerance laws. Since Section 161 does not prescribe the penalties that must be imposed on offenders who violate zero tolerance laws, the agencies are proposing not to specify any minimum penalties in the implementing regulation.

The agencies believe that, while Congress intended to encourage all States to enact and enforce effective zero tolerance laws, it also intended to provide States with sufficient flexibility so they could develop laws that suit the particular conditions that exist in those States. Accordingly, Section 161 prescribes only a limited number of basic elements that State laws must meet to avoid the withholding of Federal-aid highway funds.

In this notice, the agencies propose to define these basic elements. These elements are described below:

1. *Under the Age of 21.*

To avoid the withholding of funds, a State must enact and enforce a zero tolerance law that applies to all persons under the age of 21.

The agencies are aware of four States that currently have laws under which individuals who have a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the State are considered to be driving while intoxicated or driving under the influence of alcohol, only if those individuals are under the age of 18. Since these laws do not apply to individuals between the ages of 18 and 21, they would not conform to the Federal requirement.

2. *Blood Alcohol Concentration of 0.02 Percent.*

To avoid the withholding of funds, a State must set 0.02 percent as the legal limit for blood alcohol concentration. States with laws that set a lower percentage (such as 0.00 percent) as the legal limit would also conform to the Federal requirement.

The agencies are aware of four States that currently have laws under which individuals under the age of 21 are considered to be driving while intoxicated or driving under the influence of alcohol, if they have a blood alcohol concentration of 0.04 or 0.07 percent. Since these laws do not reach individuals under the age of 21 who have a blood alcohol concentration of 0.02 percent, they would not conform to the Federal requirement.

3. *Per Se Law.*

To avoid the withholding of funds, a State must consider individuals under the age of 21 who have a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the State to be driving while intoxicated or driving under the influence of alcohol.

In other words, States must establish a 0.02 ''per se'' law for persons under the age of 21, that makes driving with a BAC of 0.02 percent or above itself an offense for such persons.

The agencies are aware of one State that currently has a law that makes it unlawful for persons under the age of 21 to drive while intoxicated or drive under the influence of alcohol, but provides that a BAC of 0.02 percent or above is only prima facie evidence of driving while intoxicated or driving under the influence of alcohol. Since the law does not make the operation of a motor vehicle by an individual under the age of 21 with a blood alcohol concentration of 0.02 a ''per se'' offense, this law would not conform to the Federal requirement.

4. *Primary Enforcement.*

To avoid the withholding of funds, a State must enact and enforce a zero tolerance law that provides for primary enforcement.

The agencies are aware of one State that currently has a law under which individuals under the age of 21 who have a blood alcohol concentration of 0.02 or greater while operating a motor vehicle in the State are considered to be driving while intoxicated or driving under the influence of alcohol. Enforcement of this law, however, may be accomplished only as a secondary action when the driver of a motor vehicle has been cited for a violation of some other offense. Accordingly, this law would not conform to the Federal requirement.

Demonstrating Compliance

Section 161 provides that funds will be withheld from apportionment from noncomplying States beginning in fiscal year 1999. To avoid the withholding, each State would be required by this proposed regulation to submit a certification. Under the agencies' proposal, States would be required to submit their certifications on or before September 30, 1998, to avoid the withholding from apportionment of FY 1999 funds on October 1, 1998. The agencies propose to permit (and strongly encourage) States to submit certifications in advance.

The submission of certifications in advance will enable the agencies to inform States as quickly as possible whether or not their laws satisfy the requirements of Section 161 and this regulation, and will provide States with noncomplying laws an opportunity to take the necessary steps to meet these requirements before the date for the withholding of funds.

In addition, it will prevent a State from receiving from the agencies an initial determination of noncompliance which, as explained later in this notice, the agencies propose to issue through FHWA's advance notice of apportionments, normally not later than ninety days prior to final apportionment (which normally occurs on October 1 of each fiscal year).

States that are found in noncompliance with these requirements in any fiscal year would be required to submit a certification to avoid the withholding of funds from apportionment in the following fiscal year. To avoid the withholding in that fiscal year, these States would be required to submit a certification demonstrating compliance before the last day (September 30) of the previous fiscal year.

Once a State is determined by the agencies to be in compliance with these requirements, the agencies propose that the State would not be required to submit certifications in subsequent fiscal years, unless the State's law had changed. The proposal specifies that it would be the responsibility of the States to inform the agencies of any such change in a subsequent fiscal year, by submitting an amendment or supplement to its certification.

The certifications submitted under this Part would provide the agencies with the basis for finding States in compliance with the Operation of Motor Vehicles by Intoxicated Minors requirement. The agencies are proposing that the certification must consist of a certifying statement and a copy of the

State's conforming law. If the State's law were to change, the State would be required to amend or supplement the State's original submission.

Notification of Compliance

For each fiscal year, beginning with FY 1999, NHTSA and FHWA propose to notify States of their compliance or noncompliance with Section 161, based on a review of certifications received. The agencies propose that this notification will take place through FHWA's normal certification of apportionments process. If a State does not submit a certification or if its certification does not conform to Section 161 and the implementing regulation, the agencies will make an initial determination that the State does not comply. States that are determined to be in noncompliance with Section 161 will be advised of the amount of funds expected to be withheld through FHWA's advance notice of apportionments, normally not later than ninety days prior to final apportionment.

Each State determined to be in noncompliance will have an opportunity to rebut the initial determination. The State will be notified of the agencies' final determination of compliance or noncompliance as part of the certification of apportionments, which normally occurs on October 1 of each fiscal year.

As stated earlier, NHTSA and FHWA expect that States will want to know as soon as possible whether their laws satisfy the requirements of Section 161 or they may want assistance in drafting conforming legislation. In addition, since the agencies propose to issue initial determinations of noncompliance through FHWA's advance notice of apportionments, normally not later than ninety days prior to final apportionment (which normally occurs on October 1 of each fiscal year), States will want to submit their certifications more than ninety days before October 1.

States are strongly encouraged to submit certifications in advance, and to request preliminary reviews and assistance from the agencies. Requests should be submitted through NHTSA's Regional Administrators, who will refer these requests to appropriate NHTSA and FHWA offices for review.

Period of Availability for Funds

Section 161 provides an incremental approach to the withholding of funds from apportionment for noncompliance. If a State is found to be in noncompliance on October 1, 1998, the State would be subject to a five percent withholding of its FY 1999 apportionment on that date. If a State is found to be in noncompliance on October 1 of any subsequent fiscal year, beginning with FY 2000, the State would be subject to a ten percent withholding.

In addition, if a State is found to be in noncompliance in fiscal years 1999 or 2000, the funds withheld from apportionment to the State would remain available for apportionment to that State for a period of time, prescribed in the statute. If a State is found to be in noncompliance in any subsequent fiscal year, the funds withheld from apportionment would no longer be available for apportionment.

Paragraph (b)(1)(B) of Section 161 provides that, ''No funds withheld under this section from apportionment to any State after September 30, 2000, shall be available for apportionment to the State.'' These funds would lapse, in accordance with paragraph (b)(4) of the section.

Paragraphs (b)(1)(A) and (b)(2) of Section 161 identify the period of time during which funds withheld on or before September 30, 2000, remain available for apportionment, and when they are to be restored if the State complies with the Federal requirements before the funds lapse. Paragraph (b)(3) establishes the period of time during which these subsequently apportioned funds would remain available to a State for expenditure. If the State does not meet the requirements during the period of time that the funds remain available for expenditure, the funds would lapse, in accordance with paragraph (b)(4) of the section.

These sections are virtually identical to those found in the National Minimum Drinking Age Act, as amended, 23 U.S.C. 158, and the Drug Offender's Drivers License Suspension Act, as amended, 23 U.S.C. 159. For a full discussion of how these provisions have been applied in practice, interested parties are encouraged to read the preambles to the agencies' joint final rules published in the Federal Register on August 18, 1988 (53 FR 31318) and August 12, 1992 (57 FR 35989).

Comments

Interested persons are invited to comment on this proposal. All comments must be limited to 15 pages in length. Necessary attachments may be appended to those submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

Written comments to the public docket must be received by April 22, 1996. To expedite the submission of comments, simultaneous with the issuance of this notice, NHTSA and FHWA will mail copies to all Governors, Governors' Representatives for Highway Safety and State highway agencies.

All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the above address before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. The agencies will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons who wish to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all comments will be placed in Docket 96–007; Notice 1 of the NHTSA Docket Section in Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Separate Interim Final Rule in Today's Federal Register

In today's Federal Register, NHTSA has published a separate interim final rule and request for comments, relating to Part 1313, the agency's regulation that implements its Section 410 program.

The interim final rule amends Part 1313, to reflect changes that were made to 23 U.S.C. 410 by the NHS Act, and requests comments on these changes. It also recognizes that one of the grant criteria under the section 410 program, which requires that States ''deem persons under age 21 who operate a motor vehicle with a BAC of 0.02 or greater to be driving while intoxicated,'' is similar to the new ''zero tolerance'' sanction requirement contained in Section 320 of the NHS Act (23 U.S.C. Section 161). The interim final rule requests comments regarding whether additional changes should be made to the section 410 ''0.02'' grant criterion, as a result of the new ''zero tolerance'' sanction program. Comments regarding this issue should be submitted to the attention of Docket 89–02; Notice 8.

Regulatory Analyses and Notices

Executive Order 12778 (Civil Justice Reform)

This proposed rule would not have any preemptive or retroactive effect. The enabling legislation does not establish a procedure for judicial review of final rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or other administrative proceedings before they may file suit in court.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The agencies have determined that this proposed action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation Regulatory Policies and Procedures. States can choose to enact and enforce a zero tolerance law, in conformance with Pub. L. 104–59, and thereby avoid the withholding of Federal-aid highway funds. While specific criteria that State laws must meet have been proposed in this NPRM, they are mandated by Pub. L. 104–59. Accordingly, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the agencies have evaluated the effects of this proposed action on small entities. Based on the evaluation, we certify that this proposed action would not have a significant impact on a substantial number of small entities. Accordingly, the preparation of a Regulatory Flexibility Analysis is unnecessary.

Paperwork Reduction Act

The requirements in this proposal that States certify that they conform to the statutory requirements to avoid the withholding of Federal-aid highway funds are considered to be information collection requirements as that term is defined by the Office of Management and Budget (OMB) in 5 C.F.R Part 1320. The reporting and recordkeeping requirement associated with this rule is subject to approval by the Office of Management and Budget in accordance with 44 U.S.C. Chapter 35. NHTSA and FHWA, NEED FOR INFORMATION: *To encourage States to enact and enforce zero tolerance laws;* NHTSA and FHWA, PROPOSED USE OF INFORMATION: *To provide procedures to State recipients of Federal-aid highway funds on how to certify compliance with the provision of Public Law 104–59. The law requires a zero tolerance law for drivers under the age of 21;* FREQUENCY: *One time only;* BURDEN ESTIMATE: *52 hours;* RESPONDENTS: *States;* FORM(S): *None;* AVERAGE BURDEN HOURS PER RESPONDENT: *1 hour.* For further information contact: Mr. Edward Kosek, Office of Information Resources Management, NAD–51, NHTSA, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2590.

Comments on the proposed information collection requirements should be submitted to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for NHTSA. It is requested that comments sent to OMB also be sent to the NHTSA rulemaking docket for this proposed action.

National Environmental Policy Act

The agencies have analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have determined that it would not have any significant impact on the quality of the human environment.

Executive Order 12612 (Federalism Assessment)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. Accordingly, the preparation of a Federalism Assessment is not warranted.

List of Subjects in 23 CFR Part 1210

Alcohol abuse, Grant programs—transportation, Highway safety, Reporting and recordkeeping requirements, Youth.

In accordance with the foregoing, the agencies propose to add a new Part 1210 to Title 23 of the Code of Federal Regulations to read as follows:

PART 1210—OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS

Sec.

1210.1 Scope.
1210.2 Purpose.
1210.3 Definitions.
1210.4 Adoption of zero tolerance law.
1210.5 Certification requirements.
1210.6 Period of availability of withheld funds.
1210.7 Apportionment of withheld funds after compliance.
1210.8 Period of availability of subsequently apportioned funds.
1210.9 Effect of noncompliance.
1210.10 Procedures affecting States in noncompliance.

Authority: 23 U.S.C. 161; delegation of authority at 49 CFR 1.48 and 1.50.

§ 1210.1 Scope.

This part prescribes the requirements necessary to implement Section 161 of Title 23, United States Code, which encourages States to enact and enforce zero tolerance laws.

§ 1210.2 Purpose.

The purpose of this part is to specify the steps that States must take to avoid the withholding of Federal-aid highway funds for noncompliance with 23 U.S.C. 161.

§ 1210.3 Definitions.

As used in this part:

(a) *BAC* means either blood or breath alcohol concentration.

(b) *Alcohol concentration* means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(c) *Operating a motor vehicle* means driving or being in actual physical control of a motor vehicle.

§ 1210.4 Adoption of zero tolerance law.

(a) The Secretary shall withhold five percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3) and 104(b)(5) of title 23, United States Code, on the first day of fiscal year 1999 if the State does not meet the requirements of this part on that date.

(b) The Secretary shall withhold ten percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(3) and 104(b)(5) of title 23, United States Code, on the first day of fiscal year 2000 and any subsequent fiscal year if the State does not meet the requirements of this part on that date.

(c) A State meets the requirements of this section if the State has enacted and is enforcing a law that considers an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle in the State to be driving while intoxicated or driving under the influence of alcohol. The law must:

(1) Apply to all individuals under the age of 21;

(2) Set a blood alcohol concentration of not higher than 0.02 percent as the legal limit;

(3) Make operating a motor vehicle by an individual under age 21 at or above the legal limit a per se offense; and

(4) Provide for primary enforcement.

§ 1210.5 Certification requirements.

(a) Until a State has been determined to be in compliance with the requirements of 23 U.S.C. 161, to avoid the withholding of funds in any fiscal year, beginning with FY 1999, the State shall certify to the Secretary of Transportation, before the last day of the previous fiscal year, that it meets the requirements of 23 U.S.C. 161, and this part.

(b) The certification shall contain:

(1) A copy of the State zero tolerance law, regulation, or binding policy directive implementing or interpreting such law or regulation, that conforms to 23 U.S.C. 161 and § 1210.4(c) of this part; and

(2) A statement by an appropriate State official, that the State has enacted and is enforcing a conforming zero tolerance law. The certifying statement shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of _____, do hereby certify that the (State or Commonwealth) of _____, has enacted and is enforcing a zero tolerance law that conforms to the requirements of 23 U.S.C. 161 and 23 CFR 1210.4(c).

(c) An original and four copies of the certification shall be submitted to the appropriate NHTSA Regional Administrator. Each Regional Administrator will forward the certifications it receives to appropriate NHTSA and FHWA offices.

(d) Once a State has been determined to be in compliance with the requirements of 23 U.S.C. 161, it is not required to submit additional certifications, except that the State shall promptly submit an amendment or supplement to its certification provided under paragraphs (a) and (b) of this section if the State's zero tolerance legislation changes.

§ 1210.6 Period of availability of withheld funds.

(a) Funds withheld under § 1210.4 from apportionment to any State on or before September 30, 2000, will remain available for apportionment until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

(b) Funds withheld under § 1210.4 from apportionment to any State after September 30, 2000 will not be available for apportionment to the State.

§ 1210.7 Apportionment of withheld funds after compliance.

Funds withheld to a State from apportionment under § 1210.4, which remain available for apportionment under § 1210.5(a), will be made available to the State if it conforms to the requirements of §§ 1210.4 and 1210.5 before the last day of the period of availability as defined in § 1210.6(a).

§ 1210.8 Period of availability of subsequently apportioned funds.

Funds apportioned pursuant to § 1210.7 will remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are apportioned.

§ 1210.9 Effect of noncompliance.

If a State has not met the requirements of 23 U.S.C. 161 and this part at the end of the period for which funds withheld under § 1210.4 are available for apportionment to a State under § 1210.6, then such funds shall lapse.

§ 1210.10 Procedures affecting States in noncompliance.

(a) Each fiscal year, each State determined to be in noncompliance with 23 U.S.C. 161 and this part, based on NHTSA's and FHWA's preliminary review of its law, will be advised of the funds expected to be withheld under § 1210.4 from apportionment, as part of the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than ninety days prior to final apportionment.

(b) If NHTSA and FHWA determine that the State is not in compliance with 23 U.S.C. 161 and this part, based on the agencies' preliminary review, the State may, within 30 days of its receipt of the advance notice of apportionments, submit documentation showing why it is in compliance.

Documentation shall be submitted to the National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

(c) Each fiscal year, each State determined not to be in compliance with 23 U.S.C. 161 and this part, based on NHTSA's and FHWA's final determination, will receive notice of the funds being withheld under § 1210.4 from apportionment, as part of the certification of apportionments required under 23 U.S.C. 104(e), which normally occurs on October 1 of each fiscal year.

Issued on: February 29, 1996.

Rodney E. Slater,

Administrator, Federal Highway Administration.

Ricardo Martinez,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 96–5133 Filed 3–6–96; 8:45 am]

BILLING CODE 4910–59–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[PA65–1; AD–FRL–5436–7]

Clean Air Act Proposed Full Approval of the Operating Permits Program; Approval of Construction Permit and Plan Approval Programs Under Section 112(l); Proposed Approval of State Implementation Plan Revision for the Issuance of Federally Enforceable State Plan Approval and Operating Permits Under Section 110; Commonwealth of Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed full approval of Title V Operating Permit Program and proposed approval of State Operating Permit and Plan Approval Programs.

SUMMARY: The EPA proposes full approval, under Title V of the Clean Air Act (the Act), of the Operating Permits Program submitted by the Commonwealth of Pennsylvania 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. EPA is also proposing to approve Pennsylvania's Operating Permit and Plan Approval Programs pursuant to Section 110 of the Act for the purpose of creating Federally enforceable operating permit and plan approval conditions for sources of criteria air pollutants. In order to extend the federal enforceability of State operating permits and plan approvals to include hazardous air pollutants (HAPs), EPA is also proposing approval of Pennsylvania's plan approval and operating permits program regulations pursuant to Section 112 of the Act. Today's action also proposes approval of Pennsylvania's mechanism for receiving straight delegation of Section 112 standards.

DATES: Comments on this proposed action must be received in writing by April 8, 1996.

ADDRESSES: Comments should be addressed to the contact indicated below. Copies of the State's submittal and other supporting information used in developing these proposed approvals are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 3, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

FOR FURTHER INFORMATION CONTACT: Michael H. Markowski, 3AT23, U.S.

Environmental Protection Agency, Region 3, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107, (215) 597–3023.

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. 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.

On June 28, 1989 (54 FR 27274) EPA published criteria for approving and incorporating into the SIP regulatory programs for the issuance of federally enforceable state operating permits. Permits issued pursuant to an operating permit program meeting these criteria and approved into the SIP are considered federally enforceable. EPA has encouraged States to consider developing such programs in conjunction with Title V operating permit programs for the purpose of creating federally enforceable limits on a source's potential to emit. This mechanism would enable sources to reduce their potential to emit of criteria pollutants to below the Title V applicability thresholds and avoid being subject to Title V. (See the guidance document entitled, ''Limitation of Potential to Emit with Respect to Title V Applicability Thresholds,'' dated September 18, 1992, from John Calcagni, Director of EPA's Air Quality Management Division).

Also as part of this action, EPA is proposing to approve Pennsylvania's plan approval (i.e., construction permit) and operating permit programs pursuant to Section 112(l) of the Clean Air Act for the purpose of allowing the State to issue plan approvals and operating permits which limit source's potential to emit hazardous air pollutants (HAPs). Section 112(l) of the Clean Air Act provides the underlying authority for controlling emissions of HAPs. Therefore, in order to extend federal enforceability of the State's operating permit and plan approval programs to include HAPs, EPA today proposes to approve Pennsylvania's plan approval and operating permit program submittals pursuant to Section 112(l) of the Act.

II. Proposed Action and Implications

A. Analysis of State Submission

EPA has concluded that the operating permit program submitted by Pennsylvania meets the requirements of Title V and is proposing to grant full approval to the program. For more detailed information on the analysis of the State's submission, please refer to the technical support document (TSD) included in the docket at the address noted above.

1. Title V Support Materials

On November 15, 1993, the Commonwealth of Pennsylvania submitted an operating permits program for review by EPA. The submittal was found to be administratively incomplete pursuant to 40 CFR 70.4(e)(1) on January 18, 1994. Additional materials were submitted on May 18, 1995. Based on additional information received in the May 18, 1995 submittal, EPA found the submittal to be administratively and technically complete on May 31, 1995. The Commonwealth submitted supplemental information on November 28, 1995. The submittal includes a letter from the Secretary of the Department of Environmental Resources, as the designee of the Governor of the Commonwealth of Pennsylvania, requesting approval of the Commonwealth's Title V program, a legal opinion from the State Attorney General stating that the laws of the Commonwealth provide adequate legal authority to carry out all aspects of the program, and a description of how the Commonwealth intends to implement the program. The submittal additionally contains evidence of proper adoption of the program regulations, a permit fee demonstration, a description of the State's Title V program, and a proposed draft of an implementation agreement (IA) to be negotiated between EPA and the Commonwealth of Pennsylvania.

2. Title V Operating Permit Program Regulations and Program Implementation

The Commonwealth of Pennsylvania's Title V regulations were adopted and became effective on November 26, 1994. They include 25 Pa. Code Chapter 127, Subchapters F and G, as well as the definitions provided in 25 Pa. Code Chapter 121.1. EPA has determined that these regulations ''fully meet'' the requirements of 40 CFR Part 70, Sections 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. The TSD contains a detailed analysis of Pennsylvania's program and describes the manner in which the State's program meets all the operating permit program requirements of 40 CFR Part 70. However, several issues were identified by EPA during its review of Pennsylvania's Title V operating permit program which warrant a more detailed discussion and analysis. These issues are outlined below.

a. Absence of Part 70 Emergency Defense Provisions—Pennsylvania has incorporated by reference New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAP), and Maximum Available Control Technology (MACT) technology-based emissions limitations/standards in 25 Pa. Code 122.1, 124.1, and 127.35, respectively. Where these technology-based standards incorporate an emergency defense, that emergency defense becomes part of Pennsylvania law by reference. Pennsylvania's program does not provide for any other emergency defense, and does not specifically provide for a Part 70 emergency defense. While it is true that a specific Part 70 emergency defense is lacking, EPA clarified, in its August 31, 1995, supplemental Part 70 notice, that ''the Part 70 rule does not require the States to adopt the emergency defense. A State may include such a defense in its Part 70 program to the extent it finds appropriate, although it may not adopt an emergency defense less stringent than that set forth at 40 CFR 70.6(g).'' 60 FR 45530, 45559. Thus, since State

adoption of emergency defense provisions under Part 70 is discretionary, Pennsylvania's failure to include such a defense in its Part 70 program is not inconsistent with 70.6(g).

b. Origin of and Authority for Permit Terms and Conditions—40 CFR 70.6(a)(1)(I) requires that each Title V permit, as issued by the permitting authority, specify and reference the origin of and authority for each permit term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based. These requirements for permit content related to specification of the origin and authority for permit terms and conditions in Title V permits have been met by the Pennsylvania program primarily through the language of Section IV.B.16(a)(1) of the Commonwealth's Title V program description and through relevant provisions of an Implementation Agreement (IA) that has been negotiated between EPA and PADEP (the rulemaking docket includes an IA that was signed by PADEP on January 31, 1996, and by EPA on February 15, 1996).

Section IV.B.16(a)(1) of the PADEP's Title V program description provides that Title V permit applications shall require sources to identify all applicable requirements, including citations to the origin of and authority for each requirement. EPA regards this language, along with the Title V permit application form itself and the relevant provisions of an IA that has been negotiated between EPA and PADEP, as sufficient assurance that Pennsylvania's Title V operating permits will include citation to the origin of and authority for each permit term and condition.

c. 45 Day EPA Review Prior to Permit Issuance—Under § 127.522(f) of the Commonwealth's regulations, EPA is afforded a 45 day period to review proposed permits for conformity with Clean Air Act and Part 70 requirements. Section § 127.522(f) further specifies that EPA may veto a permit within this review period.

It is noted that § 127.522 does not ensure that EPA will have an opportunity for a 45 day period of pre-issuance review of permits that are revised as a result of the public and affected State's comments. It appears that pursuant to § 127.521(d) and (e) and § 127.522(f), the 30 day public comment period may commence at the same time as EPA's 45 day review period. Thus, it is possible that Pennsylvania could modify and issue the proposed permit on the basis of public (or affected State) comments.

However, § 127.522(f) does provide that the final permit shall be provided to EPA ''upon issuance if material substantive changes are made to the proposed permit.'' If EPA objects within 45 days of final permit issuance, ''the permit will be revoked.'' Both Section IV.B.17(h) of the program description and § 127.522(f) state that if EPA objects to the issuance of the final revised permit within 45 days, the permit will be revoked. EPA concludes from the regulatory language and program description that post-issuance revocation will be straightforward and automatic, in the event that EPA objects (within 45 days of receipt of the revised permit) to permit conditions that result from public or affected state comments.

Provisions defining ''material substantive changes'' are included in the IA that has been negotiated between EPA and PADEP. The IA will help to clarify the criteria to be used by Pennsylvania in determining which final permits must be provided to EPA for post-issuance review. Moreover, the IA will confirm that post-issuance permit revocation is indeed automatic for revised permits issued by Pennsylvania but objected to by EPA within 45 days of issuance.

EPA believes that the provisions in the regulation and the IA regarding EPA review of permits that are revised on the basis of public and affected state comments are adequate to protect EPA's oversight function.

d. Insignificant Activities—Under Part 70, EPA may approve as part of a State program a list of insignificant activities and emission levels which need not be included in permit applications. Pennsylvania has not requested EPA approval of such a list of insignificant activities or emission levels.

e. Proposed Exemption from Title V for R&D Facilities—Under 25 Pa. Code § 127.502(c) of the Commonwealth's Title V operating permit program regulations, Research and Development (R&D) facilities located at a Title V facility are not required to be included as part of the Title V facility. However, for the purpose of determining Title V applicability, emissions from R&D facilities are aggregated with the rest of the facility's emissions. R&D facilities are defined in 25 Pa. Code § 121.1 as a stationary source whose purpose is to conduct research and development of products and processes, or basic research ''for education or the general advancement of technology and knowledge'' under the ''close supervision of technically trained personnel.'' R&D facilities may not engage in the manufacture of products for commercial sale or internal manufacturing use ''except in deminimus amounts on an infrequent basis.'' The emissions from the R&D facility must be less than the Title V threshold.

EPA interprets the Commonwealth's regulations as providing an exemption from Title V requirements for co-located R&D facilities. The current Part 70 rule does not provide any specific exemption from Title V for co-located R&D facilities. However, EPA's August 31, 1995 (60 FR 45530) and August 29, 1994 supplemental Part 70 notices and the preamble to the original Part 70 rule do provide for the separate treatment of co-located R&D activities under Title V. In the August 1995 notice, EPA proposed to revise the Part 70 definition of ''major source'' so that R&D activities could be considered separately for the purpose of determining whether a source is major. EPA further stated in that notice that it believes it appropriate to continue to implement the current Part 70 rule to allow for the separate treatment of co-located R&D activities. Thus, EPA believes that co-located R&D facilities may be treated separately for purposes of determining Title V applicability, and determining whether the Title V facility and the co-located R&D facility are major sources.

Pursuant to the August 1995 notice, emissions from R&D activities need not be aggregated with those of co-located stationary sources unless the R&D activities contribute to the product produced or service rendered by the co-located sources in a more than deminimus manner. As a result of this approach, nonmajor R&D facilities are exempted from Title V. The separate treatment of co-located R&D facilities, as provided for in EPA's August 1995 notice, exempts non-major R&D facilities from Title V since only major sources are required to obtain a Title V permit at this time. Under the EPA's August 1995 proposal, research and development activities would be required to have a Title V permit only if the R&D facility itself were a major source.

The § 121.1 definition of ''Research and Development Facility'' provided in the Commonwealth's regulations is reserved exclusively for those research and development activities ''with emissions less than the emissions thresholds for a Title V facility.'' Thus, by definition, only non-major research and development activities qualify as ''R&D facilities'' under the Pennsylvania regulations. Section 127.502(c) of the Commonwealth's regulations further requires that emissions from a co-located R&D facility be included when evaluating Title V applicability. In its

August 1995 supplemental Part 70 notice, however, EPA proposed to exempt non-major R&D facilities not only from Title V applicability but also from the need to aggregate emissions from the R&D facility with emissions from the Title V facility for the purpose of determining whether a major source is present. Therefore, the Pennsylvania Title V operating permit program is at least as stringent in this regard than is required by EPA for program approval.

f. Acid Rain Requirements- Section 6.5 of Pennsylvania's Air Pollution Control Act (''APCA''), 35 P.S. § 4006.5, and 25 Pa. Code § 127.531 contain special operating permit provisions related to Title IV of the Clean Air Act, the legislation's ''acid rain'' section. In pertinent part, APCA Section 6.5 authorizes DEP to develop an acid rain permit program; incorporates the definitions of sections 402 and 501 of the Clean Air Act; establishes a schedule for permit application and compliance plan submission; and establishes certain permit requirements for permits concerning sulfur dioxide emissions and allowances.

25 Pa. Code § 127.531 sets out an appropriate schedule for submission of acid rain permits and compliance plans (§ 127.531(b)); provides that the permit application and compliance plan is binding and enforceable until permit issuance (§ 127.531(c)); requires the source to comply with permit conditions ''no later than the date required by the Clean Air Act or regulations thereunder'' (§ 127.531(d)); allows permit revisions any time after submission of the application and compliance plan (§ 127.531(e)); prohibits emissions in excess of allowances or applicable emission limitations, premature use of allowances, or contravention of any permit term (§ 127.531 (f) and (g)); and requires compliance with accounting procedures for allowances promulgated under Title IV (§ 127.531(g)(3)).

It is noted that Pennsylvania has not directly incorporated by reference EPA's Title IV regulations found at 40 CFR Part 72, and has not adopted EPA's model rules. However, several regulatory provisions require that Pennsylvania's Title V program be operated in accordance with the requirements of Title IV and its implementing regulations. Section 127.531(a) provides that the acid rain provisions of that section ''shall be interpreted in a manner consistent with the Clean Air Act and the regulations thereunder.'' Section 127.531(b) requires that affected sources submit a permit application and compliance plan ''that meets the requirements of * * * the Clean Air Act and the regulations thereunder.'' Further, the § 121.1 definition of ''applicable requirements'' for Title V sources includes standards or other requirements ''of the acid rain program under Title IV of the Clean Air Act * * * or the regulations thereunder.''

The statute and regulations cited above support the Pennsylvania Attorney General's opinion that ''Commonwealth law is consistent with, and cannot be used to modify, the Acid Rain requirements of 40 CFR Part 72.'' Attorney General Opinion at 8–9.

For additional assurance that Pennsylvania's operating permit program will operate in compliance with applicable acid rain requirements, the Commonwealth has agreed to accept delegation of the applicable provisions of 40 C.F.R. Parts 70, 72, and 78 for the purpose of implementing the Title IV requirements of its operating permit program. PADEP shall apply these provisions for purposes of incorporating Acid Rain program requirements into each affected source's operating permit; identifying designated representatives; establishing permit application deadlines; issuing, denying, modifying, reopening, and renewing permits; establishing compliance plans; processing permit appeals; and issuing written exemptions under 40 C.F.R. §§ 72.7 and 72.8. This commitment is contained in the IA that has been negotiated between EPA and PADEP.

Furthermore, at EPA's request, Pennsylvania's Title V program description has been revised to clarify that the Commonwealth will implement its acid rain program in accordance with applicable provisions of 40 C.F.R. Parts 70, 72, and 78; and that PADEP will perform completeness and substantive reviews of acid rain permit applications, and that acid rain permits will be issued in accordance with EPA's acid rain permit writer's guidance. The revised program description also states Pennsylvania will initiate appropriate enforcement activities to compel compliance with permit conditions.

3. Title V Permit Fee Demonstration

Section 502(b)(3) of the Act requires that each permitting authority collect fees sufficient to cover all reasonable direct and indirect costs required to develop and administer its Title V operating permits program. Each Title V program submittal must contain either a detailed demonstration of fee adequacy or a demonstration that aggregate fees collected from Title V sources meet or exceed $25 per ton of emission per year (adjusted from 1989 by the Consumer Price Index (CPI)). The $25 per ton amount is presumed, for program approval, to be sufficient to cover all reasonable program costs and is thus referred to as the ''presumptive minimum'' [Section 70.9(b)(2)(I)].

Pennsylvania has opted to make a presumptive minimum fee demonstration. Pennsylvania's existing fee schedule, under Section 127.705 of the Commonwealth's regulations, requires Title V facilities to pay an annual Title V emission fee of $37 per ton for each ton of a regulated pollutant actually emitted from the facility. This amount exceeds the $25 per ton presumptive minimum. Section 127.705 also includes a provision that ties the amount of the fee to the Consumer Price Index (CPI) as required by 40 CFR 70.9(b)(2)(iv). The $37 per ton amount was derived by dividing the total annual estimated Title V operating permit program cost by the total annual number of billable tons of emissions. Pennsylvania used actual operating hours and production rates, and considered in-place control equipment and the types of materials processed, stored, or combusted in calculating the total actual billable tons figure. EPA has determined that these fees will result in collection and retention of revenues sufficient to cover the Title V operating permit program costs.

4. Provisions Implementing the Requirements of Other Titles of the Act

a. Section 112—Pennsylvania 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 Pennsylvania's enabling legislation (the Air Pollution Control Act, ''APCA'') and in regulatory provisions defining ''applicable requirements'' and ''Title V facility'' and mandating that permits must incorporate all applicable requirements. EPA has determined that this legal authority is sufficient to allow Pennsylvania to issue permits that assure compliance with all section 112 requirements, and to carry out all section 112 activities, including those required under section 112(g). For further rationale on this interpretation, please refer to the Technical Support Document accompanying this rulemaking and the April 13, 1993 guidance memorandum entitled ''Title V Program Approval Criteria for Section 112 Activities,'' signed by John Seitz, Director of the Office of Air Quality Planning and Standards.

b. Program for Straight Delegation of Section 112 Standards—The 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. Because Pennsylvania has historically accepted delegation of Section 112 standards through automatic delegation, EPA proposes to approve the delegation of Section 112 standards and requirements through automatic delegation. The details of this delegation mechanism have been set forth in an Implementation Agreement (IA) between Pennsylvania and EPA. This approval applies to both existing and future standards but is limited to sources covered by the Part 70 operating permit program.

c. Limiting HAP Emissions Through FESOP and Plan Approval Programs—As part of this action EPA proposes to approve, pursuant to Section 112(l) of the Clean Air Act, the Commonwealth's request for authority to regulate HAPs through the issuance of federally enforceable State operating permits and plan approvals. As explained more fully in the Technical Support Document accompanying this proposed rulemaking, EPA proposes to approve and incorporate into the SIP Pennsylvania's operating permit and plan approval (i.e., construction permit) programs codified in Subchapters F and B, respectively, of the PADEP's air quality regulations. This would grant the PADEP authority to issue plan approvals and operating permits which limit potential to emit of criteria pollutants. However, as part of this action, EPA also proposes to approve both State programs under Section 112(l) of the Act for the purpose of extending Pennsylvania's authority to create federally enforceable limits to include HAPs in addition to criteria pollutants. Please refer to the Technical Support Document for a thorough analysis of Pennsylvania's operating permit and plan approval programs in accordance with applicable federal approval criteria.

d. Program for Implementing Title IV of the Act—Pennsylvania's program contains adequate authority to issue permits which reflect the requirements of Title IV of the Act, and Pennsylvania commits to adopt the rules and requirements promulgated by EPA to implement an acid rain program through the Title V permit.

B. Proposed Action

1. Title V Operating Permits Program

EPA is proposing full approval of the operating permits program submitted to EPA by the Commonwealth of Pennsylvania on May 18, 1995. Among other things, Pennsylvania has demonstrated that the program will be adequate to meet the minimum elements of a State operating permits program as specified in 40 CFR part 70. The scope of the Pennsylvania program that EPA proposes to approve in this notice would apply to all Title V facilities (as defined in the approved program) within the Commonwealth of Pennsylvania, except for those areas where a separate local agency Title V operating permits program has been approved by EPA.

EPA also proposes approval of Pennsylvania's Plan Approval and Operating Permit Programs, found in Subchapters B and F, respectively, of Chapter 127 of the State's regulations, under section 112(l) of the Act for the purpose of creating Federally enforceable permit conditions for sources of hazardous air pollutants (HAPs) listed pursuant to Section 112(b) of the Act.

2. Program for Delegation of Section 112 Standards as Promulgated

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. Because Pennsylvania has historically accepted delegation of Section 112 standards through automatic delegation, EPA proposes to approve the delegation of Section 112 standards and requirements through automatic delegation. The details of this delegation mechanism are set forth in an Implementation Agreement (IA) that has been negotiated between Pennsylvania and EPA. This approval applies to both existing and future standards but is limited to sources covered by the Part 70 operating permit program.

III. Proposed Approval of State Operating Permit and Plan Approval Programs Under Section 110 of the Act

A. Background

As part of the May 18, 1995 submittal, PADEP submitted to EPA for review and approval a revision to its State Implementation Plan (SIP) designed to create federally enforceable limits on a source's potential to emit. The revision consists of regulations establishing a State operating permit program and a plan approval program, codified in Subchapters F and B, respectively, of the Commonwealth's air quality regulations. Pennsylvania refers to construction permits as ''plan approvals.'' The proposed SIP revision generally strengthens the Pennsylvania SIP by establishing a comprehensive operating permit and plan approval program and by making the operating permit program regulations consistent with the Title V operating permit regulations codified in Chapter 127, Subchapter G of the Commonwealth's regulations.

Limiting a source's potential to emit to below major source thresholds through the use of federally enforceable terms and conditions in a State operating permit or plan approval exempts such a source from Title V permitting requirements. State operating permit programs which have been incorporated into the SIP renders operating permits issued pursuant to such a program as federally enforceable, and the program itself is referred to as a federally enforceable State operating permit program, or ''FESOP'' program. This FESOP mechanism will allow sources to reduce their potential to emit to below the Title V applicability thresholds and avoid being subject to Title V. Similarly, construction permit (i.e., plan approval) programs which have been incorporated into the SIP renders construction permits, or, in Pennsylvania's case, plan approvals, issued pursuant to such a program as federally enforceable.

Pennsylvania's FESOP and plan approval program regulations were adopted and became effective on November 26, 1994. The operating permit program regulations are codified under Chapter 127, Subchapter F of the Commonwealth's air quality regulations, and the plan approval program regulations are codified under Chapter 127, Subchapter B of the Commonwealth's air quality regulations.

EPA found the SIP submittal complete on May 31, 1995.

EPA's review of this submittal indicates that the operating permit and plan approval programs both meet applicable federal criteria for approval. Accordingly, EPA is today proposing to approve the Pennsylvania SIP revision for the plan approval and operating permit programs, which was submitted on May 18, 1995.

B. Federal Criteria for Approval of Pennsylvania's FESOP and Plan Approval Programs Pursuant to Section 110 of the Act

The five criteria for approving a State operating permit program into a SIP were set forth in the June 28, 1989 Federal Register document (54 FR 27282). Permits issued under an approved program are federally enforceable and may be used to limit the potential to emit of sources of criteria pollutants. Pennsylvania's FESOP provisions of Subchapter F, Chapter 127 meet the June 28, 1989 criteria by ensuring that the limits will be permanent, quantifiable, and practically enforceable and by providing adequate notice and comment to both EPA and the public. Please refer to the Technical Support Document for a thorough analysis of the June 28, 1989 criteria as applied to Pennsylvania's FESOP program.

EPA is proposing to approve pursuant to Section 110 of the Act and the approval criteria specified in the June 28, 1989 Federal Register document the following regulations that were submitted to make permits issued pursuant to the Commonwealth's FESOP program federally enforceable and to make the program consistent with it's Title V operating permit program: Subchapter F, Chapter 127, Sections 127.401 through 127.464, inclusive.

As described above, Pennsylvania also submitted on May 18, 1995 for EPA approval revisions to its existing new source review (NSR) construction permit (i.e., plan approval) program. Pennsylvania's new source review construction permit is called a ''plan approval.'' The Commonwealth's plan approval program has been part of its SIP for many years and meets the requirements in Section 110(a)(2)(C) of the Act which requires all SIPs to provide for the regulation of the modification and construction of any stationary source within the areas covered by the plan implementation as necessary to assure that national ambient air quality standards (NAAQS) are achieved. Pennsylvania's plan approval regulations referenced above were originally approved by EPA into the SIP on May 31, 1972 (37 FR 10842) for the purpose of meeting the Section 110(a)(2)(C) requirement.

In order to make its program consistent with the Clean Air Act Amendments of 1990, Pennsylvania had previously submitted, on February 10, 1994, its new source review (NSR) construction permit program to EPA for review and approval. EPA is reviewing this program submittal and will take the appropriate approval/disapproval action at a later date. As part of this action, Pennsylvania is making changes to its public hearing and administrative procedures in order to achieve consistency of such procedures throughout all of its permitting programs. EPA has reviewed these proposed changes to Pennsylvania's plan approval program and has determined that they meet all applicable federal requirements for approval.

C. Proposed Approval of Pennsylvania's Plan Approval and FESOP Programs Under Section 112(1)

On May 18, 1995, PADEP requested approval of Pennsylvania's FESOP and plan approval programs under Section 112 of the Act for the purpose of creating federally enforceable limitations on the potential to emit of HAPs. As described above, the Commonwealth's plan approval program regulations were initially approved by EPA and incorporated into the Pennsylvania SIP on May 31, 1972. EPA is today proposing to approve and incorporate into the SIP Pennsylvania's operating permit and plan approval program regulations submitted May 18, 1995.

EPA approval of the Commonwealth's plan approval and FESOP programs under Section 112(l) of the Act is necessary to extend Pennsylvania's existing authority under Section 110 of the Act to include authority to create federally enforceable limits on the potential to emit HAPs. EPA's previous rulemaking actions on the various Pennsylvania permit programs for incorporation into the SIP provides a mechanism only for controlling criteria air pollutants which does not extend to HAPs. Only Section 112 of the Act provides the underlying authority for States to limit potential to emit of HAPs in federally enforceable State operating permits and construction permits. This necessitates EPA approval of Pennsylvania's operating permit and plan approval programs pursuant to Section 112(l) of the Act.

The criteria used by EPA for the original SIP approval of Pennsylvania's plan approval program are located in 40 CFR 51.160–164. EPA believes that the PADEP's existing plan approval program meets the requirements of 40 CFR 51.160 through 51.164.

EPA has determined that the five approval criteria for approving FESOP programs into the SIP, as specified in the June 28, 1989 Federal Register notice referenced above, are also appropriate for evaluating and approving the programs under Section 112(l). The June 28, 1989 notice does not address HAPs because it was written prior to the 1990 amendments to Section 112 of the Act. Hence, the following five criteria are applicable to FESOP approvals under Section 112(l): (1) the program must be submitted to and approved by EPA; (2) the program must impose a legal obligation on the operating permit holders to comply with the terms and conditions of the permit, and permits that do not conform with the June 28, 1989 criteria shall be deemed not federally enforceable; (3) the program must contain terms and conditions that are at least as stringent as any requirements contained in the SIP or enforceable under the SIP or any other Section 112 or other Clean Air Act standard or requirement; (4) permits issued under the program must contain conditions that are permanent, quantifiable, and enforceable as a practical matter; and (5) permits issued under the program must be subject to public participation. Please refer to the TSD for a thorough analysis of how Pennsylvania's operating permits program satisfies each of the five approval criteria. Since the State's operating permits program meets the five program approval criteria for both criteria and hazardous air pollutants, the Pennsylvania program may be used to limit the potential to emit of both criteria and hazardous air pollutants.

In addition to meeting the criteria discussed above, Pennsylvania's plan approval and operating permits programs for limiting potential to emit of HAPs must meet the statutory criteria for approval under Section 112(l)(5) of the Act. This section allows EPA to approve a program only if it: (1) contains adequate authority to assure compliance with any Section 112 standard or requirement; (2) provides for adequate resources; (3) provides for an expeditious schedule for assuring compliance with Section 112 requirements; and (4) is otherwise likely to satisfy the objectives of the Act.

The EPA plans to codify the approval criteria for programs limiting the potential to emit of HAPs through amendments to Subpart E of 40 CFR part 63, the regulations promulgated to implement section 112(l) of the Act.

(See 58 Fed. Reg. 62262, November 26, 1993). The EPA currently anticipates that these criteria, as they apply to FESOP programs, will mirror those set forth in the June 28, 1989 notice, with the addition that the State's authority must extend to HAPs instead of or in addition to VOC's and PM_{10}. The EPA currently anticipates that FESOP programs that are approved pursuant to Section 112(l) prior to the planned Subpart E revisions will have had to meet these criteria, and hence will not be subject to any further approval action.

The EPA believes it has the authority under section 112(l) to approve programs to limit potential to emit of HAPs directly under section 112(l) prior to this revision to Subpart E. Section 112(l)(5) requires the EPA to disapprove programs that are inconsistent with guidance required to be issued under section 112(l)(2). This might be read to suggest that the ''guidance'' referred to in section 112(l)(2) was intended to be a binding rule. Even under this interpretation, the EPA does not believe that section 112(l) requires this rulemaking to be comprehensive. That is, it need not address every possible instance of approval under section 112(l). The EPA has already issued regulations under section 112(l) that would satisfy any section 112(l)(2) requirement for rulemaking. Given the severe timing problems posed by impending deadlines set forth in ''maximum achievable control technology'' (MACT) emission standards under section 112 and for submittal of Title V permit applications, the EPA believes it is reasonable to read section 112(l) to allow for approval of programs to limit potential to emit prior to promulgation of a rule specifically addressing this issue. The EPA is therefore proposing approval of Pennsylvania's FESOP and plan approval programs now so that Pennsylvania may begin to issue federally enforceable operating permits and plan approvals limiting potential to emit as soon as possible. This will allow Pennsylvania to immediately begin exempting sources from Title V requirements where this is possible and appropriate.

The EPA proposes approval of Pennsylvania's FESOP and plan approval programs pursuant to Section 112(l) of the Act because the programs meet applicable approval criteria specified in the June 28, 1989 Federal Register document and in Section 112(l)(5) of the Act. Regarding the statutory criteria of Section 112(l)(5) of the Act referred to above, the EPA believes Pennsylvania's FESOP and plan approval programs contain adequate authority to assure compliance with Section 112 requirements since neither program provides for waiving any Section 112 requirement(s). Sources would still be required to meet Section 112 requirements applicable to non-major sources. Regarding adequate resources, Pennsylvania has included in its FESOP and plan approval programs provisions for collecting fees from sources making application for either a plan approval, an operating permit, or both. Furthermore, EPA believes that Pennsylvania's FESOP and plan approval programs provide for an expeditious schedule for assuring compliance because they allow a source to establish a voluntary limit on potential to emit and avoid being subject to a federal Clean Air Act requirement applicable on a particular date. Nothing in Pennsylvania's plan approval or operating permit programs would allow a source to avoid or delay compliance with a federal requirement if it fails to obtain the appropriate federally enforceable limit by the relevant deadline. Finally, Pennsylvania's FESOP and plan approval programs are consistent with the objectives of the Section 112 program because their purpose is to enable sources to obtain federally enforceable limits on potential to emit to avoid major source classification under Section 112. The EPA believes that this purpose is consistent with the overall intent of Section 112.

IV. Administrative Requirements

A. Request for Public Comments

The EPA is soliciting public comments on all aspects of this proposed full approval. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this notice. These comments will be considered before taking final action. Copies of the State's submittal and other information relied upon for the proposed Title V and section 112(l) approvals and the approval of Pennsylvania's SIP revision pertaining to its plan approval and FESOP programs 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 these proposed approvals. 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 April 8, 1996.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

EPA's actions under sections 502, 110 and 112 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, the creation of Federally enforceable permit conditions for sources of hazardous air pollutants listed pursuant to section 112(b) of the Act, and plan approval and FESOP requirements that the State is already imposing. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

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

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

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic,

and environmental factors and in relation to relevant statutory and regulatory requirements.

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 that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

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

Authority: 42 U.S.C. 7401–7671q.

Dated: February 23, 1996.

Stanley L. Laskowski,

Acting Regional Administrator, EPA Region III.

[FR Doc. 96–5415 Filed 3–6–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 89, 90, and 91

[FRL–5437–7]

RIN 2060–AE54

Control of Air Pollution; Supplementary Notice of Proposed Rulemaking for New Gasoline Spark-Ignition Marine Engines; Exemptions for Non-Road Compression-Ignition Engines at or Above 37 Kilowatts and New Nonroad Spark-Ignition Engines at or Below 19 Kilowatts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplementary Notice of Proposed Rule; Notice of Data Availability.

SUMMARY: Regarding gasoline marine engines, EPA has data available for public review regarding relative engine use by age of engine.

DATES: The comment period will remain open until March 8, 1996 for purposes of taking comment on the issues raised regarding marine gasoline engine relative use by engine age. Please direct all correspondence to the address specified below.

ADDRESSES: Interested parties may submit written comments (in duplicate, if possible) for EPA consideration by addressing them as follows: EPA Air Docket (LE–131), Attention: Docket Number A–92–28, room M–1500, 401 M Street, S.W., Washington, D.C. 20460.

Materials relevant to this rulemaking are contained in this docket and may be reviewed at this location from 8:00 a.m. until 5:30 p.m. Monday through Friday. As provided in 40 CFR part 2, a reasonable fee may be charged by EPA for photocopying.

FOR FURTHER INFORMATION CONTACT: Deanne R. North, Office of Mobile Sources, Engine Programs and Compliance Division, (313) 668–4283.

SUPPLEMENTARY INFORMATION:

I. Notice of Data Availability

The State of Wisconsin performed a survey of the 1995 summer season to obtain better information on relative use of spark-ignition gasoline marine engines by age. This Wisconsin data is available now in the Air Docket A–92–28 and on EPA's Technology Transfer Network/Bulletin Board System as described below. EPA may consider the survey results when deciding how to finalize the marine spark-ignition gasoline engine rule with respect to the relative use by age function.

The Agency proposed in the Supplemental Notice of Proposed Rulemaking (SNPRM) (61 FR 4600, February 7, 1996) to include a statistical function in the credit calculation formula in § 91.207 of the regulations proposed for 40 CFR Part 91, representing relative usage of engines by engine age and power output. EPA will accept comment on the Wisconsin data and the proposals in the SNPRM through March 8, 1996.

II. Obtaining Information on this Rulemaking

The SNPRM preamble, proposed regulatory language, and supporting data are available to the public through several sources. Electronic copies (on 3.5'' diskettes) of the proposed regulatory language may be obtained free of charge by visiting, writing, or calling the Environmental Protection Agency, Engine Programs and Compliance Division, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668–4288. Refer to Docket A–92–28. A copy is also available for inspection in the docket (see **ADDRESSES**).

The SNPRM preamble, proposed regulatory language, and some supporting information are also available electronically on the Technology Transfer Network (TTN), which is an electronic bulletin board system (BBS) operated by EPA's Office of Air Quality Planning and Standards. The service is free of charge, except for the cost of the phone call. Users are able to access and download TTN files on their first call using a personal computer and modem per the following information.

TTN BBS: 919–541–5742 (1200–14400 bps, no parity, 8 data bits, 1 stop bit) Voice Helpline: 919–541–5384 Also accessible via Internet: TELNET ttnbbs.rtpnc.epa.gov Off-line: Mondays from 8:00 AM to 12:00 Noon ET.

A user who has not called TTN previously will first be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following menu choices from the Top Menu to access information on this rulemaking.

<T> GATEWAY TO TTN TECHNICAL AREAS (Bulletin Boards)
<M> OMS—Mobile Sources Information
<K> Rulemaking & Reporting
<6> Non-Road
<1> File area #1. Non-Road Marine Engines

At this point, the system will list all available files in the chosen category in chronological order with brief descriptions. To download a file, select a transfer protocol that is supported by the terminal software on your own computer, then set your own software to receive the file using that same protocol.

If unfamiliar with handling compressed (that is, ZIP'ed) files, go to the TTN top menu, System Utilities (Command: 1) for information and the necessary program to download in order to unZIP the files of interest after downloading to your computer. After getting the files you want onto your computer, you can quit the TTN BBS with the <G>oodbye command.

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

List of Subjects

40 CFR Part 89

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Environmental protection, Imports, Incorporation by reference, Labeling, Nonroad source pollution, Reporting and recordkeeping requirements.

40 CFR Part 90

Administrative practice and procedure, Air pollution control, Confidential business information, Environmental protection, Imports, Incorporation by reference, Labeling, Nonroad source pollution, Reporting and recordkeeping requirements.

40 CFR Part 91

Administrative practice and procedure, Air pollution control, Confidential business information, Environmental protection, Imports, Incorporation by reference, Labeling, Nonroad source pollution, Reporting and recordkeeping requirements.

Dated: March 1, 1996.

Richard Wilson,

Acting Assistant Administrator.

[FR Doc. 96–5418 Filed 3–6–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 191 and 192

[Docket No. PS–106; Notice 3]

RIN 2137–AB63

Transportation of Hydrogen Sulfide by Pipeline

AGENCY: Research and Special Programs Administration (RSPA).

ACTION: Withdrawal of notice of proposed rulemaking (NPRM).

SUMMARY: In response to three National Transportation Safety Board (NTSB) Safety Recommendations, RSPA issued an Advance Notice of Proposed Rulemaking (ANPRM) followed by a Notice of Proposed Rulemaking (NPRM) that proposed changes in the Pipeline Safety Regulations to address the hazard of excessive levels of hydrogen sulfide (H_2S) in natural gas transmission pipelines. In a final review of information and comment from all sources, including advice from the Technical Pipeline Safety Standards Committee (TPSSC), RSPA determined that a regulation to address H_2S in transmission lines is not warranted. Therefore, the NPRM is withdrawn.

FOR FURTHER INFORMATION CONTACT: Mike Israni, (202) 366–4571, regarding the subject matter of this notice, or the Dockets Unit, (202) 366–4453, regarding copies of this notice or other material in the docket as referenced above.

SUPPLEMENTARY INFORMATION:

Background

H_2S is a colorless and flammable gas which is hazardous to life and health at concentrations above 300 parts per million (ppm) . At concentrations of 1000 ppm in air it can cause immediate unconsciousness and death. The Occupational Safety and Health Administration has established an upper concentration level of 10 ppm for prolonged (8 hours) workplace exposure.

The current regulations in 49 CFR Parts 192 and 195 address H_2S only with respect to its corrosive effect on pipelines, as follows:

- § 192.125(d) states that copper pipe that does not have an internal corrosion resistant lining may not be used to carry gas that has an average H_2S content of over 0.3 grains per 100 standard cubic feet (SCF) of gas.
- § 192.475 states that corrosive gas may not be transported by pipeline unless the corrosive effect of the gas on the pipeline has been investigated and steps have been taken to minimize internal corrosion. In addition, gas containing more than 0.1 grains of H_2S per 100 SCF may not be stored in pipe-type or bottle-type holders.
- § 195.418 states that no operator may transport any hazardous liquid that would corrode the pipe or other pipeline components unless it has investigated the corrosive effect of the hazardous liquid on the system and taken adequate steps to mitigate corrosion.

NTSB Recommendations

As a result of the NTSB investigation of an August 1987 accidental release of H_2S into a gas supply to Lone Star Gas Company in Texas, and after learning of 11 additional H_2S releases since 1977 (none of which involved any fatalities or serious injuries), NTSB issued three Safety Recommendations to RSPA (P–88–1, –2 and –3) which called for (–1) establishing a maximum allowable concentration of H_2S in natural gas pipeline systems, (–2) requiring operators to report all incidents in which concentrations of H_2S exceed this maximum, and (–3) requiring operators to install equipment to automatically detect and shut off the flow of gas when H_2S concentrations exceed the maximum.

Advance Notice of Proposed Rulemaking (ANPRM)

The RSPA responded to the NTSB recommendations by issuing an ANPRM on June 7,1989 (54 FR 24361). Because the Pipeline Safety Regulations do not require any monitoring of H_2S levels in natural gas pipeline systems, the ANPRM included a request for information to be used in assessing the need for any such regulations. The ANPRM provided background information and discussion on gas wells having significant concentrations of H_2S (sour gas), on the toxicity of H_2S, and on the effects of H_2S with regard to sulfide stress and stress corrosion cracking of line pipe. It discussed two H_2S incidents in California (1983 and 1984) and one in Texas (1987) that were reported by NTSB, and mentioned some instances where workers were overcome by H_2S at a sour gas field in Canada. It quoted the aforementioned three NTSB Safety Recommendations (P–88–1, –2 and –3), summarized the aforementioned Federal Regulations (49 CFR 192.125, 192.475 and 195.418), discussed state regulations on H_2S (California General Order 58; Michigan Rules 299, 460 and 81; and Texas Rule 36), and mentioned seven sections in Canadian Standard Z184–1975 that deal with sour gas. For additional information on the above items refer to the ANPRM which is available in the docket.

In its request for information, the ANPRM included four questions as follows:

Question 1. What factors should be considered in determining the need for a maximum allowable concentration of H_2S in natural gas pipeline systems? What should this concentration be?

Question 2. Describe events you know of in which H_2S has been released from,

or into, a pipeline in dangerous amounts and what were the H_2S concentrations? What were the consequences of such releases? What would be the burden associated with mandatory reporting of such events?

Question 3. If you are an operator receiving gas from a producer, do you have automatic H_2S detection and shut-off equipment? Do these devices work reliably? For such operators that do not have this equipment, what costs and other burdens can be associated with requiring use of the equipment?

Question 4. Which pipelines transporting sour gas should be subject to an H_2S monitoring requirement? Should rural gas gathering lines be subject to H_2S monitoring requirements, even though they are not now subject to any of the part 192 safety standards?

RSPA received 54 responses to the ANPRM, mostly from natural gas and hazardous liquid operators. Question 1 produced a wide variety of suggestions for assessing the need for a maximum level of H_2S. In addition, most commenters suggested a maximum allowable H_2S concentration in the range of 0.25 to 1.0 grains per 100 SCF of natural gas. The suggested factors for assessing the need for a maximum allowable H_2S level included such things as the kind of pipeline system (gathering, transmission or distribution); operating conditions (pressure, temperature, rate of flow); presence of contaminants (H_2O, CO_2, hydrocarbon liquids, inhibitors); time interval of H_2S intrusion; piping materials; piping age; gas destination; weather conditions; and provisions for ''grandfathering.'' With regard to a maximum allowable H_2S level, RSPA felt that an upper limit of 1 grain per 100 SCF of natural gas would be appropriate because it is consistent with the limit set by OSHA and several states.

With regard to question 2, the commenters indicated that H_2S releases have not been widespread, significant, or a recurring problem. On the matter of burden associated with mandatory reporting, most distribution operators, as well as many transmission operators, indicated little burden, but they questioned the usefulness of a reporting requirement. However, in spite of this train of comment, RSPA was of the opinion that a release of an excessive amount of H_2S into a pipeline system could result in a hazardous situation if there is gas leakage from the piping.

Response to question 3 from most operators was that H_2S detection equipment and allied gas shutoff equipment is generally reliable, with per installation equipment cost in the $10,000 to $30,000 range. Monthly operating cost for the most part was $1500, with one operator reporting $3000. A large midwestern distribution operator reported that it would cost $484,000 for equipment for its entire system with an annual operating cost of $105,000. RSPA felt that, to ensure public safety, high concentrations of H_2S should be removed from the gas before delivery to the transmission pipeline.

On question 4 most commenters favored a location immediately downstream of where the gas is treated for H_2S removal as the place for monitoring. Very few commenters thought that pipelines carrying sour gas should not be monitored. Most commenters were opposed to rural gathering lines being subject to H_2S monitoring.

RSPA agreed with most commenters that monitoring should be in the interface between the gathering line and transmission line at a point immediately downstream of the H_2S removal facility. RSPA also agreed that there is no need for monitoring equipment where transmission pipelines are not receiving gas that could be subject to H_2S contamination. In addition, RSPA agreed with the commenters who stated that regulation of H_2S in gathering lines is impractical because those pipelines are generally upstream of H_2S removal facilities.

The Notice of Proposed Rulemaking

On the basis of its review and analysis of the information and comments received from the ANPRM, RSPA published an NPRM on March 18, 1991 (56 FR 11490) proposing rule changes in parts 191 and 192. The proposed changes were to (1) limit H_2S levels in transmission lines downstream of gas processing plants, sulfur recovery plants, and storage fields to 1 grain per 100 SCF of natural gas; (2) require reporting to RSPA if an excessive amount of H_2S enters a transmission line; and (3) require that operators of jurisdictional onshore and offshore gas gathering lines containing over 31 grains of H_2S per 100 SCF of natural gas have written contingency plans for any release of H_2S into the atmosphere. For detail on the changes in the regulations, refer to the NPRM which is available in the docket.

RSPA received 30 responses to the NPRM; 23 from gas and hazardous liquid pipeline operators, three from pipeline industry associations (American Gas Association, Interstate Natural Gas Association, and American Petroleum Institute), two from Federal government agencies (NTSB and Minerals Management Service), one from a state pipeline safety agency. (Kansas Corporation Commission), and one from a local government (County of Santa Barbara). The following summarizes the responses:

- *General Comments*—Several commenters, particularly distribution system operators, supported limits on the amount of H_2S allowable in natural gas transmission pipelines. The distribution operators were concerned about the regulations requiring the installation of H_2S monitoring equipment in their systems.

NTSB commented that the term ''grains per 100 SCF of natural gas'' should be replaced with ''parts per million'' (ppm). NTSB also suggested that RSPA provide the scientific basis for the H_2S limits used in these regulations.

Many commenters were concerned that a pending RSPA rulemaking for redefining gas gathering lines would result in some lines being reclassified as transmission lines, and the resulting affects of this on any such lines that transport high concentration H_2S natural gas.

The API was concerned about the definition of ''gathering lines'' and ''production facilities'', and urged that RSPA adopt the API proposed definitions of these terms (these proposed API definitions are being taken into consideration by RSPA in the development of the rulemaking for redefining ''gathering line'').

Several commenters, especially Monterrey Pipeline Company, were concerned about RSPA proposing regulations in spite of comments that argued against the need for regulations for establishing a maximum H_2S level for natural gas in transmission pipelines. In contrast, many commenters, such as Tenneco, felt that RSPA, in developing the proposed regulations, had adequately balanced considerations of public safety with the need for prudent operation of pipeline systems. The Resources Management Department of the County of Santa Barbara commended the effort by the RSPA to address the hazards of sour gas in natural gas. Santa Barbara recommended three levels of protection (operational procedures, H_2S detectors, and mechanical means) with standby/duplication at each level.

- *Section 191.3*—Several commenters noted that the NPRM definition of an event involving the presence of H_2S, as proposed in the § 191.3 definition of an H_2S ''Incident,'' should be limited to ''transmission pipelines downstream of gas processing plants, sulfur recovery plants, or storage fields,'' wording

similar to the NPRM proposed § 192.631.

Many commenters took the position that there is no need to expand the definition of ''incident'' in § 191.3 by adding an H_2S ''incident'' because people are not exposed to the H_2S that may be introduced into a pipeline downstream of a gas processing plant, sulfur recovery plant, or storage field.

The proposed addition to the definition of ''incident'' read ''An event where hydrogen sulfide in excess of 20 grains per 100 standard cubic feet of natural gas is released into a transmission pipeline''. Interstate Natural Gas Association of America (INGAA) and Enron commented that this wording should be revised to make it clear that it is natural gas, containing a certain concentration of H_2S, that enters a transmission pipeline to create the reportable incident.

United Gas Pipe Line Company (UGPL) commented that there was nothing to quantify the extent of a release with respect to time. According to UGPL, the small quantity of gas entering a transmission pipeline during the 30 to 60 seconds required to activate shutoff would constitute a reportable incident, even though it would be quickly diluted by the large volume of sweet gas in the pipeline from other sources, and therefore pose no hazard. On the other hand, the Minerals Management Service (MMS) commented that a minimum level of 20 grains per 100 SCF of natural gas (320 ppm) may be too high because at that level the pipe would be subject to sulfide stress cracking. In addition, MMS made reference to the high toxicity level at 20 grains of H_2S per 100 SCF (320 ppm) with the following description of toxicity at 200 ppm from API RP 49, Table A.1: ''Burns eyes and throat. At concentration between 200–500 ppm pulmonary edema which can be life threatening almost always occurs.''

The proposed addition to the definition of ''incident'' in § 191.3 included any release (into a transmission pipeline) of natural gas containing in excess of 20 grains of H_2S per 100 SCF (320 ppm) a reportable incident. RSPA agreed that because of the dilution mentioned previously, and because the gas would be contained inside the piping (as indicated by many commenters), a hazardous situation would be unlikely.

• *Section 191.5*—INGAA, Ocean Drilling and Exploration Co. (ODECO), UGPL, and Colorado Interstate Gas (CIG) opposed the use of the telephonic notice for reporting H_2S incidents. CIG, INGAA and UGPL suggested using the § 191.25 Safety-Related Condition Report, and ODECO favored a written report similar to that of § 191.9. INGAA and UGPL recommended that the reported information should address the concentration instead of the amount of H_2S, and the length of time of the release. They also said that determining how far the H_2S had spread could be difficult.

• *Section 192.631*—Many commenters indicated that the proposed § 192.631, if taken literally, could require transmission pipelines that are not immediately downstream of a gas processing plant, sulfur recovery plant, or storage field, to be monitored for the presence of H_2S. Many transmission pipelines, especially those belonging to gas distribution operators, are many miles downstream of the point (gas processing plant, sulfur recovery plant or storage field) where sour gas could be inadvertently released into the pipeline and there is therefore no need for H_2S monitoring. Alabama Gas Corporation commented that the rule should be rephrased so that monitoring is not required where there is no possibility of an H_2S release.

Several commenters pointed out that the introductory phrase ''Except as set forth in § 192.633,'' should be deleted in proposed § 192.631 because there is no exception in § 192.633 for transmission pipelines. This introductory phrase was included in this proposed rule because, in accordance with the current requirements in § 192.9, gathering lines must comply with rules that are applicable to transmission pipelines. The introductory phrase was intended to except gathering lines from having to comply with § 192.631 so they may carry sour gas by complying with § 192.633.

Okaloosa County Gas District recommended that OSHA standards on H_2S be implemented by limiting H_2S to 0.625 grains per 100 SCF of natural gas. Transcontinental Gas Pipe Line Corporation (Transco) commented that the proposed limit of 1 grain of H_2S per 100 SCF of natural gas could conflict with existing gas purchase contract limits and proposed ''grandfathering'' the conditions in existing gas purchase contracts that do not exceed 2 grains of H_2S per 100 SCF of natural gas. The NTSB suggested that the maximum permissible concentration of H_2S should be 10 ppm (0.625 grains per 100 SCF of natural gas), as established by OSHA, instead of 1 grain of H_2S per 100 SCF of natural gas (16 ppm). The MMS commented that 15.9 ppm (1 grain per 1000 SCF) is very conservative and appropriate for transmission pipelines, and pointed out that 1 grain of H_2S per 100 SCF of natural gas (16 ppm), as specified in § 192.631, is the short term exposure limit established by OSHA as the ''* * * employee's 15-minute time weighted average which shall not be exceeded at any time during a work day * * *'' (54 FR 2920).

• *Section 192.633*—Several commenters supported the use of the Texas Railroad Commission Rule 36 in developing regulations for gathering lines that carry high concentrations of H_2S. Pennzoil was concerned that the regulations proposed in § 192.633 may be misinterpreted to apply to gathering lines in rural areas. As noted in the NPRM, these regulations do not apply to gathering lines in rural areas. In accordance with the applicability regulations in § 192.1(2), Part 192 does not apply to the onshore gathering of gas outside one of the following areas:

(i) An area within the limits of any incorporated or unincorporated city, town, or village.

(ii) Any designated residential or commercial area such as a subdivision, business or shopping center, or community development.

It should be noted that § 192.633 applies to offshore gathering lines since § 192.1(2) only excepts onshore gathering lines from the requirements of Part 192.

Lone Star Gas Company (LSG) commented that Rule 36 was intended to apply to production wells producing natural gas having high concentrations of H_2S; i.e., a single point source of possible H_2S release. LSG commented that applying the formula in proposed § 192.633(b)(1) to pipelines needed some clarification, particularly regarding the term ''maximum volume of gas available for escape.'' LSG also commented that § 192.633(b)(2) should be clarified since Rule 36 requires a plat detailing the area around a production well which again is a point source of possible escape of natural gas carrying high concentrations of H_2S. LSG argues that a pipeline subject to § 192.633(b)(2) is not a point source.

Both LSG and Enron suggested that contingency plans proposed in § 192.633 be incorporated into § 192.615 since such plans for hydrogen sulfide emergencies would probably be incorporated into emergency plans currently existing under § 192.615. Both commenters observed that many of the requirements in the proposed § 192.633 were taken from § 192.615 and no purpose is served by requiring that the information be repeated. Enron commented that there is no reason to differentiate between contingency plans for onshore as opposed to offshore pipelines. According to Enron, current emergency plans exist for onshore and

offshore pipelines and Part 192 does not outline differences that are to exist between them.

Technical Pipeline Safety Standards Committee

RSPA presented the NPRM to the TPSSC for its consideration at a meeting in Washington, DC on March 11, 1992. The TPSSC is RSPA's statutory advisory committee for gas pipeline safety. It is composed of 15 members, representing industry, government, and the public, who are technically qualified to evaluate gas pipeline safety. The TPSSC expressed concerns about adopting the proposed changes in 49 CFR Part 192 to address H_2S in natural gas transmission pipelines. The TPSSC 's concerns centered around the need for such a regulation considering the limited number of incidents involving the release of H_2S natural gas into transmission pipelines, and whether it would increase safety, be cost effective and redundant to already existing state regulations. Therefore, the TPSSC recommended that the incidence of H_2S in transmission lines did not warrant a rulemaking.

On the basis of that finding, an analysis and review of the comments to the NPRM, and further analysis of the comments to the ANPRM, RSPA decided to re-consider the need for the proposed regulation and concluded that the proposed H_2S regulations are not warranted because they are oriented/directed toward transmission lines. No injuries or deaths have been attributed to H_2S in natural gas transmission lines. H_2S releases into transmission lines to date have been infrequent, have been of extremely brief duration, and have involved only very minute amounts of H_2S. H_2S that is released into a transmission line remains confined with very little likelihood that there would happen to be a leak in the transmission line at the same time and in the same general vicinity as the release. And lastly, H_2S released into a transmission line from a processing plant would most likely be diluted by natural gas from other sources.

Rather than applying rule changes affecting transmission pipelines, RSPA's regulatory efforts on H_2S should be redirected to gathering lines. The source of H_2S is the gas well, and the gathering line is the first pipeline facility downstream of the well. It is on gathering lines transporting H_2S laden natural gas from wells to processing plants that regulations may be needed. Future development with respect to H_2S in gathering lines may be addressed in a later rulemaking.

On the basis of the foregoing, RSPA hereby withdraws the NPRM proposing to limit H_2S levels in natural gas in gas transmission pipelines.

Authority: 49 U.S.C. 60102 et seq.; 49 CFR 1.53.

Issued in Washington, D.C. on March 4, 1996.

Richard B Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 96–5374 Filed 3–6–96; 8:45 am]

BILLING CODE 4910–60–P

National Highway Traffic Safety Administration

49 CFR Part 571 and 572

[Docket No. 92–28; Notice 6]

RIN 2127–AG07

Federal Motor Vehicle Safety Standards; Head Impact Protection

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

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: This document grants four petitions to commence rulemaking to amend upper interior head protection requirements to accommodate vehicles equipped with a dynamic head protection device which is activated in a side impact (e.g., a side air bag). This document requests information on various issues NHTSA must evaluate before issuing a notice of proposed rulemaking for these petitions.

DATES: Comments must be received by April 22, 1996.

ADDRESSES: All comments must refer to the docket and notice number set forth above and be submitted (preferably in 10 copies) to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street S.W., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590:

For non-legal issues:

Dr. William Fan, Office of Vehicle Safety Standards, NPS–14, telephone (202) 366–4922, facsimile (202) 366–4329, electronic mail ''bfan@nhtsa.dot.gov''.

For legal issues:

Mary Versailles, Office of the Chief Counsel, NCC–20, telephone (202) 366–2992, facsimile (202) 366–3820, electronic mail ''mversailles@nhtsa.dot.gov''.

SUPPLEMENTARY INFORMATION: On August 18, 1995, NHTSA published a final rule amending Standard No. 201, Occupant Protection in Interior Impact, to require passenger cars, trucks, buses and multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of less than 10,000 pounds to incorporate measures to prevent or reduce injury when a vehicle occupant's head strikes upper interior components during a crash. The covered components include pillars, side rails, headers, and the roof. The amendments add procedures and performance requirements for a new in-vehicle component test (60 FR 43031). The period for submittal of petitions for reconsideration closed September 19, 1995.

NHTSA received nine petitions for reconsideration of the final rule. Four of those petitions (BMW, Mercedes-Benz, Volkswagen, and Volvo) asked for a variety of changes to the final rule if a vehicle is equipped with a dynamic head protection countermeasure which is activated in a crash (i.e., a side air bag, hereafter referred to as dynamic systems). In addition, four manufacturers (BMW, Ford, Mercedes-Benz, and Volvo) requested meetings with the agency to discuss the impact of the final rule on dynamic systems. The petitions requested a variety of changes to the rule, including:

- A complete exclusion of any vehicle equipped with a dynamic system,
- An exclusion of targets protected by a dynamic system,
- For targets protected by a dynamic system, a reduction of the free motion headform (FMH) impact speed from 15 miles per hour (mph) to 12 mph when tested without the dynamic system activated,
- The inclusion of a dynamic test in the standard, and
- Testing with the dynamic system activated.

Because these issues are outside the scope of the rulemaking that led to the August 18 final rule, it is not a proper subject for a petition for reconsideration. Therefore, the agency is treating the Mercedes-Benz petition, and the related portions of the BMW, Volkswagen and Volvo petitions as petitions for rulemaking, and is granting those petitions. Before publishing a notice of proposed rulemaking, the agency wishes to conduct some evaluations. To assist the agency in conducting these evaluations, this notice requests comments on the issues identified above.

Performance Evaluation

Currently, Standard No. 201 requires that a vehicle's instrument panel meet the Standard when impacted at a relative velocity of 15 miles per hour, with one exception. The exception is for vehicles that meet the occupant protection requirements of S5.1 of Standard No. 208, ''Occupant Crash Protection,'' by means of an inflatable restraint. Those vehicles need only meet the performance requirement when impacted at a relative velocity of 12 miles per hour.

The agency notes that while this exception appears to be similar to one of the changes requested by the petitions, there is an important distinction. The existing exception is premised upon the existence of a dynamic performance test that provides an objective evaluation of the protection provided by the inflatable restraint. That test provides assurance that the inflatable restraint provides protection that is a suitable substitute for the protection otherwise afforded by the Standard. However, the exception sought by the petitioners is not necessarily premised on the existence of such a test for evaluating the performance of dynamic systems. NHTSA believes that before it considers any changes in the requirements of the August 18 final rule, it should have a method of testing dynamic systems for a minimum level of performance. Since such a method does not now exist, one must be developed. Either there must be a single testing method appropriate for evaluating the performance of the wide range of dynamic systems under development, or there must be a variety of test methods that, together, are sufficient for testing all systems and ensuring that they provide equivalent protection.

NHTSA is aware of two categories of dynamic systems that are under consideration by the manufacturers. The first category is dynamically deployed padding. The dynamically deployed padding would provide improved protection for head impacts with the upper interior components already covered by the final rule. However, the dynamically deployed padding is anticipated to provide protection in higher severity impacts than that provided by the static padding which would otherwise be utilized to meet the requirements of the final rule. The second category includes dynamically deployed air bags or other inflatable devices such as BMW's Inflatable Tubular Structure. This technology provides head protection for impacts with various vehicle upper interior components. It also potentially affords protection for side impacts with external objects such as trees and poles or the front high hooded areas of a colliding vehicle.

Since the dynamic systems may have the potential to provide improved head protection beyond that provided by the final rule, the agency is considering rulemaking to allow them. However, as noted above, the agency believes that test procedures must be developed to evaluate the dynamic systems in order to assure that the protection afforded by the dynamic systems is a suitable substitute for that provided by the final rule.

A number of test procedures have been suggested. These include:

Procedures for Dynamically Deployed Padding

For targets protected by dynamically deployed padding, impact the targets with the FMH at 12 mph, prior to the deployment of the padding. The targets would be located using the existing procedures. Impact these same target locations again, this time at 20 mph, after deployment of the padding. The higher speed for testing the deployed padding is intended to assure that increased head protection is provided by the advanced technology. (For an explanation of the 20 mph test speed, see the questions below regarding benefits.) Conduct crash tests at 15–20 mph to ensure that sensors activate the deployment of the advanced padding under those conditions.

Procedures for Dynamically Deployed Air Bags and Other Inflatable Devices

(1) For targets protected by an air bag or other inflatable device, conduct FMH impacts at 12 mph. The advanced systems are not deployed for these tests. All other targets are tested at 15 mph.

(2) Conduct a side impact crash test of the vehicle into a 250 mm diameter rigid pole at 30 kph. The vertical centerline of the pole is aligned with the center of gravity of the dummy's head. The dummy's seat is positioned forward of the mid-seating location such that the dummy's head is sufficiently within the front window opening that the striking pole will not contact the B-pillar.

(3) Conduct a side impact crash test at 50 kph using the ISO 10997 moving deformable barrier (MDB) fitted with a rigid face whose top edge is not less than 1250 mm above the ground. The dummy's seat is positioned forward of the mid-seating location such that the dummy's head is sufficiently within the front window opening that the striking MDB can make direct head contact. The second and third test procedures for the ''dynamically deployed air bags and other inflatable devices'' were presented by the U.S. delegation to the ISO/TC 22/SC 10/WG 3 in its draft technical report, Document N100, ''Road Vehicles—Test Procedures of Evaluating Various Occupant Interactions with Deploying Side Impact Air Bags.''

To assist the agency in developing possible ways of evaluating performance, the agency requests answers to the following questions:

1. What test procedures could be used to measure the performance of a dynamic system?

2. What performance criteria would assure that advanced systems, when deployed, provide protection equivalent to that provided by countermeasures that meet the requirements of the final rule?

3. Are there other test methods appropriate for dynamic systems using full scale crash tests and an anthropomorphic test device?

4. If the agency were to propose a lower impact speed for targets protected by a dynamic system, are there components of the dynamic system which are not protected by the system but which could not meet the upper interior requirements at the current impact speed (15 mph)?

Benefits

The majority of dynamic systems known to NHTSA would offer occupant protection only in side impacts. The final rule was intended to provide head impact protection in frontal, side, and rollover crashes. Before deciding whether to propose amendments to accommodate vehicles with dynamic systems, NHTSA wishes to explore the nature and extent of any tradeoffs. To do this, it must compare the benefits provided by these dynamic systems with the benefits afforded by the final rule. Excluding targets or reducing the impact speed for targets would reduce the benefits for those targets in crashes which do not cause the dynamic system to deploy. Conversely, the dynamic systems may offer increased benefits when they do deploy. To assist the agency in evaluating the relative benefits of possible proposals, the agency requests answers to the following questions:

5. What effect would reducing test speeds have on injuries in non-deployment crashes?

6. What is the effectiveness of each dynamic system in reducing fatalities and injuries? What percent reduction in the various injury criteria (e.g., HIC) would result if these technologies were installed? Would this reduction vary by delta-V? If so, specify the relationship

between delta-V and injury criteria reduction for the specific system.

7. Could the dynamic systems cause increases in neck injuries? If so, what data are available to quantify this impact? What criteria can be used to determine whether lateral neck motion is increasing or causing injury?

8. Some advanced technologies appear to offer potential reductions in the likelihood of ejection. What would the effectiveness of dynamic systems be in reducing ejection in side or other impact modes or in a subsequent collision?

9. The dynamic systems known to NHTSA will deploy and protect the near-side occupant in a side impact. Will the dynamic system for the far-side occupant deploy in a side impact or in rollovers to protect against possible rebound effects or subsequent collision?

10. Do MY 1996 vehicles meet 12 mph test requirements? Do any MY 1996 vehicles meet 15 mph test requirements?

11. Should an impact speed higher than 15 mph be used in FMH testing of the system in order to compensate for the loss in benefits because the system does not deploy in rollover and frontal crashes? If so, is 20 mph an appropriate impact speed?

12. Are there existing accident data analyses concerning head injuries as a function of crash modes and target components?

Miscellaneous Questions

To allow NHTSA to become better acquainted with the dynamic systems under development, the agency requests answers to the following questions:

13. Are dynamic systems compatible with the B-pillar mounted shoulder anchorage point? Are integrated restraint seats (IRS), which have shoulder belt anchorages attached to the upper backseat, more compatible with the dynamic systems?

14. How much would the dynamic systems add to the price and weight of the vehicle?

15. What are the performance criteria for the sensor system designs? What is the time interval necessary for full deployment of the dynamic system?

16. If changes were made to the August 18 final rule, what is the anticipated time frame for introduction of dynamic systems? Are any dynamic systems being introduced prior to the requirements of the August 18 final rule?

17. Will the systems be introduced as optional or standard equipment?

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was reviewed under E.O. 12866, ''Regulatory Planning and Review.'' Further, this action has been determined to be ''significant'' under the Department of Transportation's regulatory policies and procedures because of anticipated public interest. Any anticipated rulemaking resulting from this notice would provide manufacturers with an alternative to the requirements in the August 18 final rule. A decision by a manufacturer to avail itself of the alternative would entail use of technology (i.e., dynamic systems) that may well be more costly than the padding which could be used to comply with the final rule. The agency solicits information from the manufacturers concerning those cost of those dynamic systems.

Executive Order 12612 (Federalism)

NHTSA has analyzed this notice in accordance with the principles and criteria contained in E.O. 12612, and has determined that it does not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Submission of Comments

Interested persons are invited to submit comments. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CAR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

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

Issued on March 1, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–5292 Filed 3–6–96; 8:45 am]

BILLING CODE 4910–59–P

Surface Transportation Board

49 CFR Parts 1201 and 1262

[Ex Parte No. 512]

Uniform System of Records of Property Changes for Railroad Companies

AGENCY: Surface Transportation Board, DOT.

ACTION: Proposed rule, withdrawal.

SUMMARY: The Surface Transportation Board (the Board) is withdrawing the proposed rule and discontinuing the Ex Parte No. 512 proceeding.

DATES: This withdrawal is made on March 7, 1996.

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

SUPPLEMENTARY INFORMATION: Effective January 1, 1996, the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803 (ICCTA) abolished the Interstate Commerce Commission (the Commission) and established within the Department of Transportation. Section 204 of the ICCTA provides that ''[t]he Board shall promptly rescind all regulations established by the [Commission] that are based on provisions of law repealed and not substantively reenacted by this Act.'' Former 49 U.S.C. 10784, the statutory basis for the Part 1262 rail valuation regulations, has been repealed.

Accordingly, in a separate proceeding, *Removal of Obsolete Valuation Regulations,* STB Ex Parte No. 539, the Board is removing the now obsolete part 1262 regulations as well as Instruction 1–3 (g) in part 1201, which refers to Part 1262.

Prior to the elimination of § 10784, in *Uniform System of Records of Property Changes for Railroad Companies,* Ex Parte No. 512 (ICC served Aug. 26, 1992) and published at 57 FR 38810 (1992), the Commission had proposed to eliminate these same regulations. The Commission stated that the more general instructions in 49 CFR 1201, Uniform System of Accounts for Railroad Companies, provided sufficient guidelines to support adequate accounting for rail property. Moreover, to conform to generally accepted accounting principles (GAAP), railroads had developed internal accounting systems that appropriately record and document property changes. Also, railroads provide property information in Annual Report Form R–1 (R–1).

In light of our action in STB Ex Parte No. 539, it is unnecessary to continue this proceeding. We have considered the comments that were submitted in response to the Commission's proposal and are satisfied that no further action need be taken.

Of the three comments received in response to the Commission's proposal, only one (jointly filed by the Western Coal Traffic League and Edison Electric Institute (WCTL/EEI)) opposed the elimination of the rules. WCTL/EEI suggested that the Part 1262 regulations continued to serve a useful purpose in computing variable costs. The problem with reliance on Part 1201 and GAAP, in WCTL/EEI's view, was that Part 1201 lacks sufficient detail to ensure recordkeeping uniformity among all Class I railroads, and GAAP is variously interpreted and applied among its users. For this reason, WCTL/EEI argued that Part 1201 and GAAP would not be an effective vehicle for ensuring uniformity. They expressed concern that, if Part 1262 were eliminated, there would be an increase in the incidence of disparities in the form and content of property records, which could make it more difficult to develop accurate and reliable variable cost estimates. WCTL/EEI also hypothesized that, without Part 1262 to ensure uniformity, the cost of developing property costs using the Uniform Railroad Costing System (URCS) would increase. Finally, they argued that the cost of maintaining the Part 1262 requirements vis-a-vis different systems should be small.

WCTL/EEI's concern that elimination of Part 1262 would lessen the accuracy of property accounting and, in turn, adversely affect the URCS variable cost computation is misplaced. Part 1262 sets forth detailed recordkeeping requirements to update the basic railroad property valuation essentially completed in 1920. By the early 1960's, the basic property valuations were reconciled with the accounting records as prescribed in Part 1201. Thus, the recorded value of property reported under Parts 1201 and 1262 regulations are comparable. The data requirements for URCS are not dependent upon the form of records required by Part 1262. We believe that Part 1201 provides adequate provision to obtain the data and information necessary for URCS.

We also find no need for the specific Part 1262 forms for other Board purposes. Part 1262 forms are not used in the review and approval of railroad depreciation rates, which use data supported by Part 1201. Data contained elsewhere, especially in the R–1, comprise the basic source of financial and cost information used by the Board. In short, elimination of Part 1262 will not compromise the integrity of the railroads' property accounts. For that reason, and in light of the Congressional action repealing 49 U.S.C. 10784, we are discontinuing the Ex Parte No. 512 proceeding.

Environmental and Energy Considerations

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

Regulatory Flexibility Analysis

We conclude that this action will not have a significant economic impact on a substantial number of small entities. No new regulatory requirements are being imposed on such entities. As required by the ICCTA, the Board removed the Part 1262 regulations in STB Ex Parte No. 539 because former 49 U.S.C. 10784 was eliminated. Moreover, we have here determined that those regulations are not needed for any other Board purpose. Accordingly, the economic impact, if any, of our withdrawing the proposed rules and discontinuing this proceeding, will not likely affect a significant number of small entities.

Decided: February 28, 1996.

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

Vernon A. Williams,

Secretary.

[FR Doc. 96–5411 Filed 3–6–96; 8:45 am]

BILLING CODE 4915–00–P

Notices

Federal Register
Vol. 61, No. 46
Thursday, March 7, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 1, 1996.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 *and* to Department Clearance Officer, USDA, OIRM, Ag Box 7630, Washington, D.C. 20250–7630. Copies of the submission(s) may be obtained by calling (202) 720–6204 or (202) 720–6746.

Agricultural Marketing Service

- *Title:* Plan for Estimating Daily Livestock Slaughter Under Federal Inspection.

Summary; Market news reports are intended to provide both buyers and sellers with information necessary for making informative marketing decisions. the Agricultural Marketing Act of 1946 directs and authorizes the collection and dissemination of marketing information for the purpose of anticipation and meeting consumer requirements aiding in the maintenance of farm income to bring about a balance between production and utilization.

Need and Use of the Information: The livestock and meat industry requested that USDA issue slaughter estimates by species in order to assist them in making immediate production and marketing decisions and as a guide to the volume of meat in the market channel.

Description of Respondents: Individual or households; Business or other for-profit; Farms; Federal Government; State, Local or Tribal Government.

Number of Respondent: 77.

Frequency of Responses: Reporting: Daily.

Total Burden Hours: 334.

Agricultural Marketing Service

- *Title:* Grain Market News Reports and Molasses Market News.

Summary; Grain and molasses information collections are published in market news reports, which are compiled in cooperation with the grain and feed industry and the Agricultural Marketing Service. Market news reports provide a timely exchange of accurate and unbiased information on current marketing conditions affecting trade in livestock, meats, grain, and wool.

Need and Use of the Information: The information collected is used to prepare market news reports. Market news reports provide buyers and sellers with the information necessary for making marketing decisions on buying and selling. Comparing prices to determine best locations for product sales; and to evaluate market conditions and calculate pricing levels.

Description of Respondents: Individuals or households; Business or other for-profit; Farms; Federal Government.

Number of Respondents: 160.

Frequency of Responses: Reporting: On occasion, Weekly, Monthly.

Total Burden Hours: 286.

Agricultural Marketing Service

- *Title:* Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, Marketing Order No. 930.

Summary; The Administrator of the Agricultural Marketing Service has issued a recommended decision proposing Marketing Order No. 930. The Act authorizes tart cherry producers and processors of canned and frozen tart cherries to vote in a referendum to indicate whether they approve or disapprove the proposal.

Need and Use of the Information: The information is needed to establish a marketing order for tart cherries. The information will be used to determine voter eligibility, ascertain support for the proposed marketing order, determine eligibility for nomination to serve as producer and handler members on the Board.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 1,678.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 373.

Emergency processing of this submission has been requested by March 15, 1996.

National Agricultural Statistics Service

- *Title:* Milk and Milk Products.

Summary: This information collection provides data to estimate total milk production, number of cows, amounts and value of feed fed to milk cows, and production of manufactured dairy products.

Need and Use of the Information: This information collection produces statistics that are used to establish monthly estimates of stock, shipments, and selling prices. The information is used in price support programs for milk and to appraise supplies, prices, and trends in the dairy industry.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 44,448

Frequency of Responses: Reporting: Quarterly, Monthly, Annually.

Total Burden Hours: 19,066

National Agricultural Statistics Service

- *Title:* Egg, Chicken, and Turkey Surveys.

Summary: This information collection provides data to prepare estimates of production disposition, and income derived from eggs, chicken, and turkeys.

Need and Use of the Information: The information is used by the USDA economists and government policy makers to ensure the orderly marketing of broilers, making decisions in government purchases for school lunch program, and formulating export-import policy.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 7,097.

Frequency of Responses: Reporting: Quarterly, Weekly, Monthly, Annually.

Total Burden Hours: 4,032.

Farm Service Agency

- *Title:* Conservation Reserve Program Regulations, 7 CFR 704–Addendum 2.

Summary: This information collection implements the early release provisions

where conservation reserve program participants are provided an opportunity to request and receive early release from contracts or to reduce the amount of acreage subject to the contracts without penalty.

Need and Use of the Information: This information collection reflects program policy changes made to improve administration of the early release provision in the conservation reserve program.

Description of Respondents: Individuals or households; Farms.

Number of Respondents: 10,000.

Frequency of Responses: One-time.

Total Burden Hours: 5,000

Emergency processing of this submission has been requested by March 15, 1996.

Donald E. Hulcher,

Deputy Departmental Clearance Officer.

[FR Doc. 96–5379 Filed 3–6–96; 8:45 am]

BILLING CODE 3410–01–M

Animal and Plant Health Inspection Service

[Docket No. 96–003–1]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of a currently approved information collection in support of regulations and standards issued under the Animal Welfare Act for guinea pigs, hamsters, and rabbits.

DATES: Comments on this notice must be received by May 6, 1996 to be assured of consideration.

ADDRESSES: Send comments regarding the accuracy of burden estimate, ways to minimize the burden (such as the use of automated collection techniques or other forms of information technology), or any other aspect of this collection of information to: Docket No. 96–003–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please send an original and three copies, and state that your comments refer to Docket 96–003–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Persons wishing to inspect comments and notices are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: For information on the regulations and standards for guinea pigs, hamsters, and rabbits, 9 CFR, part 3, subparts B and C, contact Mr. Stephen Smith, Animal Care Staff Officer, Regulatory Enforcement and Animal Care, APHIS, 4700 River Road, Unit 84, Riverdale, MD 20737–1234, (301) 734–7833, or e-mail: SNSmith@aphis.usda.gov. For copies of the proposed collection of information, contact Ms. Cheryl Jenkins, APHIS—Information Collection Coordinator, at (301) 734–5360.

SUPPLEMENTARY INFORMATION:

Title: Animal Welfare.

OMB Number: 0579–0092.

Expiration Date of Approval: April 30, 1996.

Type of Request: Extension of a currently approved information collection.

Abstract: Regulations and standards have been promulgated under the Animal Welfare Act (the Act) to promote and ensure the humane care and treatment of regulated animals under the Act. Title 9, part 3, subparts B and C, of the Code of Federal Regulations (CFR) address specific care and handling regulations for guinea pigs, hamsters, and rabbits. Enforcement of the Act and regulations require documentation of specified information concerning the transportation of these animals.

The regulations for transporting guinea pigs, hamsters, and rabbits require intermediate handlers and carriers to only accept shipping enclosures that meet the minimum requirements set forth in the regulations (§ 3.36) or are accompanied by documentation signed by the consignor verifying that the shipping enclosures comply with the regulations. If guinea pigs, hamsters, and rabbits are transported in cargo space that falls below 45 °F (7.2 °C), the regulations specify that the animals must be accompanied by a certificate of acclimation signed by a U.S. Department of Agriculture accredited veterinarian.

In addition, all shipping enclosures must be marked ''Live Animals'' and have arrows indicating the correct upright position of the container. Intermediate handlers and carriers are required to attempt to contact the consignee at least once every 6 hours upon the arrival of any live animals. Documentation of these attempts must be recorded by the intermediate handlers and carriers and maintained for inspection by Animal and Plant Health Inspection Service (APHIS) personnel.

The above reporting and recordkeeping requirements do not mandate the use of any official government form.

The burden generated by APHIS requirements that all shipping documents be attached to the container has been cleared by the Office of Management and Budget (OMB) under OMB No. 0579–0036.

The reporting and recording requirements of 9 CFR, part 3, subparts B & C, are necessary to enforce regulations intended to ensure the humane treatment of guinea pigs, hamsters, and rabbits during transportation in commerce.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. We need this outside input to help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, or other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: Public reporting burden for this collection of information is estimated to average .125 hours per response.

Respondents: Intermediate handlers, carriers, ''A'' and ''B'' dealers (as consignors), USDA accredited veterinarians.

Estimated Number of Respondents: 1470.

Estimated Numbers of Responses per Respondent: 1.408.

Estimated Total Annual Burden on Respondents: 260 hours.

All responses to this notice will be summarized and included in the request for OMB approval of the information collection.

Done in Washington, DC, this 1st day of March 1996.

Lonnie J. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–5378 Filed 3–6–96; 8:45 am]

BILLING CODE 3410–34–P

[Docket No. 96–008–1]

Secretary's Advisory Committee on Foreign Animal and Poultry Diseases; Notice of Solicitation for Membership

ACTION: Notice of solicitation for membership.

SUMMARY: We are giving notice that we anticipate renewing the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases for a 2-year period. The Secretary is soliciting nominations for membership for this Committee.

DATES: Consideration will be given to nominations received on or before April 22, 1996.

ADDRESSES: Nominations received should be addressed to the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Dr. John Williams, Chief Staff Veterinarian, Emergency Programs, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737–1231, (301) 734–8073.

SUPPLEMENTARY INFORMATION: The Secretary's Advisory Committee on Foreign Animal and Poultry Diseases (Committee) advises the Secretary of Agriculture on actions necessary to keep foreign diseases of livestock and poultry from being introduced into the United States. In addition, the Committee advises on contingency planning and on maintaining a state of preparedness to deal with these diseases, if introduced.

The Committee Chairperson and Vice Chairperson shall be elected by the Committee from among its members.

Terms will expire for the current members of the Committee in June 1996. We are soliciting nominations from interested organizations and individuals to replace members on the Committee. An organization may nominate individuals from within or outside its membership. The Secretary will select members to obtain the broadest possible representation on the Committee, in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) and U.S. Department of Agriculture (USDA) Regulation 1041–1. Equal opportunity practices, in line with the USDA policies, will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership should include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Done in Washington, DC, this 1st day of March 1996.

Lonnie J. King ,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–5377 Filed 3–6–96; 8:45 am]

BILLING CODE 3410–34–P

[Docket No. 95–076–2]

Plant Genetic Systems (America), Inc.; Availability of Determination of Nonregulated Status for Corn Line Genetically Engineered for Male Sterility and Glufosinate Herbicide Tolerance as a Marker

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that a corn line developed by Plant Genetic Systems (America), Inc., designated as event MS3 that has been genetically engineered for male sterility and tolerance to the herbicide glufosinate as a marker is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by Plant Genetic Systems (America), Inc., in its petition for a determination of nonregulated status, an analysis of other scientific data, and our review of comments received from the public in response to a previous notice announcing our receipt of the Plant Genetic Systems (America), Inc., petition. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

EFFECTIVE DATE: February 22, 1996.

ADDRESSES: The determination, an environmental assessment and finding of no significant impact, the petition, and all written comments received regarding the petition may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are asked to call in advance of visiting at (202) 690–2817.

FOR FURTHER INFORMATION CONTACT: Dr. James White, Biotechnology Permits, BBEP, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1237; (301) 734–7612. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734–7612; E-mail: mkpeterson@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On August 16, 1995, the Animal and Plant Health Inspection Service (APHIS) received a petition (APHIS Petition No. 95–228–01p) from Plant Genetics Systems (America), Inc., (PGS) of Des Moines, IA, seeking a determination that a corn line designated as transformation MS3 (event MS3) that has been genetically engineered for male sterility and tolerance to the herbicide glufosinate as a marker does not present a plant pest risk and, therefore, is not a regulated article under APHIS' regulations in 7 CFR part 340.

On November 16, 1995, APHIS published a notice in the Federal Register (60 FR 57570–57571, Docket No. 95–076–1) announcing that the PGS petition had been received and was available for public review. The notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating the subject corn line and food products derived from it. In the notice, APHIS solicited written comments from the public as to whether the subject corn line posed a plant pest risk. The comments were to have been received by APHIS on or before January 16, 1996.

APHIS received a total of six comments on the subject petition from seed companies, State departments of agriculture, and a seed farm. All of the comments were in support of the subject petition.

Analysis

Event MS3 has been genetically engineered with a gene from *Bacillus amyloliquefaciens* encoding a ribonuclease called barnase, which inhibits pollen formation and results in male sterility of the transformed plants. The subject corn line also contains the *bar* gene isolated from the bacterium *Streptomyces hygroscopicus* that encodes a phosphinothricin acetyltransferase (PAT) enzyme, which, when introduced into a plant cell, inactivates glufosinate. Linkage of the *barnase* gene, which induces male sterility, with the bar gene, a glufosinate tolerance gene used as a marker, enables identification of the male sterile line

before the plant begins to flower. Event MS3 was transformed via immature embryo electroporation in yellow dent corn material. Expression of the introduced genes is controlled in part by the P35S promoter derived from the plant pathogen cauliflower mosaic virus and the 3'nos sequence from the plant pathogen *Agrobacterium tumefaciens*.

Event MS3 has been considered a regulated article under APHIS' regulations in 7 CFR part 340 because it contains regulatory gene sequences derived from the plant pathogens mentioned above. However, evaluation of field data reports from field tests of the subject corn line conducted under APHIS permits or notifications since 1992 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the subject corn plants' release into the environment.

Determination

Based on its analysis of the data submitted by PGS and a review of other scientific data, comments received, and field tests of the subject corn line, APHIS has determined that corn line event MS3: (1) Exhibits no plant pathogenic properties; (2) is no more likely to become a weed than corn developed by traditional breeding techniques; (3) is unlikely to increase the weediness potential for any other cultivated or wild species with which it can interbreed; (4) will not harm threatened or endangered species or other organisms, such as bees, which are beneficial to agriculture; and (5) will not cause damage to raw or processed agricultural commodities. Therefore, APHIS has concluded that corn line event MS3 and any progeny derived from hybrid crosses with other nontransformed corn varieties will not exhibit new plant pest properties, i.e., properties substantially different from any observed for event MS3 corn plants already field tested, or those observed for corn in traditional breeding programs.

The effect of this determination is that PGS' corn line designated as event MS3 is no longer considered a regulated article under APHIS' regulations in 7 CFR part 340. Therefore, the notification requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of PGS' corn line event MS3 or its progeny. However, the importation of the subject corn line or seeds capable of propagation is still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372; 60 FR 6000–6005, February 1, 1995). Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that corn event MS3 and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 29th day of February, 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–5376 Filed 3–6–96; 8:45 am]

BILLING CODE 3410–34–P

Forest Service

Cavanah Analysis Area Multi-Resource Management Projects, Placer County, CA

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: The U.S. Department of Agriculture, Forest Service will prepare an environmental impact statement (EIS) for proposed timber harvest, plantation thinning, fuelbreak construction, wildlife habitat improvement projects, and upgrading of the Robinson Flat (#43) road within the North Fork Middle Fork American River watershed in accordance with the requirements of 36 CFR 219.19. The project area is located within portions of T.14N., R.12E., Section 1; T 14N., R.13E. Sections 5, 6, 7, 8; T.15N., R.12E., Sections 24, 25, 36; and T.15N., R.13E., Sections 15–22 and 27–33, MDB&M.

If upgrading of the #43 road is part of the selected alternative in the EIS project, a site specific Forest Plan amendment will be part of the Record of Decision.

The agency invites comments and suggestions on the scope of the analysis. In addition, the agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments should be made in writing and received by April 8, 1996.

ADDRESSES: Written comments concerning the project should be directed to Rich Johnson, District Ranger, Foresthill Ranger District, 22830 Foresthill Road, Foresthill CA 95631.

FOR FURTHER INFORMATION CONTACT: John Bradford, Environmental Coordinator, Foresthill Ranger District, Foresthill, CA 95631, telephone (916) 478–6254.

SUPPLEMENTARY INFORMATION: The Cavanah Analysis Area is located in the North Fork Middle Fork American River watershed. It lies south of Screwauger Canyon, west of the top of Mosquito Ridge, east of the #44 road and Little Grisley Creek and north of the Greek Store site. This area is part of the larger Cavanah Ecosystem Management Area.

The proposed fuelbreak (Defensible Fuel Profile Zone or DFPZ) would be parallel to the Mosquito Ridge (#96) road from the Greek Store area north to Little Bald Mountain. This proposal would create a fuelbreak with widely spaced trees and a low shrub understory. The creation of the DFPZ will change the appearance of the existing vegetation. Current visual quality objective for the foreground viewing area on the Mosquito Ridge (#96) road is Retention. This means that management activities are not evident to the casual forest user. A visual management zone in the immediate foreground of the Mosquito Ridge road (within the DFPZ) would be established to meet this objective. By establishing this zone this proposal meets current standards and guidelines for visual quality objectives for Management Area #99 (Mosquito) in the Tahoe National Forest Land and Resource Management Plan (LRMP).

The proposed improvement of the Robinson Flat (#43) road is designed to make the section of the road west of Little Bald Mountain drivable by passenger cars, which would improve the motorized recreational experience in the Robinson Flat and Mosquito Ridge areas. The proposal will need Management Practice L2 (Multi-Resource Road Access Development) available in the Management Area (#91—Sunflower) in order to accomplish this project. In the current Tahoe LRMP, this management practice is not available in this Management Area. If this proposal is part of the

selected alternative, the Forest LRMP will be amended to include L2 as a management practice available in Management Area #91.

In preparing the environmental impact statement, the Forest Service will identify and analyze a range of alternatives that address the issues developed for this area. One of the alternatives will be no treatment. Other alternatives will consider differing levels of timber harvest; different techniques for fuels reduction; differing amounts of plantation thinning; different types of wildlife habitat improvement; and whether to upgrade the #43 road. It also means that the needs of people and environmental values will be considered in such a way that this area will represent a diverse, healthy, productive, and sustainable ecosystem.

Public participation will be important during the analysis, especially during the review of the Draft Environmental Impact Statement. The Forest Service is seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement (DEIS). The scoping process includes:

1. Identifying potential issues.
2. Identifying issues to be analyzed in depth.
3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives.
5. Identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).

The following list of issues has been identified through initial scoping:

(1) To what extent will harvesting and creation of the DFPZ affect water quality?

(2) What affect will the creation of the DFPZ have on the potential for large catastrophic wildfires within the project area?

(3) To what extent can forest health be improved within the project area? In addition, what level of timber commodities could result from forest health improvement projects?

(4) To what extent will the view form the Mosquito Ridge (#96) road be affected? What will the visual character be resulting from the proposed activities?

(5) What affect will the proposed activities have on long-term soil productivity?

(6) To what extent will air quality in the Sacramento Valley be affected by proposed activities?

(7) What affect will including harvest of < 10″ diameter trees have on the potential to sell harvested trees in a commercial timber sale?

Comments from other Federal, State, and local agencies, organizations, and individuals who may be interested in, or affected by the decision, are encouraged to identify other significant issues. Public participation will be solicited through mailing letters to potentially interested or affected mining claim owners, private land owners, and special use permittees on the Foresthill Ranger District; posting information in local towns; and mailing letters to local timber industries, politicians, school boards, county supervisors, and environmental groups. Continued participation will be emphasized through individual contacts. Public meetings used as a method of public involvement during preparation and review of the draft environmental impact statement will be announced in newspapers of general circulation in the geographic area of such meetings well in advance of scheduled dates.

The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435, U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of the court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningful consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The draft EIS is expected to be available for public review by the end of April, 1996. The final EIS is expected to be available by the end of June, 1996.

The responsible official is John H. Skinner, Forest Supervisor, Tahoe National Forest, PO Box 6003, Nevada City, CA 95959.

Dated: February 28, 1996.

John H. Skinner,

Forest Supervisor.

[FR Doc. 96–5354 Filed 3–6–96; 8:45 am]

BILLING CODE 3410–11–M

Blue Mountains Natural Resources Institute (BMNRI), Board of Directors

AGENCY: Pacific Northwest Research Station, USDA.

ACTION: Notice of meeting.

SUMMARY: The Blue Mountains Natural Resources Institute Board of Directors will meet on March 13, 1996 at Eastern Oregon State College, Hoke Hall, Room 309, 1410 L Avenue in La Grande, Oregon. The meeting will begin at 9:00 a.m. and continue until 2:00 p.m. Agenda items to be covered include: (1) revision of BMNRI documents to comply with Federal Advisory Committee Act; (2) appoint Board members to serve on research and outreach subcommittees; (3) program status; (4) report on Seventh American Forest Congress; (5) status of requested charter changes; and (6) public comments. All Blue Mountains Natural Resources Institute Board Meetings are open to the public. Interested citizens are encouraged to attend. Members of the public who wish to make a brief oral presentation at the meeting should contact John Henshaw, BMNRI, 1401 Gekeler Lane, La Grande, OR 97850, 503–963–7122, no later than 5:00 p.m. March 12, 1996 to have time reserved on the agenda.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to John Henshaw, Acting Manager, Blue Mountains Natural Resources Institute, 1401 Gekeler Lane, La Grande, Oregon 97850, 503–963–7122.

Dated: February 9, 1996.

John Henshaw,

Acting Manager.

[FR Doc. 96–5326 Filed 3–6–96; 8:45 am]

BILLING CODE 3410–11–M

Western Washington Cascades Province Interagency Executive Committee (PIEC) Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Western Washington Cascades PIEC Advisory Committee will meet on March 26, 1996 at the Mount Baker-Snoqualmie National Forest Headquarters, 21905 64th Avenue West, in Mountlake Terrace, Washington. The meeting will begin at 9:00 a.m. and continue until about 3:30 p.m. Agenda items to be covered include: (1) continuation of discussion of the possibilities, pros, cons, and probable ramifications (including legal and administrative requirements) of changing the original designations, under the Northwest Forest Plan, of the Skagit and Green River basins from ''non-key'' to ''key'' watersheds; (2) determination of priority topics for discussion and recommendation by the Committee for the next 6 months; (3) report by the River Basin Study Group, including discussion of whether to move forward with a pilot information gathering effort; (4) other topics as appropriate; and, (5) open public forum. All Western Washington Cascades 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 Chris Hansen-Murray, Province Liaison, USDA, Mt. Baker-Snoqualmie National Forest, 21905 64th West, Mountlake Terrace, Washington 98043, 206–744–3276.

Dated: March 1, 1996.

Ronald R. DeHart,

Acting Forest Supervisor.

[FR Doc. 96–5370 Filed 3–6–96; 8:45 am]

BILLING CODE 3410–11–M

National Agricultural Statistics Service

Notice of Intent To Extend and Revise a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Statistics Service's (NASS) intention to request an extension for and revision to a currently approved information collection, the Stocks Report.

DATES: Comments on this notice must be received by May 13, 1996 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 14th and Independence Avenue, SW, Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Stocks Report.

OMB Number: 0535–0007.

Expiration Date of Approval: June 30, 1996.

Type of Request: Intent to extend and revise a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production. The Stocks Report Surveys provide estimates of off-farm stocks of grains, rice, potatoes, peanuts, hops, and dry beans. Off-farm stocks are combined with on-farm stocks to estimate stocks in all positions. Stocks statistics are used by the U.S. Department of Agriculture to help administer programs, by State agencies to develop research and promote the marketing of the products and by producers to find their best market opportunity.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 18 minutes per response.

Respondents: Farms and businesses.

Estimated Number of Respondents: 11,700.

Estimated Total Annual Burden on Respondents: 15,500 hours.

Copies of this information collection and related instructions can be obtained without charge from Larry Gambrell, the Agency OMB Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Larry Gambrell, Agency OMB Clearance Officer, U.S. Department of Agriculture, 14th and Independence Ave., SW, Room 4162 South Building, Washington, D.C. 20250–2000.

All responses to this notice will be summarized and included in the request for OMB approval.

All comments will also become a matter of public record.

Signed at Washington, D.C., March 1, 1996.

Donald M. Bay,

Administrator, National Agricultural Statistics Service.

[FR Doc. 96–5315 Filed 3–6–96; 8:45 am]

BILLING CODE 3410–20–M

Notice of Intent To Extend and Revise a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Statistics Service's (NASS) intention to request an extension for and revision to a currently approved information collection, the Field Crops Objective Yield Surveys.

DATES: Comments on this notice must be received by May 13, 1996, to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 14th and Independence Avenue SW., Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Field Crops Objective Yield.

OMB Number: 0535–0088.

Expiration Date of Approval: June 30, 1996.

Type of Request: Intent to extend and revise a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service

is to prepare and issue State and national estimates of crop and livestock production. The Field Crops Objective Yield Surveys objectively predict yields for wheat, corn, cotton, soybeans, potatoes, and tobacco. Sample fields are randomly selected for these crops. Plots are laid out and periodic measurements are taken and used to forecast production during the growing season. Production forecasts are published in USDA Crop Production reports.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 19 minutes per response.

Respondents: Farms and businesses.

Estimated Number of Respondents: 12,150.

Estimated Total Annual Burden on Respondents: 4,000 hours.

Copies of this information collection and related instructions can be obtained without charge from Larry Gambrell, the Agency OMB Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Larry Gambrell, Agency OMB Clearance Officer, U.S. Department of Agriculture, 14th and Independence Avenue SW., Room 4162 South Building, Washington, D.C. 20250–2000.

All responses to this notice will be summarized and included in the request for OMB approval.

All comments will also become a matter of public record.

Signed at Washington, D.C., March 1, 1996.

Donald M. Bay,

Administrator, National Agricultural Statistics Service.

[FR Doc. 96–5316 Filed 3–6–96; 8:45 am]

BILLING CODE 3410–20–M

Notice of Intent To Extend and Revise a Currently Approved Information Collection

AGENCY: National Agricultural Statistic Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Statistics Service's (NASS) intention to request an extension for and revision to a currently approved information collection, the June Agricultural Survey.

DATE: Comments on this notice must be received by May 13, 1996 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 14th and Independence Avenue SW., Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: June Agricultural Survey.

OMB Number: 0535–0089.

Expiration Date of Approval: June 30, 1996.

Type of Request: Intent to extend and revise a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production. The June Agricultural Survey collects information on planted acreage for major crops, livestock inventories, and on-farm grain stocks. The survey establishes a base for estimating crop production and value for the remainder of the crop year. Information from this survey is used by government agencies in planning, farm policy analysis, and program administration.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 11 minutes per response.

Respondents: Farms.

Estimated Number of Respondents: 117,700.

Estimated Total Annual Burden on Respondents: 21,000 hours.

Copies of this information collection and related instructions can be obtained without charge from Larry Gambrell, the Agency OMB Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Larry Gambrell, Agency OMB Clearance Officer, U.S. Department of Agriculture, 14th and Independence Ave., SW, Room 4162 South Building, Washington, D.C. 20250–2000. All responses to this notice will be summarized and included in the request for OMB approval.

All comments will also become a matter of public record.

Signed at Washington, D.C., March 1, 1996.

Donald M. Bay,

Administrator, National Agricultural Statistics Service.

[FR Doc. 96–5317 Filed 3–6–96; 8:45 am]

BILLING CODE 3410–20–M

Notice of Intent To Extend and Revise a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Statistics Service's (NASS) intention to request an extension for and revision to a currently approved information collection, the Agricultural Labor Survey.

DATES: Comments on this notice must be received by May 13, 1996 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, 14th and Independence Avenue SW., Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Agricultural Labor Survey.

OMB Number: 0535–0109.

Expiration Date of Approval: June 30, 1996.

Type of Request: Intent to extend and revise a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production. The Agricultural Labor Survey provides statistics on the number of agricultural workers, hours worked, and wage rates. Number of workers and hours worked are used to estimate agricultural productivity. Wage rates are used in the administration of the ''H–2A'' Program and for setting Adverse Effect Wage Rates. Agricultural Labor Survey data are also used to carry out provisions of the Agricultural Adjustment Act.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Farms and businesses.

Estimated Number of Respondents: 47,100.

Estimated Total Annual Burden on Respondents: 11,800 hours.

Copies of this information collection and related instructions can be obtained without charge from Larry Gambrell, the Agency OMB Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Larry Gambrell, Agency OMB Clearance Officer, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Room 4162, South Building, Washington, D.C. 20250–2000.

All responses to this notice will be summarized and included in the request for OMB approval.

All comments will also become a matter of public record.

Signed at Washington, D.C., March 1, 1996.

Donald M. Bay,

Administrator, National Agricultural Statistics Service.

[FR Doc. 96–5318 Filed 3–6–96; 8:45 am]

BILLING CODE 3410–20–M

ARCTIC RESEARCH COMMISSION

Meetings

February 21, 1996

Notice is hereby given that the U.S. Arctic Research Commission will hold its 42nd Meeting in Washington, DC, on March 25 and 26, 1996. On Monday, March 25, the Commission will meet in joint session with the Board of Directors of the Arctic Research Consortium of the United States (ARCUS) to explore issues of common interest (this meeting is open to the public). A Business Session open to the public will convene at 1:00 p.m. in the William Penn Room of the Wyndham Bristol Hotel, 2430 Pennsylvania Ave., NW. Agenda items include:

(1) Call to order and approval of the Agenda.

(2) Approval of the minutes of the 41st Meeting.

(3) Reports of Congressional Liaisons.

(4) Agency Reports.

(5) Information Items

(a) International Research in the Sea of Okhotsk

(b) The Komi Oil Spill Cleanup.

The business meeting will be followed by an Executive Session.

On Tuesday, March 26, the Commission will receive a briefing on programs of the National Oceanic and Atmospheric Administration from 8:30 to 10:00 a.m. followed by adjournment of the 42nd Meeting.

Any person planning to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters must inform the Commission in advance of those needs.

Contact Person for More Information: Dr. Garrett W. Brass, Executive Director, Arctic Research Commission, 703–525–0111 or TDD 703–306–0090.

Garrett W. Brass,

Executive Director.

[FR Doc. 96–5324 Filed 3–6–96; 8:45 am]

BILLING CODE 7555–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Final Certification for the Consolidation of Four (4) Weather Service Offices (WSOs)

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

EFFECTIVE DATE: March 7, 1996.

ADDRESS: Requests for copies of the final consolidation certification packages should be sent to Janet Gilmer, Room 12316, 1325 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Julie Scanlon at 301–713–1413.

SUPPLEMENTARY INFORMATION: On February 27, 1996 the Secretary of Commerce approved and transmitted the following four (4) certifications to Congress:

(1) Residual New Orleans WSO;
(2) Residual Tulsa WSO;
(3) Residual Oklahoma City WSO; and
(4) Residual Phoenix WSO.

The NWS is now completing the certification requirements by publishing the final consolidation Certifications in the Federal Register. There were no public comments received for consideration.

Dated: March 4, 1996.

Elbert W. Friday, Jr.,

Assistant Administrator for Weather Services.

[FR Doc. 96–5409 Filed 3–6–96; 8:45 am]

BILLING CODE 3510–12–M

COMMODITY FUTURES TRADING COMMISSION

Coffee, Sugar and Cocoa Exchange: Proposed Amendments Relating to the Quality Standards, Delivery Ports, Packaging, Demurrage, and Trading Month Specifications for the White Sugar Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract rule change.

SUMMARY: The Coffee, Sugar and Cocoa Exchange (''CSCE or Exchange'') has submitted proposed amendments to its white sugar futures contract. The primary amendments will: (1) Change the quality specifications by increasing the maximum color and moisture allowable in deliverable sugar, and eliminating the maximum ash content

standard; (2) add 52 ports to the existing list of 20 ports at which delivery may be made; (3) change the packaging material in which sugar must be delivered; (4) establish a schedule of fees payable by the deliverer to the receiver over and above the demurrage fees when vessels remain on demurrage for a period exceeding 15 days; and (5) add September and November and delete October from the list of delivery months.

In accordance with Section 5a(a)(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Acting Director of the Division of Economic Analysis (''Division'') of the Commodity Futures Trading Commission (''Commission'') has determined, on behalf of the Commission, that the proposed amendments are of major economic significance. On behalf of the Commission, the Division is requesting public comment on the proposal.

DATES: Comments must be received on or before March 14, 1996.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Reference should be made to the proposed amendments relating to changes in the quality, delivery ports, packaging, demurrage, and trading month specifications for the white sugar futures contract.

FOR FURTHER INFORMATION CONTACT: Frederick V. Linse, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, telephone (202) 418–5273.

SUPPLEMENTARY INFORMATION: The white sugar futures contract currently requires delivery of 50 metric tons of white sugar, in sound jute bags, meeting specified physical and chemical standards for polarization, moisture, ash content, and color. Delivery is effected by loading white sugar FOB-stowed aboard the receiver's vessel at a port selected by the deliverer from a list of 20 designated ports located in the European Community (Belgium, France, Germany, the Netherlands, and the United Kingdom), the United States, Poland, Korea, Thailand, and Brazil.[1] The delivery months are January, March, May, July, and October.

The proposed amendments will change the contract's quality specifications for deliverable sugar by increasing to 100 from 60 the maximum allowable number of color units using ICUMSA test method No.4, increasing to .08 from .06 percent the maximum moisture content, and eliminating the maximum ash content standard (the polarization standard will not change). The amendments will also require that the sugar delivered under the contract shall be from the crop or season current at the time of shipment. Currently, the rules require that the sugar be manufactured within the past twelve months.

The proposed amendments will increase by 52 the number of delivery ports. Under the proposal, 40 new delivery ports would be specified for 23 countries that currently do not have delivery ports.[2] In addition, a total of 12 new delivery ports would be added for six countries that currently have delivery ports.[3]

The proposed amendments will also establish a new requirement that a minimum of one hundred contracts be delivered for each delivery port designated on a delivery notice. In addition, receivers will be required to provide a minimum five-ton geared vessel for loading or, if the vessel provided is gearless, the receiver shall be responsible for providing loading facilities. The proposal also will require that sugar be delivered in woven polypropylene bags rather than in sound jute bags, as currently specified.

The proposal will establish a schedule of daily fees that will accrue to the receiver from the deliverer, over and above demurrage, if the vessel is not loaded by the expiration of lay time for the declared vessel. The proposed schedule of daily fees, which is expressed as specified percentages of the daily demurrage rate that increase with the number of calendar days that the vessel is subject to demurrage, is shown below:

1st 15 days: 0% of the daily demurrage rate

2nd period of 15 days: 50% of the daily demurrage rate

All days thereafter: 100% of the daily demurrage rate.

The proposed amendments also will add September and November to, and delete October from, the list of delivery months.

The proposed amendments will give the receiver the right to observe the weighing, sampling, and testing procedures for the delivery sugar by a superintendent appointed by the deliverer.[4] In addition, the amendments will give the receiver the right to request that another superintendent weigh, sample, and test the sugar if a dispute arises, and the decision of this superintendent shall be binding.

The CSCE intends to apply the proposed amendments only to newly listed contract months following Commission approval.

In support of the proposal to specify new quality and packaging standards, and increase the number of delivery ports, the Exchange states that these changes reflect commercial practices and will increase the supply of white sugar available for delivery on the futures contract. The CSCE stated that the proposal to replace the October delivery month with September and November contract months will better serve the hedging needs of the sugar industry. The CSCE indicates that the proposal to require the delivery of at least 100 contracts per port is justified because delivery of smaller quantities at individual ports would be relatively expensive for receivers to transport and would not be consistent with commercial practice. The Exchange also said that the proposed procedure for third party testing of sugar in the event of a dispute reflects commercial practice.

On behalf of the Commission, the Division is requesting comment on the proposed amendments. Commenters are requested to address the extent to which the proposed amendments reflect commercial practices and the effect (if any) the proposed amendments would have on the quantity of white sugar likely to be economically available for delivery on the contract. In addition,

[1] The contract's existing delivery ports are: Antwerp, Belgium; Rouen, France; Hamburg, Germany; Rotterdam and Flushing, Netherlands; Gydansk/Gdynia, Poland; Immingham, United Kingdom; Baltimore, Galveston, New Orleans, New York and Savannah, United States; Imbituba/Itajai, Maceio, Recife, and Santos, Brazil; Inchon, Pusan, and Ulsan, Korea; and Kosichang, Thailand.

[2] The proposed new delivery ports for the 23 new countries are: Porkkala and Helsinki, Finland; Lisbon, Portugal; Malmo, Sweden; Odessa and Nikolayev, Ukraine; Dubai, Dubai; Jeddah, Saudi Arabia; Mersin, Turkey; Nacala and Beira, Malawi; Durban, South Africa; Maputo, Swaziland; Maputo and Beira, Zimbabwe; Buenos Aires, Argentina; Buenaventura, Columbia; Axajutla, El Salvador; Quetzal, Guatemala; Vera Cruz, Manzanillo and Mazatlan, Mexico; Corinto, Nicaragua; Brisbane, Bundaberg, Fremantle, Mackay, Melbourne, and Townsville, Australia; Shanghai, Dalian, and Huangpu, China; Bombay and Madras, India; Penang, Malaysia; Singapore; and Iliolo, Manila, and Ormoc, Philippines.

[3] The proposed new delivery ports for specified countries that currently have existing delivery ports are: Calais and Le Harve, France; Rostock, Germany; Amsterdam and Eemshaven, Netherlands; Crockett, United States; Parangua and Rio de Janeiro, Brazil; and Bangkok and Laem Chabang, Thailand.

[4] The contract's current terms require the deliverer to provide an internationally recognized or State superintendent to weigh, sample, and test sugar.

comments specifically are requested regarding the following matters: (1) the extent to which the proposal to permit delivery at par of all sugar which has a color value equal to or less than 100 color units and has a moisture content equal to or less than .08 percent reflects cash market pricing relationships; (2) the extent to which the CSCE's proposal to permit delivery at par at each proposed delivery port reflects cash market pricing conditions between each such port and all other existing and proposed delivery ports; and (3) the extent to which the proposal to require the delivery of a minimum of 100 contracts at each delivery port reflects commercial practices and whether it would act as an impediment to delivery on the contract.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, D.C. 20581. Copies of the proposed amendments also can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5097.

The materials submitted by the CSCE in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 C.F.R. Part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with C.F.R. 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, D.C. 20581 by the specified date.

Issued in Washington, D.C. on February 29, 1996.

Blake Imel,

Acting Director.

[FR Doc. 96–5321 Filed 3–6–96; 8:45 am]

BILLING CODE 6351–01–P

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, March 29, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–5609 Filed 3–5–96; 4:00 pm]

BILLING CODE 6351–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, March 22, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–5610 Filed 3–5–96; 4:00 pm]

BILLING CODE 6351–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, March 15, 1996.

PLACE: 1155 21st St., NW., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–5611 Filed 3–5–96; 4:00 pm]

BILLING CODE 6351–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, March 8, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–5612 Filed 3–5–96; 4:00 pm]

BILLING CODE 6351–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Tuesday, March 26, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule enforcement review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–5613 Filed 3–5–96; 4:00 pm]

BILLING CODE 6351–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:30 a.m., Tuesday, March 26, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement objectives.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–5614 Filed 3–5–96; 4:00 pm]

BILLING CODE 6351–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 a.m., Tuesday, March 26, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–5615 Filed 3–5–96; 4:00 pm]

BILLING CODE 6351–01–M

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 a.m., Tuesday, March 19, 1996.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 96–5616 Filed 3–5–96; 4:00 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Proposed Information Collection Available for Public Comment

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness) (Requirements and Resources), ATTN: Reports Clearance Officer, Room 3C980, 4000 Defense Pentagon, Washington, DC 20301–4000. Consideration will be given to all comments received within 60 days of the date of publication of this notice.

TITLE AND OMB CONTROL NUMBER: Joint Recruiting Advertising Program, OMB Control Number 0704–0351.

SUMMARY: Every year, the Department of Defense publishes an information folder about ROTC Scholarships. These folders are sent to each high school guidance counselor in the country for their use in acquainting their students with Reserve Officers Training Corps (ROTC) scholarship opportunities. Included in these folders are reply cards that individual students can use to request additional information about ROTC scholarships. The reply cards, which the students respond to on a strictly voluntary basis, ask for the student's name, address, high school, graduation date, date of birth, phone number, whether they are a U.S. citizen, name of college they plan to attend, gender and social security number. The social security number is used for tracking purposes only and the gender information is used for statistical purposes only,

Needs and Uses: Section 503, Title 10 U.S. Code, directs the Secretary of Defense to conduct intensive recruiting campaigns for the Armed Forces encouraging military service. The Joint Recruiting Advertising Program (JRAP) supports Armed Forces recruitment efforts with cost-effective advertising support. The JRAP ROTC Scholarship Folder reply cards generate qualified ROTC scholarship applications.

Affected Public: Individuals or households.

Annual Burden Hours (Including Recordkeeping): 311.

Number of Respondents: 18,650.

Responses per Respondent: 1.

Average Burden per Response: 1 minute.

Frequency: One-time.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call the Office of the Under Secretary of Defense (Personnel and Readiness) Reports Clearance Officer at (703) 614–8989.

Dated: February 29, 1996.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–5289 Filed 3–6–96; 8:45 am]

BILLING CODE 5000–04–M

Office of the Secretary

Defense Partnership Council Meeting

AGENCY: Department of Defense.

ACTION: Cancellation of meeting.

SUMMARY: On February 13, 1996, the Department of Defense published a notice to announce a meeting of the Defense Partnership Council on March 6, 1996. (61 FR 5538) This meeting has been cancelled.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Oprisko, Chief, Labor Relations Branch, Field Advisory Services Division, Defense Civilian Personnel Management Service, 1400 Key Boulevard, Suite B–200, Arlington, VA 22209–5144. (703) 696–1450.

Dated: February 28, 1996.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–5288 Filed 3–6–96; 8:45 am]

BILLING CODE 5000–04–M

Conference Meeting of the National Advisory Panel on the Education of Handicapped Dependents

AGENCY: Department of Defense Dependents Schools, DOD.

ACTION: Notice.

SUMMARY: Notice is hereby given of a forthcoming meeting of the National Advisory Panel on the Education of Handicapped Dependents. This notice describes the functions of the Panel. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: April 24–25, 1996.

ADDRESSES: Department of Defense Education Activity (DoDEA), 4040 North Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Dr. David V. Burket, Instructional Systems Specialist, DoDEA, (703) 696–4492, extension 145.

SUPPLEMENTARY INFORMATION: The National Advisory Panel on the Education of Handicapped Dependents is established under the Individuals with Disabilities Education Act, as amended, (20 U.S.C., § 1400 *et seq.*); the Defense Dependents' Education Act of 1978, as amended (20 U.S.C. § 927(c); and DoD Instruction 1342.12, 32 CFR Part 57. The Panel: (1) reviews information regarding improvements in services provided to students with disabilities in DoDDS; (2) receives and considers the views of various parents, students, individuals with disabilities, and professional groups; (3) when necessary establishes committees for short-term purposes comprised of representatives from parent, student, professional groups, and individuals with disabilities; (4) reviews the finding of fact and decision of each impartial due process hearing; (5) assists in developing and reporting such information and evaluations as may aid DoDDS in the performance of its duties; (6) makes recommendations based on

program and operational information for changes in the budget, organization and general management of the special education program and in policy and procedure; (7) comments publicly on rules or standards regarding the education of children with disabilities; (8) submits an annual report of its activities and suggestions to the Director, DoDEA, by July 31 of each year. The Panel will review the following areas: Proposed changes in DoD 1342.12, ''Education of Handicapped Children in the DoD Dependents Schools,'' the comprehensive system of personnel development, and the organizational structure of the special education program. This meeting is open to the public; however, due to space constraints, anyone wishing to attend should contact the DoDEA instructional systems specialist, Dr. David V. Burket, no later than March 25.

Dated: February 29, 1996.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–5285 Filed 3–6–96; 8:45 am]

BILLING CODE 5000–04–M

Joint Advisory Committee on Nuclear Weapons Surety; Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Joint Advisory Committee (JAC) on Nuclear Weapons Surety will conduct a closed session on May 7–8, 1996, at Air Force Space Command, Peterson Air Force Base, Colorado Springs, Colorado.

The Joint Advisory Committee is charged with advising the Secretary of Defense, Secretary of Energy, and the Joint Nuclear Weapons Council on nuclear weapons systems surety matters. At this meeting, the Joint Advisory Committee will conduct a classified end-to-end review of use control (i.e., procedures, hardware, etc.) of nuclear weapons and nuclear weapons operations.

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended, Title 5, U.S.C. App. II, (1988)), this meeting concerns matters, sensitive to the interests of national security, listed in 5 U.S.C. Section 552b(c)(1) and accordingly this meeting will be closed to the public.

Dated: March 1, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–5283 Filed 3–6–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Military Personnel Information Management; Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Military Personnel Information Management will meet in open session on March 21–22, 1996 at the Sheraton Reston Hotel, Reston Virginia.

The mission of the Defense Science Board is the advise the Secretary of Defense and the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense.

Persons interested in further information should call Ms. Norma St. Clair at (703) 696–8710.

Dated: March 1, 1996.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–5284 Filed 3–6–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Image-Based Automatic Target Recognition

ACTION: Change in Date of Advisory Committee Meeting Notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Image-Based Automatic Target Recognition scheduled for February 14–15, 1996 as published in the Federal Register (Vol. 61, No. 18, Page 2497, Friday, January 26, 1996, FR Doc. 96–1264) will be held on March 13–14, 1996. In all other respects the original notice remains unchanged.

Dated: February 28, 1996.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–5287 Filed 3–6–96; 8:45 am]

BILLING CODE 5000–04–M

Defense Advisory Committee on Women in the Services (DACOWITS); Conference

ACTION: Notice of conference.

SUMMARY: Pursuant to Public Law 92–463, as amended, notice is hereby given on a forthcoming meeting of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of DACOWITS is to advise the Secretary of Defense on matters relating to women in the Services.

The Committee meets semiannually.

DATES: April 17–21, 1996 (Summarized agenda follows).

ADDRESSES: The Tysons Westpark Hotel, 8401 Westpark Dr., McLean, VA 22102 (703) 734–2800.

AGENDA: Sessions will be conducted daily and will be open to the public. The agenda will include the following:

Wednesday, April 17, 1995

General conference registration
Plenary Session/Social (Paid Registered Conference Participants and pre-paid guests only)

Thursday, April 18, 1996

Opening Ceremony/General Business Session (Open to Public)
Subcommittee sessions (Open to Public)

Friday, April 19, 1996

Subcommittee sessions (Open to Public)
Lunch (Paid Registered Conference Participants only)
Subcommittee sessions Wrap-up (Open to Public)

Saturday, April 20, 1996

Tri-Committee Review
Executive Committee Mark Up

Sunday, April 21, 1996

Final Committee Meeting/Military Representatives review (DACOWITS members/Military Representatives and Liaison Officers)
Closing Session (Open to Public)

FOR FURTHER INFORMATION CONTACT: Major Kay Troutt, or CDR Tala J. Welch, USN DACOWITS and Military Women Matters, OASD (Force Management Policy), 4000 Defense Pentagon, Room 3D769, Washington, DC 20301–4000; Telephone (703) 697–2122.

SUPPLEMENTARY INFORMATION: The following rules and regulations will govern the participation by members of the public at the conference:

(1) Members of the public will not be permitted to attend the OSD Luncheon, and OSD Reception and Dinner and Field Trip.

(2) The Opening Session/business session, all subcommittee sessions and the closing session will be open to the public.

(3) Interested persons may submit a written statement for consideration by the Committee and/or make an oral

presentation of such during the conference.

(4) Persons desiring to make an oral presentation or submit a written statement to the Committee must notify the point of contact listed above no later than April 10, 1996.

(5) Length and number of oral presentations to be made will depend on the number of requests received from members of the public.

(6) Oral Presentations by members of the public will be permitted only on Sunday, April 21, 1996 before the full Committee.

(7) Each person desiring to make an oral presentation must provide the DACOWITS office 1 copy of the presentation by April 10, and make 175 copies of any material that is intended for distribution at the conference.

(8) Persons submitting a written statement for inclusion in the minutes of the conference must submit to the DACOWITS staff one copy by the close of the conference.

(9) Other new items from members of the public may be presented in writing to any DACOWITS member for transmittal to the DACOWITS Chair or Executive Director, DACOWITS and Military Women Matters to consider.

(10) Members of the public will not be permitted to enter oral discussion conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by the members of the Committee.

(11) Members of the public will be permitted to ask questions to the scheduled speakers if recognized by the Chair and if time allows after the official participants have asked questions and/or made comments.

(12) Non social agenda events that are not open to the public are for administrative matters unrelated to substantive advice provided to the Department of Defense and do not involve DACOWITS deliberations or decision-making issues before the committee.

Dated: February 28, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–5286 Filed 3–6–96; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Assistant Deputy Chief of Staff for Operations—Quality

AGENCY: Military Traffic Management Command (MTMC), DOD.

ACTION: Notice.

SUMMARY: As part of the ongoing process of partnershipping with industry, MTMC will convene the Personal Property Partnership Council on March 20, 1996, 1:00 p.m. until 3:30 p.m., 5611 Columbia Pike, Room 714, Falls Church, Virginia to discuss the Reengineered Personal Property Program.

DATES: March 20, 1996.

ADDRESSES: Headquarters, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, VA 22041–5050.

FOR FURTHER INFORMATION CONTACT: Reservations should be made with Anne Dugger, MTOP–QQ, by March 18, 1996 or phone (703) 681–6393.

SUPPLEMENTARY INFORMATION: Due to space constraints, request carriers limit representation to one per carrier. The major Household Goods Associations will attend representing their members. Additionally, the Reengineering of the DOD's Personal Property Program will be an agenda item at the April 18, 1996, Military Personal Property and Claims Symposium.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–5520 Filed 3–6–96; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement for the Disposal and Reuse of Naval Weapons Industrial Reserve Plant McGregor, TX

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 as implemented in the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Department of Navy announces its intent to prepare an Environmental Impact Statement (EIS) for the Disposal of Naval Weapons Industrial Reserve Plant (NWIRP), McGregor, Texas.

NWIRP McGregor is a government-owned, contractor-operated facility. The operating contractor, Hercules, Inc./Alliant Techsystems, has determined that its operations should be consolidated at the Allegheny Ballistics Laboratory (ABL), West Virginia. Naval Air Systems Command has determined that once the contractor vacates the property, there is no requirement to retain the land or the buildings. The property occupies 9,756 acres of land situated mostly in McLennan County, Texas, with a small portion in Coryell County, Texas. The property includes more than 150 buildings containing more than 846,000 square feet of usable floor space and approximately 60 miles of improved roadways.

The Defense Authorization Act for Fiscal Year 1996 authorizes the Secretary of the Navy to convey the property directly to the City of McGregor without consideration of the standard disposal procedures implemented in the Federal Property management Regulations. The conveyance is subject to the condition that the city use the property for economic redevelopment to replace all or part of the economic activity being lost at the facility. Any part of the facility not conveyed to the City would be disposed of by the General Services Administration (GSA) in accordance with the Federal Property and Administrative Services Act of 1944, that is implemented in the Federal Property Management Regulations.

The objective of the EIS is to describe the existing conditions at NWIRP McGregor, describe the disposal alternatives, and evaluate the environmental impacts associated with the various reuse alternatives. The EIS will also serve as technical support for the National Historic Preservation Act Section 106 consultation process. Environmental issues that will be addressed in the EIS include air quality, water quality, wetland impacts, endangered species impacts, cultural resource impacts, and socioeconomic impacts.

The Navy will hold a scoping meeting to solicit input on significant issues that should be addressed in the EIS. The meeting will be held on Tuesday, March 26, 1996, beginning at 7:00 P.M. at the McGregor High School Auditorium, 903 South Johnston Drive, McGregor, TX. Navy representatives will make a brief presentation, then members of the public will provide their comments. It is important that federal, state, and local agencies and interested individuals take this opportunity to identify environmental concerns that should be addressed in the EIS. In the interest of time, speakers will be asked to limit their comments to five minutes.

ADDRESSES: Agencies and the public are encouraged to provide written comments in addition, or, in lieu of, oral comments at the scoping meeting. To be most helpful, comments should clearly describe specific issues or topics which the EIS should address. Written comments must be postmarked by April 26, 1996, and should be mailed to Commanding Officer, Southern Division, Naval Facilities Engineering Command, P.O. Box 190010, North Charleston, South Carolina 29419–9010 (Attn: Public Affairs Office), telephone

(803) 820–5771. The scoping meeting will be conducted in English, and requests for language interpreters or other special communications needs should be made to Mr. Laurens Pitts at (803) 820–5893 before at least one week prior. The Navy will make every reasonable effort to accommodate these needs.

Dated: March 4, 1996.

M.D. Schetzsle,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 96–5388 Filed 3–6–96; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–150–000]

Algonquin Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 1, 1996.

Take notice that on February 27, 1996 Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets, with an effective date of March 28, 1996:

Twenty-sixth Revised Sheet No. 20A
Original Sheet No. 99F

Algonquin states that the purpose of this filing is to flow through a refund from National Fuel Gas Supply Corporation related on its Account Nos. 191 and 186, as filed in National Fuel's Docket No. RP96–55–000.

Algonquin states that copies of this filing were mailed to all firm customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–5332 Filed 3–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–192–000]

East Tennessee Natural Gas Company; Notice of Request Under Blanket Authorization

March 1, 1996.

Take notice that on February 15, 1996, East Tennessee Natural Gas Company (East Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in the above docket, a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212), for authorization to establish a bi-directional point for Virginia Gas Pipeline Company (Virginia Gas Pipeline), an intrastate pipeline company and a subsidiary of Virginia Gas Company, under East Tennessee's blanket certificate issued in Docket No. CP82–412–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Virginia Gas Pipeline has requested that East Tennessee install a bi-directional point on East Tennessee's system to establish a point for receipts from and deliveries to Virginia Gas Pipeline in connection with Saltville Storage Field. East Tennessee states that the interconnect will allow Virginia Gas Pipeline or its affiliate to offer gas contract storage services to East Tennessee's transportation customers.

In order to provide this bi-directional point, East Tennessee will install, own, operate and maintain dual 4-inch hot taps, approximately 50-feet of 6-inch interconnect piping, 6-inch bi-directional flow manifold, 6-inch turbine meter with bypass, chromatography, measurement facilities and electronic gas measurement (EGM) located at approximately M.P. 3311–1+5.8 in Smyth County, Virginia. The hot taps and interconnect piping will be located on East Tennessee's right-of-way. The meter station will be located on a site adjacent to East Tennessee's existing right-of-way provided by Virginia Gas Pipeline.

East Tennessee states that following the installation of these facilities, the point will become available for use as a receipt and delivery point for open access transportation under its Part 284, Subpart G blanket transportation certificate and the terms of its tariff. East Tennessee states that it anticipates that its customers that enter into storage agreements with Virginia Gas Pipeline or it affiliates will utilize this receipt/delivery point in accordance with the terms of its tariff. Further, East Tennessee and Virginia Gas Pipeline have entered into an Operational Balancing Agreement for service at this point pursuant to the terms and conditions of East Tennessee's Rate Schedule LMS–PA.

East Tennessee states that the installed facilities will have the capability to receive/deliver and measure 20,000 Dth per day at this point. East Tennessee states that the addition of the proposed receipt/delivery point will create opportunities to render additional deliveries for the accounts of its customers. East Tennessee states that the impact on peak day or annual deliveries is dependent on its customers' subscription with Virginia Gas Pipeline and cannot be determined at this time. East Tennessee asserts that the installation of the proposed bi-directional point is not prohibited by its tariff, and that it has sufficient capacity to accomplish the deliveries at the proposed new delivery point without detriment or disadvantage to any of East Tennessee's other customers. The cost of the proposed facilities is estimated to be $325,629.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission Rules of Practice and Procedure (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity is deemed to be authorized effective on the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–5334 Filed 3–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–151–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 1, 1996.

Take notice that on February 27, 1996, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to become effective April 1, 1996.

Fourteenth Revised Sheet No. 8A
Eight Revised Sheet No. 8A.01
Sixth Revised Sheet No. 8A.02
First Revised Sheet No. 108
First Revised Sheet No. 184B
Original Sheet No. 184B.01
Fifth Revised Sheet No. 205
Original Sheet No. 205A
Fifth Revised Sheet No. 206
Original Sheet No. 206A
Original Sheet No. 206B
Eighth Revised Sheet No. 207

FGT states that Section 27 of the General Terms and Conditions (GTC) of FGT's Tariff provides for the recovery by FGT of gas used in the operation of its system and gas lot from the system or otherwise unaccounted for. The Fuel Reimbursement Charge established pursuant to Section 27 currently consists of the Current Fuel Reimbursement Charge and the Annual Fuel Surcharge. The Annual Fuel Surcharge is designed to recover or refund previous under or over collections of fuel on an in-kind basis. Because the operation of the Annual Fuel Surcharge increases or decreases the amount of fuel retained on a current basis to true-up prior imbalances, FGT is always forced to over or under retain the amount of fuel required for the current operation of its system. FGT assets that the adjustment of current fuel retention to correct imbalances created in prior periods causes operational problems on FGT's system. Further, FGT maintains, because the true-up occurs at least several months after the period in which the under or over recoveries occurred, fluctuations in the price of gas subject both FGT and its shippers to an unintended commodity price risk.

FGT states that to address the operating and financial problems associated with the current true-up mechanism, FGT and its shippers have held meetings to develop a mutually satisfactory method of resolving the differences between actual fuel use experienced by FGT and the fuel provided by shippers through a unit rate surcharge based on the dollar value of the imbalances. The revisions proposed in the instant filing affect only the deviations between actual and retained fuel. The basic Fuel Reimbursement Charge is still on an in-kind basis. The instant filing reflects the agreement of FGT and all of the shippers who actively participated in the Operating Committee meetings and revises the method of resolving the imbalances which have occurred prior to the effectiveness of the new provisions as well as deviations which occur prospectively. In addition, the instant filing clarifies that meters in FGT's market area will be tested at least once a year and provides that the amounts paid or collected pursuant to the revised fuel mechanism will be accounted for in conjunction with the annual accounting for the Cash-Out Mechanism Account and the Balancing Tools Account.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC, 20426, in accordance with Sections 385.211 and 385.215 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 96–5331 Filed 3–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–209–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

March 1, 1996.

Take notice that on February 22, 1996, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP96–209–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate an additional delivery point for an existing customer, the City of Henderson Utility Department (the City of Henderson), under Tennessee's blanket certificate issued in Docket No. CP82–413–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee states that the City of Henderson has requested that Tennessee establish an additional delivery point on Tennessee's system in order to provide more flexibility in Tennessee's continuing transportation service to the City of Henderson. Tennessee proposes to install, own, operate and maintain dual 4″ hot tap assemblies, approximately 60′ of 4″ interconnect piping, a 3″ orifice meter, a positive displacement meter and electronic gas measurement. The hot taps and interconnecting pipe will be located on Tennessee's existing right-of-way near Mileposts 73 − 1+2.40 and 73 − 2+2.40 in McNairy County, Tennessee. The meter station will be located on a site, provided by the City of Henderson, adjacent to Tennessee's right-of-way.

Tennessee states that the volumes delivered at the new delivery point will be within the City of Henderson's certificated entitlement, that the addition of the new delivery point is not prohibited by Tennessee's tariff, and that there will be no impact on Tennessee's peak day or annual deliveries. Tennessee also indicated that it has sufficient capacity to accomplish deliveries without detriment or disadvantage to other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 96–5333 Filed 3–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–1152–000, et al.]

Duquesne Light Company, et al.; Electric Rate and Corporate Regulation Filings

March 1, 1996.

Take notice that the following filings have been made with the Commission:

1. Duquesne Light Company

[Docket No. ER96–1152–000]

Take notice that on February 23, 1996, Duquesne Light Company (DLC) filed a Service Agreement dated January 26, 1996, with Aqulia Power Corporation under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Aqulia Power Corporation as a customer under the Tariff. DLC requests an effective date of February 15, 1996, for the Service Agreement.

Comment date: March 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Niagara Mohawk Power Corporation

[Docket No. ER96–1153–000]

Take notice that on February 23, 1996, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and K N Marketing Inc. (K N) dated February 12, 1996 providing for certain transmission services to K N.

Comment date: March 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. PacifiCorp

[Docket No. ER96–1154–000]

Take notice that on February 23, 1996, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Service Agreements with AIG Trading Corporation (AIG), Emerald People's Utility District (Emerald), Industrial Energy Applications Inc. (Industrial), City of Gillette (Gillette), Flathead Electric Cooperative Inc. (Flathead), K N Marketing, Inc. (KNMI), Roseville Electric Dept. (Roseville), Valley Electric Association Inc. (Valley) and Wyoming Municipal Power Agency (WMPA) under, PacifiCorp's FERC Electric Tariff, Second Revised Volume No. 3, Service Schedule PPL–3.

Copies of this filing were supplied to AIG, Emerald, Industrial, Gillette, Flathead, KNMI, Roseville, Valley, WMPA, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464,6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: March 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Wisconsin Power and Light Company

[Docket No. ER96–1155–000]

Take notice that on February 23, 1996, Wisconsin Power and Light Company (WP&L), tendered for filing an Agreement dated February 19, 1996, establishing Tennessee Power Company as a customer under the terms of WP&L's Point-to-Point Transmission Tariff.

WP&L requests an effective date of February 19, 1996 and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: March 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. MidAmerican Energy Company

[Docket No. ER96–1157–000]

Take notice that on February 23, 1996, MidAmerican Energy Company (MidAmerican), filed with the Commission Firm Transmission Service Agreements with Louis Dreyfus Electric Power Inc. (Dreyfus) dated January 26, 1996, JPower Inc. (JPower) dated February 5, 1996 and Catex Vitol Electric, L.C.C. (Catex Vitol) dated February 7, 1996; and Non-Firm Transmission Service Agreements with Dreyfus dated January 26, 1996, JPower dated February 5, 1996 and Catex Vitol dated February 7, 1996, entered into pursuant to MidAmerican's Point-to-Point Transmission Service Tariff, FERC Electric Tariff, Original Volume No. 4.

MidAmerican requests an effective date of January 26, 1996, for the Agreements with Dreyfus, February 5, 1996 for the Agreements with JPower, and February 7, 1996, for the Agreements with Catex Vitol, and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on Dreyfus, JPower, Catex Vitol, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: March 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Consolidated Edison Company of New York, Inc.

[Docket No. ER96–1158–000]

Take notice that on February 23, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an agreement with Morgan Stanley Capital Group, Inc. (MSCGI) to provide for the sale of energy and capacity. For energy the ceiling rate is 100 percent of the incremental energy cost plus up to 10 percent of the SIC (where such 10 percent is limited to 1 mill per Kwhr when the SIC in the hour reflects a purchased power resource). The ceiling rate for capacity is $7.70 per megawatt hour. Energy and capacity sold by MSCGI will be at market-based rates.

Con Edison states that a copy of this filing has been served by mail upon MSCGI.

Comment date: March 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Tampa Electric Company

[Docket No. ER96–1159–000]

Take notice that on February 23, 1996, Tampa Electric Company (Tampa Electric), tendered for filing service agreements with the Utilities Commission, City of New Smyrna Beach (New Smyrna Beach) providing for firm transmission service under Tampa Electric's point-to-point transmission service tariff.

Tampa Electric proposes an effective date of March 1, 1996 for the service agreement and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on New Smyrna Beach and the Florida Public Service Commission.

Comment date: March 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Florida Power & Light Company

[Docket No. ER96–1160–000]

Take notice that on February 23, 1996, Florida Power & Light Company (FPL) filed the Contract for Purchases and Sales of Power and Energy between FPL and Valero Power Services Company. FPL requests an effective date of March 4, 1996.

Comment date: March 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Boston Edison Company

[Docket No. ER96–1161–000]

Take notice that on February 23, 1996, Boston Edison Company (Edison) of Boston, Massachusetts, filed an All-Requirements Service Agreement dated January 31, 1996 between Edison and the Massachusetts Port Authority (Authority). Under the terms of the Agreement, Edison will provide the Authority all-requirements service as that service is defined in the Agreement. Edison asks that the Agreement be allowed to become effective as a rate schedule as of November 1, 1995, consistent with the Commission's policy as stated in *Central Hudson Gas & Electric Corporation, et al.,* 60 FERC ¶ 61,106 at 61,338 (August 3, 1992).

Edison states that this filing has been posted as required by the Commission's Regulations. Edison states that it has

filed the Agreement with the consent of the Authority as evidenced by the Authority's execution of the Agreement. Edison further states that it has served the filing on the affected customer and upon the Massachusetts Department of Public Utilities.

Comment date: March 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Company

[Docket No. ER96–1162–000]

Take notice that on February 26, 1996, New England Power Company (NEP) submitted for filing a letter agreement to provide non-firm transmission service over NEP's transmission system to KCS Power Marketing, Inc.

Comment date: March 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Electric Power Company

[Docket No. ER96–1163–000]

Take notice that on February 26, 1996, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing an Electric Service Agreement between itself and J Power. The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff.

Wisconsin Electric requests an effective date of February 1, 1996, to allow for economic transactions and accordingly seeks waiver of the Commission's notice requirements. Copies of the filing have been served on J Power, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: March 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. UtiliCorp United Inc.

[Docket No. ER96–1164–000]

Take notice that on February 26, 1996, UtiliCorp United Inc., tendered for filing on behalf of its operating division, Missouri Public Service, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with *Illinois Power Company*. The Service Agreement provides for the sale of capacity and energy by Missouri Public Service to *Illinois Power Company* pursuant to the tariff.

UtiliCorp also has tendered for filing a Certificate of Concurrence by *Illinois Power Company*.

UtiliCorp requests waiver of the Commission's Regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: March 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Boston Edison Company

[Docket No. ER96–1165–000]

Take notice that on February 26, 1996, Boston Edison Company (Boston Edison), tendered for filing a Service Agreement and Appendix A under Original Volume No. 6, Power Sales and Exchange Tariff (Tariff) for Global Petroleum Corp. (Global). Boston Edison requests that the Service Agreement become effective as of February 1, 1996.

Edison states that it has served a copy of this filing on Global and the Massachusetts Department of Public Utilities.

Comment date: March 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Consolidated Edison Company of New York, Inc.)

[Docket No. ER96–1166–000]

Take notice that on February 26, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an agreement with Sonat Power Marketing, Inc. (Sonat) to provide for the sale of energy and capacity. For energy the ceiling rate is 100 percent of the incremental energy cost plus up to 10 percent of the SIC (where such 10 percent is limited to 1 mill per Kwhr when the SIC in the hour reflects a purchased power resource). The ceiling rate for capacity is $7.70 per megawatt hour. Energy and capacity sold by Sonat will be at market-based rates.

Con Edison states that a copy of this filing has been served by mail upon Sonat.

Comment date: March 15, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–5336 Filed 3–6–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EG96–48–000, et al.]

Hermiston Generating Company, L.P., et al.; Electric Rate and Corporate Regulation Filings

February 29, 1996.

Take notice that the following filings have been made with the Commission:

1. Hermiston Generating Company, L.P.

[Docket No. EG96–48–000]

On February 23, 1996, Hermiston Generating Company, L.P. (''Hermiston''), a Delaware limited partnership with its principal place of business at 7500 Old Georgetown Road, Bethesda, Maryland 20814–6161, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Hermiston will have a 50% undivided ownership interest in a multi-unit natural gas-fired combined cycle generating plant with automatic generation control and related transmission and interconnection equipment with a bus bar rating of approximately 474 MW. All of the facility's electric power net of station load attributable to Hermiston's ownership interest will be purchased at wholesale by PacifiCorp, an electric utility.

Comment date: March 22, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Power Ventures, L.C.

[Docket No. EG96–49–000]

On February 26, 1996, Power Ventures, L.C. (''Power Ventures''), with its principal office at L.C. Smith Boulevard, No. 90, Oranjestadt, Aruba, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Power Ventures is a limited liability company organized under the laws of the Commonwealth of Virginia. Power Ventures will be engaged indirectly, through an affiliate as defined in Section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935, and

exclusively in owning, or both owning and operating, a 40 megawatt, gas-fired combustion turbine unit to be located in Santa Elena, Ecuador, and two 55 MW gas-fired combustion turbine units to be located in Santa Domingo de los Colorados, Ecuador.

Comment date: March 1, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Aquila Power Corporation

[Docket No. ER95–216–008]

Take notice that on February 16, 1996, Acquila Power Corporation tendered for filing copies of a revised code of conduct and a revised power sales tariff, pursuant to the Commission's order issued February 14, 1996 in Docket No. ER95–216–001.

Comment date: March 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Idaho Power Company

[Docket No. ER95–1323–000]

Take notice that on August 9, 1995, Idaho Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: March 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Company of New Mexico

[Docket No. ER96–1003–000]

Take notice that on February 9, 1996, Public Service Company of New Mexico tendered for filing a Certificate of Concurrence in the above-referenced docket.

Comment date: March 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. PacifiCorp

[Docket No. ER96–1022–000]

Take notice that on February 20, 1996, PacifiCorp tendered for filing an amendment in the above-referenced docket.

Comment date: March 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Arizona Public Service Company

[Docket No. ER96–1138–000]

Take notice that on February 22, 1996, Arizona Public Service Company (APS), tendered for filing an Amendment No. 1 to the Axis Station Letter Agreement Regarding Automatic Generation Controls (Letter Agreement) between APS and Imperial Irrigation District (IID). The Amendment provides for an extension to the term of the Letter Agreement.

The parties request an effective date 60 days after filing.

Copies of this filing have been served upon IID and the Arizona Corporation Commission.

Comment date: March 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. KinEr-G Power Marketing Inc.

[Docket No. ER96–1139–000]

Take notice that on February 22, 1996, KinEr-G Power Marketing Inc. (KinEr-G) petitioned the Commission for acceptance of KinEr-G Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations. KinEr-G is a power marketing company incorporated in the State of Delaware.

Comment date: March 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. PECO Energy Company

[Docket No. ER96–1140–000]

Take notice that on February 22, 1996, PECO Energy Company (PECO), filed a Service Agreement dated February 13, 1996, with United Illuminating Company (UI) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds UI as a customer under the Tariff.

PECO requests an effective date of February 13, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to UI and to the Pennsylvania Public Utility Commission.

Comment date: March 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. PECO Energy Company

[Docket No. ER96–1141–000]

Take notice that on February 22, 1996, PECO Energy Company (PECO), filed a Service Agreement dated February 6, 1996 with Koch Power Services, Inc. (KOCH) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds KOCH as a customer under the Tariff.

PECO requests an effective date of February 6, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied to KOCH and to the Pennsylvania Public Utility Commission.

Comment date: March 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. PECO Energy Company

[Docket No. ER96–1142–000]

Take notice that on February 22, 1996, PECO Energy Company (PECO) filed a Service Agreement dated February 13, 1996, with Great Bay Power Corporation (GBPC) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds GBPC as a customer under the Tariff.

PECO requests an effective date of February 13, 1996, for the Service Agreement.

PECO states that copies of this filing have been supplied by GBPC and to the Pennsylvania Public Utility Commission.

Comment date: March 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Maine Public Service Company

[Docket No. ER96–1143–000]

Take notice that on February 22, 1996, Maine Public Service Company (Maine Public) filed an executed Service Agreement with Gateway Energy, Inc.

Comment date: March 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Utility Management Corporation

[Docket No. ER96–1144–000]

Take notice that on February 22, 1996, Utility Management Corporation (UMC) tendered for filing, an application for permission to make wholesale sales of electric power in interstate commerce at rates to be negotiated with the purchaser; a request that the Commission accept and approve UMC's Electric Rate Schedule FERC No. 1, to be effective on the earlier of the date of the Commission's order in this proceeding or April 22, 1996; a request for waiver of the cost of service filing requirement of 18 CFR 35.12; and for such other power marketers, with the clarifications and exceptions noted in its application.

Comment date: March 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Northern Indiana Public Service Company

[Docket No. ER96–1147–000]

Take notice that on February 23, 1996, Northern Indiana Public Service Company, tendered for filing an executed Service Agreement between Northern Indiana Public Service Company and Engelhard Power Marketing, Inc.

Under the Service Agreement, Northern Indiana Public Service

Company agrees to provide services to Engelhard Power Marketing, Inc. under Northern Indiana Public Service Company's Power Sales Tariff, which was accepted for filing by the Commission and made effective by Order dated August 17, 1995 in Docket No. ER95–1222–000. Northern Indiana Public Service Company and Engelhard Power Marketing, Inc. request waiver of the Commission's sixty-day notice requirement to permit an effective date of March 1, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: March 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Northern Indiana Public Service Company

[Docket No. ER96–1148–000]

Take notice that on February 23, 1996, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement between Northern Indiana Public Service Company and Commonwealth Edison Company.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Commonwealth Edison Company pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. ER96–399–000 and allowed to become effective by the Commission. *Northern Indiana Public Service Company,* 71 FERC ¶ 61,014 (1996).

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: March 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Florida Power Corporation

[Docket No. ER96–1149–000]

Take notice that on February 23, 1996, Florida Power Corporation (Florida Power), tendered for filing, pursuant to § 205 of the Federal Power Act and Part 35 of the Commission's regulations, a notice of termination of two service agreements for ancillary service with Seminole Electric Cooperative, Inc. (SECI) and Florida Municipal Power Agency (FMPA). The agreements were filed under Florida Power's open access transmission tariff (the T–2 Tariff) and were effective November 1, 1995. Florida Power states that termination of the agreements is filed at the request of SECI and FMPA.

Florida Power requests the effective date of termination coincide with the date on which the Commission accepts the notice of termination for filing.

Comment date: March 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Wheeled Electric Power Company

[Docket No. ER96–1150–000]

Take notice that on February 23, 1996, Wheeled Electric Power Company (Petitioner), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective on or before April 23, 1996.

Petitioner intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where Petitioner sells electricity it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Petitioner is not in the business of generating, transmitting, or distributing electric power.

Comment date: March 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Duquesne Light Company

[Docket No. ER96–1151–000]

Take notice that on February 23, 1996, Duquesne Light Company (DLC) filed a Service Agreement dated February 8, 1996, with Coastal Electric Service Company under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Coastal Electric Service Company as a customer under the Tariff. DLC requests an effective date of February 8, 1996 for the Service Agreement.

Comment date: March 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–5337 Filed 3–6–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket Nos. CP96–10–000 and CP96–10–001; Docket No. CP96–60–000]

Transwestern Pipeline Company, et al.; Notice of Availability of the Environmental Assessment for the Proposed San Juan Expansion Project

March 1, 1996.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by Transwestern Pipeline Company (Transwestern) in the above-referenced dockets.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of the following facilities:

- Construct a 10,000-horsepower (hp) electric driven Bisti Compressor Station (C.S.) in San Juan County, New Mexico;
- Add a 7,000-hp electric driven compressor to the existing Bloomfield C.S. in San Juan County, New Mexico; and
- Operate an existing 4,132-hp gas compressor at the Bloomfield C.S. originally certificated as a back-up compressor;

The purpose of the proposed facilities would be to increase capacity on Transwestern's San Juan Lateral up to a peak day capacity of 795,000 decatherms.

The City of Farmington, New Mexico and the Public Service Company of New Mexico would construct electrical facilities to power the compressor stations to operate the electrical driven compressors.

The EA has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, DC 20426, (202) 208–1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals,

newspapers, and parties to this proceeding.

A limited number of copies of the EA are available from: Mr. Herman Der, Environmental Project Manager, Environmental Review and Compliance Branch I, Office of Pipeline Regulation, PR–11.1, 888 First Street, N.E., Washington, DC 20426, (202) 208–0896.

Any person wishing to comment on the EA may do so. Written comments must reference Docket No. CP96–10–000, and be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

Comments should be filed as soon as possible, but must be received no later than April 8, 1996, to ensure consideration prior to a Commission decision on this proposal. A copy of any comments should also be sent to Mr. Herman Der, Environmental Project Manager, PR–11.1, at the above address.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).

The date for filing time motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), by this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your comments considered.

Additional information about this project is available from Mr. Herman Der, Environmental Project Manager.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–5335 Filed 3–6–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–76–002]

Texas Eastern Transmission Corporation; Notice of Intent to Prepare an Environmental Assessment for the Proposed Philadelphia Lateral Expansion Project and Request for Comments on Environmental Issues

March 1, 1996.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of the facilities proposed in the Philadelphia Lateral Expansion Project.[1] This EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is necessary and whether to approve the project.

Summary of the Proposed Project

Texas Eastern Transmission Corporation (Texas Eastern) wants to increase the operating pressure of its existing gas pipeline 1–H (Philadelphia Lateral). This would enable Texas Eastern to transport up to 15,000 dekatherms per day (Dth/d) of natural gas to Sun Company, Inc. (Sun), and up to 15,000 Dth/d to Trigen-Philadelphia Energy Corporation (Trigen). Texas Eastern seeks authority to:

- Increase the maximum allowable operating pressure (MAOP) from 718 pounds per square inch-gauge (psig) to 811 psig of approximately 23.6 miles of 20-inch-diameter pipeline in Chester and Delaware Counties, Pennsylvania, including:

—Repair 14 anomaly sites (irregularities in the pipe wall which are typically caused by mechanical damage or corrosion);

—Hydrostatically test the pipeline (with pressurized water at 1,485 psig); and

- Construct the Harkness Point Metering and Regulating (M&R) Station at approximate milepost (MP) 10.86 on Texas Eastern's Line 1–A in Philadelphia County, Pennsylvania.

The proposed facilities would cost about $3,983,000.

The location of the project facilities is shown in appendix 1.[2]

Nonjurisdictional Facilities

The Harkness Point M&R station would serve as the delivery point for Trigen, by way of Philadelphia Gas Works' (PGW) reactivation of an existing liquids pipeline and converting it to transport natural gas. Trigen is co-developing the nonjurisdictional Gray's Ferry Cogeneration Project. PGW would also build a 2-mile-long lateral pipeline from its existing Passyunk Station to Gray's Ferry.

Proposed Land Requirements for Construction

a. Line 1–H Upgrading

The repair of the anomaly sites would temporarily disturb 14 areas about 20 feet wide by 60 feet long (0.03 acre), each within existing permanent right-of-way, totalling about 0.42 acre. The hydrostatic testing would also temporarily disturb 6 manifold sites about 20 feet wide by 60 feet long (0.03 acre), each within existing permanent right-of-way, totalling about 0.18 acre.

A 5.17-acre staging area, a 3.04-acre wareyard, and a 0.12-acre staging area would be required at off-right-of-way locations. These areas would be temporarily disturbed, and would be restored in accordance with the landowners' approval.

b. Harkness Point M&R Station

A 200-foot by 200-foot (0.92 acre) area would be disturbed for construction, with a 0.23-acre fenced area covered by gravel after construction. No other land would be disturbed.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Soils.
- Water resources, fisheries, and wetlands.
- Vegetation and wildlife.
- Endangered and threatened species.
- Testing and disposal of pipe contaminated with polychlorinated biphenyls (PCBs).
- Land use.
- Cultural resources.

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[1] Texas Eastern Transmission Corporation's application was filed with the Commission under section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the Federal Register. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

- Air quality and noise.
- Public safety.

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals; affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Texas Eastern. Keep in mind that this is a preliminary list:

- Earth would be disturbed at an anomaly site near milepost (MP) 3.12 in a condominium development near Liongate Lane.
- Earth would be disturbed in a herbaceous wetland at anomaly sites near MPs 16.93 and 16.97 in Ridley Creek State Park.
- Earth would be disturbed in a herbaceous wetland at an anomaly site near MP 19.00 and Riddle Memorial Hospital.
- MAOP would be increased.
- Occupants of the 149 residents and businesses within 75 feet of Line 1–H would be offered temporary relocation during the hydrostatic testing.

The list of issues may be added to, subtracted from, or changed based on your comments and our analysis.

Also, we have made a preliminary decision to not address the impacts of the nonjurisdictional facilities. We will briefly describe their location and status in the EA.

Public Participation

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal including alternate routes, and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426;
- Reference Docket No. CP95–76–002;
- Send a *copy* of your letter to: Mr. Jeff Gerber, EA Project Manager, Federal Energy Regulatory Commission, 888 First St., NE., PR–11.2, Washington, DC 20426; and
- Mail your comments so that they will be received in Washington, DC on or before April 1, 1996.

If you wish to receive a copy of the EA, you should request one from Mr. Gerber at the above address.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an ''intervenor''. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your scoping comments considered.

Additional information about the proposed project is available from Ms. Jennifer Goggin, Assistant EA Project Manager, at (202) 208–2226.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96–5362 Filed 3–6–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5435–5]

Agency Information Collection Activities Up for Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) listed below is coming up for renewal. Before submitting the renewal package to the Office of Management and Budget (OMB), EPA is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before May 6, 1996.

ADDRESSES: United States Environmental Protection Agency; Office of Air Quality Planning and Standards; Emissions, Monitoring and Analysis Division (MD–14); Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: David Misenheimer; Telephone: (919) 541–5473; Facsimile: (919) 541–0684. E-Mail: misenheimer.david@epamail.epa.gov

SUPPLEMENTARY INFORMATION: *Affected Entities:* Entities affected by this action are State and Territorial air pollution control agencies which collect and report emissions information from stationary sources emitting at least prescribed amounts of pollutants.

Title: Annual Updates of Emission Data to the Aerometric Information Retrieval System (AIRS), EPA ICR # 916.07, OMB Control Number 2060–0088, Expiration Date 9/30/96.

Abstract: This ICR deals with reports required by 40 CFR 51.321, 51.322, and 51.323. The respondents (States) are required to annually update information on stationary sources emitting at least prescribed amounts of pollutants regulated by National Ambient Air Quality Standards (NAAQS) via electronic input to the AIRS Facility Subsystem (AFS). EPA's Office of Air Quality Planning and Standards (OAQPS) uses the annual emission reports to update the national data base on emissions of stationary sources which it has maintained since 1974. The data is used in developing emission standards, applying dispersion models, preparing national trend assessments, preparing reports to Congress, providing information to the public, and other special analyses and reports. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: An estimated 54 States and Territorial air pollution control agencies will be required to record and report emission information on significant stationary sources on an annual basis. Reporting and record keeping of this information is estimated to involve an average of 125.2 hours per year by each State and Territorial air pollution control agency. This estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

Send comments regarding these matters, or any other aspect of the information collection, including suggestions for reducing the burden, to the address listed above.

Dated: February 20, 1996.

Henry C. Thomas,

Acting Director, Emissions, Monitoring, and Analysis Division.

[FR Doc. 96–5417 Filed 3–6–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5437–5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 8, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 0275.06.

SUPPLEMENTARY INFORMATION: *Title:* Preaward Compliance Review Report, EPA Form 4700–4, (OMB Control No. 2090–0014); EPA ICR No. 0275.06). This is a request for extension of a currently approved collection. The information from grant or loan applicants will indicate whether applicants are in compliance with statutes prohibiting discrimination on the basis of race, color, national origin, and sex.

Abstract: The information request and gathering is part of the requirement of 40 CFR Part 7, ''Nondiscrimination in Program Receiving Federal Assistance from the Environmental Protection Agency, at 40 CFR 7.80. The regulation implements statutes which prohibit discrimination on the bases of race, color, national origin, sex and handicap. This information is also required, in part, by the Department of Justice regulations, 28 CFR 42.406 and 28 CFR 42.407. The information is collected on a short form from grant and loan applicants as part of the application. The EPA Director of Civil Rights manages the data collection through a regional component or delegated state, both of whom also carry out the data analysis and make the recommendation on the respondent's ability to meet the requirements of the regulation, as well as the respondent's current compliance with the regulation. The information and analysis is of sufficient value for the Director to determine whether the applicant is in compliance with the regulation. Analysis of the data allows EPA to determine:

(1) Whether there appears to be discrimination in the provision of program or activity services between the minority and non-minority population. This allows EPA to determine whether any action is necessary by it before the award of the grant or loan.

(3) Whether the respondent is designing grant or loan financed facilities to be accessible to handicapped individuals or whether a regulatory exemption is applicable. This allows EPA to determine whether design changes are necessary prior to the award of the grant or loan, which can save the respondent a significant amount of money, e.g., ensuring a facility is accessible to the handicapped is much less costly if this requirement is included in the design rather than after construction has begun.

(4) Whether the respondent receives or has applied for financial assistance from other Federal agencies. This information allows EPA to canvass these other agencies to avoid conducting duplicate compliance audits, reviews, or complaint investigations and is a reduction of burden on respondents. Responses to the collection of information are required to obtain a grant or loan and are kept on file by the state distributing the funds. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice with a 60-day comment period soliciting comments on this collection of information was published on December 7, 1995 (Vol. 60 FR No. 235, p. 62844).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average one-half (½) hours per response. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. Respondents/Affected Entities: State and local governments, loan and grant recipients.

Estimated No. of Respondents/Affected Entities: 4,000.

Frequency of Collection: 1 per 1 to 2 years.

Estimated Total Annual Burden on Respondents: 2,000 hours.

Estimated Total Annualized Cost Burden: $32,200.00.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 0275.06, and OMB control No. 2090–0014 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2136), 401 M Street, SW, Washington, DC 20460, and

Office of Information and Regulatory Affairs, Office of Management and

Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: February 29, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–5414 Filed 3–6–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5437–2]

Agency Information Collection Activities Under OMB Review; Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units/Information Collection Request Burden Analysis; OMB No. 2060–0072 EPA No. 1088.07

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3507 (a)(1)(D)), this notice announces that the Information Collection Request (ICR) for NSPS Subpart Db: Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 8, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1088.07 and OMB No. 2060–0072.

SUPPLEMENTARY INFORMATION: *Title:* NSPS Subpart Db: Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units (OMB number 2060–0072; EPA ICR No. 1088.07). This is a request for extension of a currently approved collection.

Abstract; Owners/Operators of Steam Generating Units subject to Subpart Db must notify EPA of construction, modification, start-up, shut-downs, malfunctions, dates and results of initial performance tests. Owners/Operators of these Steam Generating Units would be required to keep records of design and operating specifications of all equipment installed to comply with the standards. This information is necessary to ensure that equipment design and operating specifications are met. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on December 8, 1995 (FR 63035); one written and two verbal comments were received concerning this information collection.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 414,257 hours. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 696.

Estimated Number of Respondents: 696.

Frequency of Response: Quarterly and Annually.

Estimated Total Annual Hour Burden: 414,257 hours.

Estimated Total Annualized Cost Burden: $12,614,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1088.07 and OMB Control No. 2060–0072 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2136), 401 M Street, SW, Washington, DC 20460 and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated February 28, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–5419 Filed 3–6–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5436–6]

Science Advisory Board; Emergency Notification of Public Advisory Committee Meetings

This is an Emergency Notification of Federal Advisory Committee Meetings. This notice is being published less than fifteen calendar days prior to the date of the announced meetings due to delays caused by Federal budgetary exigencies. In addition, scheduling and announcement of several of these meetings has been delayed due to ongoing litigation involving one of the committees that has set the schedule for that Advisory Committee's review of certain scientific documents. Information concerning this delay is given in 61 FR 6004–6006 published on February 15, 1996.

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that several committees of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Time. All meetings are open to the public. Due to limited space, seating at meetings will be on a first-come basis. For further information concerning specific meetings, please contact the individuals listed below. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office.

1. Ecological Processes and Effects Committee

The Ecological Processes and Effects Committee (EPEC) of the Science Advisory Board (SAB) will meet on March 14–15, 1996, at the Environmental Protection Agency's Waterside Mall Complex, 401 M Street, SW., Washington, DC 20460 in Room M2103. For convenient access, members of the public should use the EPA entrance next to the Safeway store. The meeting will begin at 8:30 a.m. and end no later than 5:00 p.m. on each day.

The main purpose of the meeting is to discuss ecological risks and the potential for risk reduction as part of an SAB project to update the 1990 SAB report, Reducing Risk: Setting Priorities and Strategies for Environmental Protection. EPEC may also conduct general committee business, including briefings on upcoming review topics,

agenda planning, and discussion of subcommittee activities.

Background

In a letter dated October 25, 1995, to Dr. Matanoski, Chair of the SAB Executive Committee, Deputy Administrator Fred Hansen charged the SAB to update its 1990 report, Reducing Risk: Setting Priorities and Strategies for Environmental Protection. Specifically, the charge is to: (1) develop an updated ranking of the relative risk of different environmental problems based upon explicit scientific criteria; (2) provide an assessment of techniques and criteria that could be used to descriminate among emerging environmental risks and identify those that merit serious, near-term Agency attention; (3) assess the potential for risk reduction and propose alternative technical risk reduction strategies for the environmental problems identified; and (4) identify the uncertainties and data quality issues associated with the relative rankings. The project will be conducted by several SAB panels, including EPEC, working at the direction of an ad hoc Steering Committee established by the Executive Committee.

Single copies of Reducing Risk can be obtained by contacting the SAB's Committee Evaluation and Support Staff (1400), 401 M Street, SW., Washington, DC 20460, telephone (202) 260–8414, or fax (202) 260–1889. Members of the public desiring additional information about the meeting, including an agenda, should contact Ms. Constance Valentine, Staff Secretary, Science Advisory Board (1400F), US EPA, 401 M Street, SW., Washington DC 20460, by telephone at (202) 260–6552, fax at (202) 260–7118, or via The INTERNET at: Valentine.Connie@EPAMAIL.EPA.GOV.

Anyone wishing to make an oral presentation at the meeting should contact Stephanie Sanzone, Designated Federal Official for EPEC, no later than 4:00 p.m., March 11, 1996, at (202) 260–6557 or via the Internet at Sanzone.Stephanie@epamail.epa.gov. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Ms. Sanzone no later than the time of the presentation for distribution to the Committee and the interested public. See below for additional information on providing comments to the SAB.

2. Clean Air Scientific Advisory Committee (CASAC)

The Clean Air Scientific Advisory Committee (CASAC) of the Environmental Protection Agency's (EPA) Science Advisory Board (SAB) will meet on March 21, 1996 at the U.S. Environmental Protection Agency, Administration Building, Auditorium (Ground level), Alexander Drive and Route 54, Research Triangle Park, NC 27711. The meeting will begin at 8:30 am and end at 5:00 pm, Eastern Time. The meeting is open to the public and seating is on a first come basis.

At this meeting, the Committee will review and provide advice to EPA on the revisions to the secondary standard portions (Chapters 7 & 8) of the revised draft Staff Paper for ozone (Review of National Ambient Air Quality Standards for Ozone: Assessment of Scientific and Technical Information). The purpose of the Staff Paper is to evaluate and interpret the most relevant scientific and technical information reviewed in the ozone air quality criteria document in order to better specify the critical elements which the EPA staff believes should be considered in any possible revisions to the national ambient air quality standards (NAAQS) for ozone. This document is intended to bridge the gap between the scientific review contained in the criteria document and the judgments required of the Administrator in setting NAAQS for ozone. The Committee will consider presentations from Agency staff and the interested public prior to making recommendations to the Administrator.

The Committee previously closed on the Air Quality Criteria for Ozone (the Criteria Document) and the Primary Standard portions of the Staff Paper. This closure is contained in the following CASAC reports: (a) CASAC Closure on the Air Quality Criteria Document for Ozone and Related Photochemical Oxidants, EPA–SAB–CASAC–LTR–96–001, November 28, 1995, and (b) CASAC Closure on the Primary Standard Portion of the Staff Paper for Ozone, EPA–SAB–CASAC–LTR–96–002, November 30, 1995. See below for ordering information.

Draft Ozone Staff Paper

Single copies of the two chapters of the ozone staff paper that are the subject of the CASAC review may be obtained from Ms. Tricia Crabtree, Office of Air Quality Planning and Standards (MD–15), U.S. EPA, Research Triangle Park, NC 27711. Ms. Crabtree can also be reached by telephone at (919) 541–5655 or by fax at (919) 541–0237. The Office of Air Quality Planning and Standards (OAQPS) will accept written comments from the public on Chapters 7 and 8 of the revised draft ozone staff paper through March 28, 1996. Comments should be sent to Ms. Crabtree at the previously stated address.

CASAC Reports

Single copies of the two CASAC reports identified above may be obtained from the US EPA, Science Advisory Board, Committee Evaluation and Support Staff (1400), Washington, DC 20460, phone: (202) 260–8414; fax: (202) 260–1889.

Members of the public desiring additional information concerning the meeting should contact Mr. A. Robert Flaak, Designated Federal Official, Clean Air Scientific Advisory Committee, Science Advisory Board (1400F), US Environmental Protection Agency, Washington, DC 20460, telephone (202) 260–5133, fax (202) 260–7118 or via the INTERNET at FLAAK.ROBERT@EPAMAIL.EPA.GOV.

Members of the public who wish to make a brief oral presentation to the Committee concerning the scientific issues contained in the revised draft Chapters 7 and 8 of Staff Paper must contact Mr. Flaak in writing no later than 12 noon Eastern time on Wednesday, March 13, 1996, in order to be placed on the meeting agenda. Public commentors will be limited to five minutes per person or organization. The written request should identify the name of the individual who will make the presentation, the organization (if any) they will represent, any audio visual requirements (e.g., overhead projector, 35mm projector, chalkboard, etc.), and a summary of the issue they will address. Presentors are expected to provide at least 35 copies of an outline of the issues to be addressed or the presentation itself.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. For conference call meetings, opportunities for oral comment will be limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the

meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Dated: February 23, 1996.

John R. Fowle,

Acting Staff Director, Science Advisory Board.

[FR Doc. 96–5396 Filed 3–6–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL 5435–3]

Notice of Proposed Agreement and Covenant Not To Sue Under the Comprehensive Environmental Response, Compensation, and Liability Act, Regarding the SMS Instruments, Inc. Site, Deer Park, New York

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative agreement and opportunity for public comment.

SUMMARY: The U.S. Environmental Protection Agency (''EPA'') Region II announces a proposed administrative agreement pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), relating to the SMS Instruments, Inc. Superfund Site (the ''Site'') in Deer Park, Suffolk County, New York. This Site is on the National Priorities List established pursuant to Section 105(a) of CERCLA. EPA is implementing a remedy at the Site pursuant to a 1989 Record of Decision. This notice is being published to inform the public of the proposed Agreement and Convenant Not to Sue (''Agreement'') and of the opportunity to comment.

The Agreement is being entered into by EPA and Fernanda Manufacturing, Inc. (the ''Settling Respondent''). In 1995, the Settling Respondent entered into a lease agreement with the owner of the real property at the Site. The Settling Respondent had no involvement with the Site prior to entering into this lease, and did not contribute any hazardous substances to the Site prior to the date of the lease. Under the Agreement, the United States covenants not to sue the Settling Respondent under Sections 106 and 107(a) of CERCLA with respect to the pre-existing contamination at the Site (subject to certain reservation of rights). The Settling Respondent, in turn, commits, among other things, to provide access to EPA, cooperate with EPA in the implementation of response actions at the Site, exercise due care with respect to the pre-existing contamination, and make timely rental payments under the lease.

DATES: EPA will accept written comments relating to the proposed Agreement for a period of thirty days from the date of publication of this notice.

ADDRESSES: Comments should be sent to the individual listed below. Comments should reference the SMS Instruments, Inc. Site. For a copy of the Agreement, contact the individual listed below.

FOR FURTHER INFORMATION CONTACT: Paul Simon, Section Chief, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, New York, 10007–1866. Telephone: (212) 637–3172.

Dated: February 16, 1996.

William Muszynski,

Acting Regional Administrator.

[FR Doc. 96–5416 Filed 3–6–96; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

March 1, 1996.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Pub. L. 96–511. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0384.

Expiration Date: 02/28/99.

Title: Annual Auditor's Certification—Section 64.904

Estimated Annual Burden: 9500 total annual hours; 500 hours per respondent; 19 respondents.

Estimated Annual Reporting and Recordkeeping Cost Burden: $11,400,000.

Description: Local exchange carriers required to file cost allocation manuals must have performed annually, by an independent auditor, an audit that provides a positive option on whether the applicable data shown in the carrier's annual report presents fairly the information of the carrier required to be set forth in accordance with the carrier's cost allocation manual, The Commission's Joint Cost Orders and applicable Commission rules in Parts 32 and 64 in force as of the date of the auditor's report. This requirement assists the Commission in effectively carrying out its responsibilities.

OMB Control No.: 3060–0484.

Expiration Date: 02/28/99.

Title: Amendment of Part 63 of the Commission's Rules to Provide for Notification of Common Carriers of Service Disruptions—Section 63.100.

Form No.: N/A.

Estimated Annual Burden: 1040 total annual hours; 5 hours per respondent (average); 208 respondents.

Estimated Annual Reporting and Recordkeeping Cost Burden: None.

Description: 47 CFR Section 63.100 requires that any local exchange or interexchange common carrier that operates transmission or switching facilities and provides access service or interstate or international telecommunications service that experiences an outage on any facilities which it owns or operates must notify the Commission if such service outage continues for 30 minutes or more. An initial and a final report is required for each outage. In an Order on Reconsideration in CC Docket No. 91–273, the Commission amended the rules to require, among other things, that local exchange or interexchange common carriers or competitive access providers that operate either transmission or switching facilities and provide access service or interstate or international telecommunications service report outages that effect 30,000 or more customers or that affect special facilities and report fire-related incidents impacting 1,000 or more lines. With such reports the FCC can monitor and take effective action to ensure network reliability.

OMB Control No.: 3060–0687.

Expiration Date: 02/28/99.

Title: Access to Telecommunications Equipment and Services by Persons with Disabilities, CC Docket No. 87–124.

Estimated Annual Burden: 1,635,000 total annual responses; 2 hours per response (average); 806,100 respondents.

Estimated Annual Reporting and Recordkeeping Cost Burden: $737,000.

Description: The Commission adopted a Notice of Proposed Rulemaking (NPRM), in CC Docket No. 87–124 regarding hearing aid compatibility of wireline telephones. Rules proposed in the NPRM would require that all wireline telephones in the workplace, confined settings (e.g., hospitals,

nursing homes) and hotels and motels eventually would be hearing aid compatible and have volume control. The NPRM also contained several information collection requirements. OMB approved the information collection requirements as proposed for Section 68.112(b)(1)(G) and existing Section 68.224(a) and amendment thereof, regarding equipment packaging.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–5342 Filed 3–6–96; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1082–DR]

Delaware; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Delaware, (FEMA–1082–DR), dated January 12, 1996, and related determinations.

EFFECTIVE DATE: February 29, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Delaware, is hereby amended to include assistance under the Public Assistance program limited to Category G for engineered beach renourishment and repair of facilities on the beach or immediately adjacent to the beach in the following area:

Sussex County for Category G which is limited to engineered beach renourishment and repair of facilities on the beach or immediately adjacent to the beach under the Public Assistance program (already designated under the January 12, 1996 major disaster declaration resulting from the Blizzard of 1996 which occurred on January 6–12, 1996 for reimbursement for the costs of equipment, contracts, and personnel overtime that were required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways) and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–5384 Filed 3–6–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1088–DR]

New Jersey; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New Jersey, (FEMA–1088–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: February 29, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of New Jersey, is hereby amended to include assistance under the Public Assistance program limited to Category G for engineered beach renourishment and repair of facilities on the beach or immediately adjacent to the beach in the following area:

Cape May County for Category G which is limited to engineered beach renourishment and repair of facilities on the beach or immediately adjacent to the beach under the Public Assistance program. (already designated under the January 13, 1996 major disaster declaration resulting from the Blizzard of 1996 which occurred on January 6–12, 1996 for reimbursement for the costs of equipment, contracts, and personnel overtime that were required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways) and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–5385 Filed 3–6–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1099–DR]

Oregon; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Oregon (FEMA–1099–DR), dated February 9, 1996, and related determinations.

EFFECTIVE DATE: February 28, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Oregon, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 9, 1996:

Coos County for Public Assistance (already designated for Individual Assistance)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–5386 Filed 3–6–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1096–DR]

West Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia (FEMA–1096–DR), dated January 25, 1996, and related determinations.

EFFECTIVE DATE: February 27, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of West Virginia, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 25, 1996:

Wood County for Public Assistance (already designated for Individual Assistance and Hazard Mitigation)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–5387 Filed 3–6–96; 8:45 am]

BILLING CODE 6718–02–P

National Flood Insurance Program; Rebating Agents' Commissions

AGENCY: Federal Insurance Administration (FEMA).

ACTION: Notice.

SUMMARY: The Federal Insurance Administration (FIA) gives notice that it is extending the time for submission of public comments on rebating of insurance agents' commissions to consumers under the National Flood Insurance Program (NFIP).

DATES: Comments should be submitted on or before June 12, 1996.

ADDRESSES: Please submit your comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (facsimile) (202)646–4536.

FOR FURTHER INFORMATION CONTACT: Charles M. Plaxico, Jr., Chief, Claims and Underwriting Division, the Federal Insurance Administration, 500 C Street SW., Washington, DC 20472, (202) 646–3422.

SUPPLEMENTARY INFORMATION: On December 15, 1995 the Federal Insurance Administration (FIA) gave notice that it had rescinded Policy Issuance 5–95, Rebating Agents' Commissions, issued on October 4, 1995, and requested public comments on rebating of insurance agents' commissions to consumers under the National Flood Insurance Program (NFIP) (Published at 60 FR 64436–64437, December 15, 1995). Comments were due by March 14, 1996. We have received a large number of responses to the notice, including one requesting extension of the comment period. In order to ensure the fullest opportunity for public comment on this issue, I hereby extend the period for submitting comments on rebating insurance agents' commissions to consumers under the NFIP for an additional 90 days or until June 12, 1996. For convenience of those reading this notice, I am repeating the supplementary information included in the December 15, 1995 notice.

Where the practice is permitted by State law, licensed insurance agents may rebate a portion of the commission they earn for the sale of a given policy to the insured. This practice typically is used as a sales incentive and marketing tool. While the practice is prohibited in most States, a few States permit the practice. With more insurance producers and agents beginning to sell flood insurance policies, FIA wants the comments of as large a number of interested parties as possible in order to set policy on this issue.

During the past year, FIA received a number of inquiries from producers and Write Your Own (WYO) Companies concerning the rebating of insurance agents' commissions on NFIP policies. FIA consulted with the following three committees that advise the FIA on insurance-related issues: the Flood Insurance Producers National Committee; the Insurance Institute for Property Loss Reduction Flood Insurance Committee; and the Write Your Own Marketing Committee. The Insurance Institute for Property Loss Reduction Flood Insurance Committee did not comment as a committee, but two member companies on that committee responded as individual companies.

On October 4, 1995, FIA issued National Flood Insurance Program (NFIP) Policy Issuance 5–95 which prohibited, under the NFIP, the practice of agents' rebating commissions to consumers. We now rescind Policy Issuance 5–95. Since October 4 interested parties from within and outside the insurance industry have expressed divergent views on how FIA should treat the issue of rebating agents' commissions. In light of the diversity of opinion on this issue, FIA has decided to increase the circle of its advisers and to solicit comments and recommendations from a wider audience than before on the most appropriate policy on the rebating issue.

Dated: March 1, 1996.

Elaine A. McReynolds,

Federal Insurance Administrator.

[FR Doc. 96–5410 Filed 3–6–96; 8:45 am]

BILLING CODE 6718–03–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

American Cargo Forwarding, Inc. 11020 King Street, Suite 350, Overland Park, KS 66210; Officers: Chris D. Ellis, President; Chris J. McGill Vice President.

Global Maritime, Inc. 421 South 9th Street, Suite 117, Lincoln, NE 68508; Officer: Wahib Wahba, President

Dated: March 4, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–5372 Filed 3–6–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than March 21, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Gus J. Lukas, Manitowoc, Wisconsin; to acquire an additional 10 percent, for a total of 34.23 percent, of the voting shares of Community Bancshares of Wisconsin, Inc., Grafton, Wisconsin, and thereby indirectly acquire Community Bank of Grafton, Grafton, Wisconsin.

Board of Governors of the Federal Reserve System, March 1, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–5339 Filed 3–6–96; 8:45 am]

BILLING CODE 6210–01–F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. § 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has

been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. § 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. § 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 1, 1996.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. NationsBank Corporation, Charlotte, North Carolina, and NB Holdings Corporation, Charlotte, North Carolina; to merge with Charter Bancshares, Inc., Houston, Texas, and CBH, Inc., Wilmington, Delaware; and thereby indirectly acquire Charter National Bank-Houston, Houston, Texas; Charter National Bank-Colonial, Houston, Texas; University National Bank, Galveston, Texas; and Charter Bank, State Savings Bank, Houston, Texas.

Board of Governors of the Federal Reserve System, March 1, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–5340 Filed 3–6–96; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 951–0096]

Saint-Gobain/Norton Industrial Ceramics Corporation; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require the Worcester, Massachusetts-based corporation—a wholly-owned indirect subsidiary controlled by Compagnie de Saint-Gobain, a French company—to divest businesses and associated assets in the United States markets for fused cast refractories, hot surface igniters, and silicon carbide refractory bricks. The consent agreement settles allegations that Saint-Gobain's acquisition of The Carborundum Company from the British Petroleum Company likely would lead to monopolies or near monopolies in each of these markets, which supply products used in industrial furnaces and home appliances.

DATES: Comments must be received on or before May 6, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave. NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: William J. Baer, Federal Trade Commission, H–374, 6th Street and Pennsylvania Avenue NW, Washington, DC 20580. (202) 326–2932, or Howard Morse, Federal Trade Commission, S–3627, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580. (202) 326–2949.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying as its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The Federal Trade Commission (''the Commission''), having initiated an investigation of the proposed acquisition by Compagnie de Saint-Gobain, through its wholly-owned subsidiary, Societe Europeenne des Produits Refractaires, of certain of the subsidiaries of British Petroleum Company p.l.c. which together comprise The Carborundum Company (''Carborundum''), in which Saint-Gobain/Norton industrial Ceramics Corporation will acquire all of the United States assets of Carborundum, other than assets relating to ceramic fibers, which acquisition is more fully described at paragraph I.(F) below, and it now appearing that Saint-Gobain/Norton Industrial Ceramics Corporation and Compagnie de Saint-Gobain are willing to enter into an agreement containing an order to divest certain assets and providing for other relief:

It is hereby agreed by and between Saint-Gobain/Norton Industrial Ceramics Corporation and Compagnie de Saint-Gobain, by their duly authorized officers, and their attorneys, and counsel for the Commission that:

1. Proposed respondent Saint-Gobain/Norton Industrial Ceramics Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the state of Delaware, with its office and principal place of business located at One New Bond Street, Worcester, Massachusetts 01615–0008.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and

d. Any claim under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event the Commission will take such action as it

may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint attached hereto and its decision containing the following Order to divest and providing for other relief in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the Order to divest and providing for other relief shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to Order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation or interpretation not contained in the Order or the agreement may be used to vary or contradict the terms of the Order.

7. Nothing contained in this agreement shall bar the Commission from seeking judicial relief to enforce the Order, or to enforce the Agreement to Hold Separate.

8. Proposed respondent has read the proposed complaint and Order contemplated hereby. Proposed respondent understands that once the Order has been issued, it will be required to file one or more compliance reports showing it has fully complied with the Order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

As used in this Order, the following definitions shall apply:

A. ''Respondent'' or ''Saint-Gobain'' means Saint-Gobain/Norton Industrial Ceramics Corporation, its directors, officers, employees, agents and representatives, its predecessors, successors, and assigns; subsidiaries, divisions, and groups and affiliates controlled by Saint-Gobain, and the respective directors, officers, employees, agents, representatives, successors and assigns of each; its domestic and foreign parents, including Compagnie de Saint-Gobain, and the subsidiaries, divisions, and groups and affiliates controlled by Compagnie de Saint-Gobain or any other domestic or foreign parent, and the respective directors, officers, employees, agents, representatives, successors and assigns of each.

B. ''Carborundum'' means the companies and assets comprising The Carborundum Company that Saint-Gobain proposes to acquire from BP pursuant to the Acquisition.

C. ''BP'' means The British Petroleum Company p.l.c.

D. ''Toshiba Monofrax'' means the joint venture between Carborundum and Toshiba Ceramics Company, Limited, pursuant to the Joint Venture Agreement dated December 20, 1965.

E. ''Commission'' means the Federal Trade Commission.

F. ''Acquisition'' means the acquisition described in the Stock Purchase Agreement entered into on May 26, 1995 by which Saint-Gobain has agreed to acquire and BP has agreed to convey certain rights and interests in, and title to, Carborundum.

G. ''Fused Cast Refractories'' means all grades or types of refractory products which are produced using a fused cast process, i.e., melting components in electric furnaces and casting the molten product into shaped products, including, but not limited to, fused cast AZS (alumina-zirconia-silica) and fused cast alumina.

H. ''Hot Surface Igniters'' means all silicon carbide hot surface igniters used in the ignition system of gas appliances.

I. ''Silicon Carbide Performance Refractories'' means all refractory products composed of bonded silicon carbide grains.

J. ''Silicon Carbide Refractory Bricks'' means all refractory products composed of bonded silicon carbide grains which are formed by hydraulic, mechanical or vibratory pressing, and are marketed for use in the manufacture of primary metals, including aluminum reduction cells, steel blast furnaces, and copper shaft furnaces.

K. ''Carborundum Silicon Carbide Refractory Brick Technology'' means all patents, trade secrets, technology and know-how of Carborundum for producing any Silicon Carbide Refractory Brick product sold by Carborundum on or before the date of the Acquisition, all such information being sufficiently detailed for the commercial production and sale of such products, including, but not limited to, all technical information, data, specifications, drawings, design and equipment specifications, manuals, engineering reports, manufacturing designs and reports, operating manuals, and formulations, laboratory research, and quality control data.

L. ''Assets and Businesses'' means assets, properties, businesses, and goodwill, tangible and intangible, including, without limitation, the following:

1. All plant facilities, machinery, fixtures, equipment, vehicles, transportation and storage facilities, furniture, tools supplies, stores, spare parts, and other tangible personal property;

2. All customer lists, vendor lists, catalogs, sales promotion literature, advertising materials, research materials, technical information, dedicated management information systems, information contained in management information systems, rights to software, trademarks, patents and patent rights, inventions, trade secrets, technology, know-how, ongoing research and development, specifications, designs, drawings, processes and quality control data;

3. Raw material and finished product inventories and goods in process;

4. All right, title and interest in and to real property, together with appurtenances, licenses, and permits;

5. All right, title, and interest in and to the contracts entered into in the ordinary course of business with customers (together with associated bids), suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors and consignees;

6. All rights under warranties and guarantees, expressed or implied;

7. All separately maintained, as well as relevant portions of not separately maintained books, records and files; and

8. All items of prepaid expense.

M. ''Carborundum Fused Cast Refractories Properties to Be Divested'' means the Carborundum Monofrax Group, Carborundum's manufacturing facility in Falconer, New York, and any

other Carborundum Assets and Businesses utilized in connection with the research, development, manufacture, distribution or sale of Fused Cast Refractories (including any assets located at or research or development work ongoing or completed at the Carborundum Technology Center); provided, however, that the ''Carborundum Fused Cast Refractories Properties to Be Divested'' does not include the name ''Carborundum'' nor any interest of Carborundum in, or contractual relationship with, Toshiba Monofrax.

N. ''Carborundum Igniters Properties to Be Divested'' means Carborundum's Hot Surface Igniter manufacturing facility in Mayaguez, Puerto Rico, and any other Carborundum Assets and Businesses utilized in connection with the research, development, manufacture, distribution or sale of Hot Surface Igniters (including any assets located or research and development work done at the Carborundum Technology Center, and any rights of Carborundum in which any person has agreed not to compete with Carborundum in the manufacture or marketing of Hot Surface Igniters); provided, however, that ''Carborundum Igniters Properties to Be Divested'' does not include the name ''Carborundum.''

O. ''Carborundum Silicon Carbide Properties to Be Divested'' means Carborundum's Keasbey, New Jersey Silicon Carbide Performance Refractories manufacturing facility, and any other Carborundum Assets and Businesses utilized in connection with the research, development, manufacture, distribution or sale of all products, including Silicon Carbide Refractory Bricks and products other than Silicon Carbide Refractory Bricks, manufactured at that plant (including such assets located, or research and development work done, at the Carborundum Technology Center); provided, however, that ''Silicon Carbide Properties to Be Divested'' does not include the name ''Carborundum'' or any Carborundum silicon carbide refractory manufacturing facilities other than the Keasbey, New Jersey plant, or any trade names used by Carborundum.

P. ''Carborundum Properties to Be Divested'' means the Carborundum Fused Cast Refractories Properties to Be Divested, the Carborundum Igniters Properties to Be Divested, and the Carborundum Silicon Carbide Properties to Be Divested.

Q. ''Carborundum Technology Center'' means Carborundum's research and development facility located in Niagara Falls, New York.

R. ''Saint-Gobain Fused Cast Refractories Properties to Be Divested'' means (i) Saint-Gobain's manufacturing facility in Louisville, Kentucky, and any other Saint-Gobain Assets and Businesses located in North America that are utilized in the research, development, manufacture, sale or distribution of Fused Cast Refractories and (ii) any product or processing technology utilized in connection with the research, development, manufacture, distribution or sale of Fused Cast Refractories (including any ongoing or completed research or development work within Saint-Gobain that is related to fused cast AZS refractories, fused cast alumina refractories, or to any other fused cast products produced or sold by Saint-Gobain in North America; provided, however, that such research shall not include research or development work that relates solely to process technology used by Societe Europeenne des Produits Refractaires in Europe).

S. ''Licensee'' means the person to whom the Carborundum Silicon Carbide Refractory Brick Technology is licensed pursuant to Paragraph II of this Order.

T. ''License Date'' means the date on which the Carborundum Silicon Carbide Refractory Brick Technology is licensed following Commission approval pursuant to Paragraph II of this Order.

U. ''Remaining Properties to Be Divested'' means the following:

1. The Carborundum Fused Cast Refractories Properties to Be Divested if the Carborundum Fused Cast Refractories Properties to Be Divested have not been divested, or divestiture of the Saint-Gobain Fused Cast Refractories Properties to Be Divested has not been approved by the Commission and divested, by the time that a trustee is appointed in accordance with Paragraph III of this Order, and

2. The Carborundum Igniters Properties to Be Divested if the Carborundum Igniter Properties to Be Divested have not been divested by the time that a trustee is appointed in accordance with Paragraph III of this Order, and

3. The Carborundum Silicon Carbide Properties to Be Divested if the Carborundum Silicon Carbide Properties to Be Divested have not been divested, or a license to the Carborundum Silicon Carbide Refractory Brick Technology has not been approved by the Commission and granted, by the time that a trustee is appointed in accordance with Paragraph III of this Order.

V. ''Viability and Competitiveness'' of the Properties to Be Divested means that such respective properties are capable of functioning independently and competitively in the Fused Cast Refractories, Hot Surface Igniters, and Silicon Carbide Performance Refractories Businesses.

II

It is further ordered that:

A. Respondent shall divest, absolutely and in good faith, at no minimum price, by the earlier of February 28, 1997, or one year from the date the Acquisition is consummated, the Carborundum Fused Cast Refractories Properties to Be Divested as an ongoing business, and shall also divest such additional ancillary Carborundum Assets and Businesses and effect such arrangements as are necessary to assure the Viability and Competitiveness of the Carborundum Fused Cast Refractories Properties to Be Divested.

B. Respondent may propose, and the Commission may in its sole discretion accept, in lieu of divestiture of the Carborundum Fused Cast Refractories Properties to Be Divested, divestiture of the Saint-Gobain Fused Cast Refractories Properties to Be Divested, to a person that receives the prior approval of the Commission, and in a manner that receives the prior approval of the Commission. Divestiture of the Saint-Gobain Fused Cast Refractories Properties to Be Divested shall, in order to obtain Commission approval, satisfy the purposes of this Order and remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's Complaint. Respondent's request that the Commission approve a divestiture of the Saint-Gobain Fused Cast Refractories Properties to Be Divested shall not toll the time in which it is required to divest the Carborundum Fused Cast Refractories Properties to Be Divested, except that if the Commission has not approved or disapproved such request within ninety (90) days of the date on which it was submitted, then, in the event of Commission disapproval of the request, the period shall be extended by the length of time in excess of ninety days before Commission disapproval. Respondent's request that the Commission approve divestiture of the Saint-Gobain Fused Cast Refractories Properties to Be Divested shall not eliminate the requirement that it divest the Carborundum Fused Cast Refractories Properties to Be Divested, unless such substitute divestiture is approved by the Commission and consummated in a timely fashion consistent with the requirements of this Order.

C. Respondent shall divest, absolutely and in good faith, at no minimum price, by the earlier of February 28, 1997, or

one year from the date the Acquisition is consummated, the Carborundum Igniters Properties to Be Divested as an ongoing business, and shall also divest such additional ancillary Carborundum Assets and Businesses and effect such arrangements as are necessary to assure the Viability and Competitiveness of the Carborundum Igniters Properties to Be Divested.

D. Respondent shall divest, absolutely and in good faith, at no minimum price, by the earlier of February 28, 1997, or one year from the date the Acquisition is consummated, the Carborundum Silicon Carbide Properties to Be Divested, and shall also divest such additional ancillary Carborundum Assets and Businesses and effect such arrangements as are necessary to assure the Viability and Competitiveness of the carborundum Silicon Carbide Properties to Be Divested.

E. Respondent may propose, prior to the earlier of August 30, 1996, or six months from the date the Acquisition is consummated, and the Commission may in its sole discretion accept, in lieu of divestiture of the Carborundum Silicon Carbide Properties to Be Divested, to grant, with no continuing royalties, a perpetual license to the Carborundum Silicon Carbide Refractory Brick Technology to a person that obtains the prior approval of the Commission, in a manner that receives the prior approval of the Commission. Licensing of the Carborundum Silicon Carbide Refractory Brick Technology shall, in order to obtain Commission approval, satisfy the purposes of this Order and remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's Complaint. In no event shall any licensing agreement pursuant to this paragraph contain any limitation on the products the licensee is permitted to produce, or the geographic area in which the licensee may produce such products. Respondent's request that the Commission approve a licensee shall not toll the time in which it is required to divest the Carborundum Silicon Carbide Properties to Be Divested, except that if the Commission has not approved or disapproved such request within ninety (90) days of the date on which it was submitted, then, in the event of Commission disapproval of the request, the period shall be extended by the length of time in excess of ninety days before Commission disapproval. Respondent's request that the Commission approve a licensee shall not eliminate the requirement that it divest the Carborundum Silicon Carbide Properties to Be Divested, unless such licensing is approved by the Commission and consummated in a timely fashion consistent with the requirements of this Order.

F. If Respondent licenses the Carborundum Silicon Carbide Refractory Brick Technology pursuant to Paragraph II. E. of this Order, then for a period of six (6) months after the License Date, upon reasonable notice and request from the Licensee, Respondent shall provide to the Licensee information, technical assistance, and advice sufficient to effect the transfer to the Licensee of the Silicon Carbide Refractory Brick Technology and to enable the Licensee to manufacture Silicon Carbide Refractory Bricks. Upon reasonable notice and request from the Licensee, Respondent shall also provide to the Licensee consultation and training with knowledgeable employees of Respondent, including a qualified engineer, at the Licensee's facility for a period of time, not to exceed three (3) months, sufficient to satisfy the Licensee's management that its personnel are adequately trained in the manufacture of Silicon Carbide Refractory Bricks. Respondent may require reimbursement from the Licensee for all of its direct out-of-pocket expenses, including a reasonable labor loss fee for on-site assistance incurred in providing the services required by this Paragraph II.F. of this Order.

G. If Respondent licenses the Carborundum Silicon Carbide Refractory Brick Technology pursuant to Paragraph II.E. of this Order, then Respondent shall provide the Licensee with all promotional, advertising, and marketing materials regarding Silicon Carbide Refractory Bricks prepared by Carborundum at any time during the period commencing twelve (12) months prior to the date this Order becomes final, a list of all customers of Carborundum's Silicon Carbide Refractory Bricks during the period commencing twenty four (24) months prior to the date this Order becomes final, and a list of Carborundum's suppliers of silicon carbide, other raw materials, and production components used to produce Carborundum's Silicon Carbide Refractory Bricks.

H. Respondent shall comply with all terms of the Agreement to Hold Separate attached to this Order and made a part hereof as Appendix I. Said Agreement shall continue in effect with respect to the Carborundum Fused Cast Refractories Properties to Be Divested until such time as Respondent has divested the Carborundum Fused Cast Refractories Properties to Be Divested, with respect to the Carborundum Igniters Properties to Be Divested until such time as Respondent has divested the Carborundum Igniters Properties to Be Divested, and with respect to the Carborundum Silicon Carbide Properties to Be Divested until such time as Respondent has divested the Carborundum Silicon Carbide Properties to Be Divested, or until such other time as stated in said Agreement, provided that said Agreement to Hold Separate shall not continue in effect with respect to the Carborundum Fused Cast Refractories Properties to Be Divested if Respondent divests, with Commission approval, the Saint-Gobain Fused Cast Refractories Properties to Be Divested, and shall not continue in effect with respect to the Carborundum Silicon Carbide Properties to Be Divested if Respondent licenses, with Commission approval, the Carborundum Silicon Carbide Refractory Brick Technology.

I. Respondent shall divest each of the Carborundum Properties to Be Divested only to an acquirer or acquirers that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. The purpose of the divestitures of the Carborundum Properties to Be Divested is to ensure the continuation of the Carborundum Properties to Be Divested as ongoing, viable businesses engaged in the manufacture and sale of Fused Cast Refractories, Hot Surface Igniters, and Silicon Carbide Performance Refractories, respectively, and to remedy any lessening of competition resulting from the Acquisition as alleged in the Commission's Complaint.

III

It is further ordered that:

A. If Respondent has not divested, absolutely and in good faith and with the Commission's approval, each of the Carborundum Properties to Be Divested, or, pursuant to Paragraph II.B. of this Order, the Saint-Gobain Fused Cast Refractories Properties to Be Divested, or has not licensed, with the Commission's approval, pursuant to Paragraph II.E. of this Order, the Carborundum Silicon Carbide Refractory Brick Technology, the Commission may appoint one or more trustees to divest the Remaining Properties to Be Divested, along with any reasonable ancillary Carborundum assets and other reasonable arrangements that are necessary to assure the Viability and Competitiveness of such Remaining Properties to Be Divested.

B. In the event the Commission or the Attorney General brings an action

pursuant to section 5(l) of the Federal Trade Commission Act, 15 U.S.C. 45(l), or any other statute enforced by the Commission, Respondent shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to section 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Respondent to comply with this Order.

C. If a trustee is appointed by the Commission or a court pursuant to Paragraph III.A. of this Order, Respondent shall consent to the following terms and conditions regarding the powers, authorities, duties and responsibilities of the trustee:

1. The Commission shall select the trustee, subject to the consent of Respondent, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If Respondent has not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the identity of any proposed trustee, Respondent shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Remaining Properties to Be Divested, along with any reasonable ancillary Carborundum assets and other reasonable arrangements that are necessary to assure the Viability and Competitiveness of such Remaining Properties to Be Divested.

3. The trustee shall have twelve (12) months from the date of appointment to accomplish the divestiture or divestitures. If, however, at the end of the twelve-month period the trustee has submitted a plan of divestiture or believes that divestiture can be accomplished within a reasonable time, the divestiture period may be extended by the Commission; provided, however, the Commission may only extend the divestiture period or divestiture periods, as applicable, two (2) times, but not more than one (1) year in the aggregate for each divestiture.

4. The trustee shall have full and complete access to the personnel, books, records and facilities related to the Remaining Properties to Be Divested, or any other relevant information, as the trustee may reasonably request. Respondent shall develop such financial or other information as such trustee may reasonably request and shall cooperate with any reasonable request of the trustee. Respondent shall take no action to interfere with or impede any trustee's accomplishment of the divestiture or divestitures. Any delays in divestiture caused by Respondent shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or the court for a court-appointed trustee.

5. Subject to Respondent's absolute and unconditional obligation to divest at no minimum price, the trustee shall use his or her best efforts to negotiate the most favorable price and terms available for the divestiture of the Remaining Properties to Be Divested. If the trustee receives bona fide offers for the Remaining Properties to Be Divested from more than one acquiring entity or entities, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity or entities selected by Respondent from among those approved by the Commission.

6. The trustee shall serve, without bond or other security, at the cost and expense of Respondent, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have authority to employ, at the cost and expense of Respondent, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are reasonably necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the sale and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of Respondent and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the Remaining Properties to be Divested.

7. Respondent shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, or liabilities arising out of, or in connection with, the performance of the trustee's duties under this Order, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

8. Within ten (10) days after appointment of the trustee, and subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, Respondent shall execute a trust agreement that transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestitures required by this order.

9. If a trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III.A. of this Order.

10. The Commission or, in the case of a court-appointed trustee, the court may, on its own initiative or at the request of the appropriate trustee, issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this Order.

11. The trustee shall have no obligation or authority to operate or maintain the Remaining Properties to Be Divested.

12. The trustee shall report in writing to Saint-Gobain and to the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

IV

It is further ordered that within thirty (30) days after the date this order becomes final and every sixty (60) days thereafter until Respondent has fully complied with Paragraphs II and III of this order, Respondent shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying and has complied with those provisions, including the Agreement to Hold Separate. Respondent shall include in its compliance reports, among other things that are required from time to time, a full description of substantive contacts or negotiations for the divestitures of the Carborundum Fused Cast Refractories Properties to Be Divested, Carborundum Igniter Properties to Be Divested, Carborundum Silicon Carbide Properties to Be Divested, and divestiture of the Saint-Gobain Fused Cast Refractories Properties to Be Divested or licensing of the Carborundum Silicon Carbide Refractory Brick Technology, as specified in Paragraph II of this order, including the identity of all parties contacted. Respondent also shall

include in compliance reports, among other things, copies of all written communications to and from such parties, all internal memoranda, reports and recommendations concerning the divestitures.

V

It is further ordered that for the purposes of determining or securing compliance with this Order, and subject to any legally recognized privilege, upon written request and on reasonable notice to Respondent made to counsel for Respondent, Saint-Gobain shall permit any duly authorized representatives of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Respondent, relating to any matters contained in this order; and

B. Upon ten (10) days' notice to Respondent, and without restraint or interference from Respondent, to interview officers or employees of Respondent, who may have counsel present, regarding such matters.

VI

It is further ordered that until the obligations set forth in Paragraphs II and III of this Order are met, Respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation, dissolution or sale of subsidiaries, or any other change that may affect compliance obligations arising out of the Order.

Agreement to Hold Separate

This Agreement to Hold Separate (the ''Hold Separate'') is by and between Saint-Gobain/Norton Industrial Ceramics Corporation (''Saint-Gobain''), a corporation organized, existing, and doing business under and by virtue of the laws of Delaware, with its principal office and place of business at One New Bond Street, Worcester, Massachusetts, 01615–0008, and the Federal Trade Commission (the ''Commission''), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. § 41, *et seq.* (collectively, the ''Parties'').

Premises

Whereas, on May 26, 1995, Compagnie de Saint-Gobain, the parent company of Saint-Gobain/Norton Industrial Ceramics Corporation, entered into, through its wholly-owned subsidiary Societe Europeenne Des Produits Refractaires (''SEPR''), a Stock Purchase Agreement with The Standard Oil Company, BP International Limited, and BP Exploration (Alaska), Inc., subsidiaries of British Petroleum Company, p.l.c. (''BP'') providing for the acquisition (the ''Acquisition'') of the voting securities of the companies that together comprise The Carborundum Company (''Carborundum''); and

Whereas, Carborundum, with its principal office and place of business at 1625 Buffalo Avenue, Niagara Falls, New York, 14303, manufactures and sells a range of products, including fused cast refractories, hot surface igniters, and silicon carbide performance refractories; and

Whereas, the Commission is now investigating the Acquisition to determine if it would violate any of the statutes enforced by the Commission; and

Whereas, if the Commission accepts the Agreement Containing Consent Order (''Consent Order''), the Commission will place it on the public record for a period of at least sixty (60) days and may subsequently withdraw such acceptance pursuant to the provisions of Section 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an understanding is not reached, preserving the status quo ante of Carborundum, during the period prior to the final acceptance and issuance of the Consent Order by the Commission (after the sixty (60)-day public comment period), divestiture resulting from any proceeding challenging the legality of the Acquisition might not be possible, or might be less than an effective remedy; and

Whereas, the Commission is concerned that if the Acquisition is consummated, it will be necessary to preserve the Commission's ability to require the divestiture of Carborundum and the Commission's right to have Carborundum or the Carborundum Properties to Be Divested continue as viable competitors independent of Saint-Gobain; and

Whereas, even if the Commission determines to finally accept the Consent Order, it is necessary to hold separate the Carborundum Properties to Be Divested to protect interim competition pending divestiture or other relief; and

Whereas, the purpose of this Agreement and the Consent Order is to

(i) Preserve Carborundum as a viable and competitive business, independent of Saint-Gobain, and engaged in the research and development, manufacture and sale of Fused Cast Refractories, Hot Surface Igniters and Silicon Carbide Performance Refractories pending final acceptance or withdrawal of acceptance of the Consent Order by the Commission pursuant to the provisions of section 2.34 of the Commission's Rules;

(ii) Preserve the Carborundum Properties to Be Divested as viable and competitive businesses, independent of Saint-Gobain, and engaged in the research and development, manufacture and sale of Fused Cast Refractories, Hot Surface Igniters and Silicon Carbide Performance Refractories pending Divestiture or other relief pursuant to Paragraph II or Paragraph III of the Consent Order;

(iii) Preserve Carborundum as a viable and competitive business, independent of Saint-Gobain, and engaged in the research and development, manufacture and sale of Fused Cast Refractories, Hot Surface Igniters and Silicon Carbide Performance Refractories and prevent any interim harm to consumers as a result of the Acquisition;

(iv) Remedy the anticompetitive effects of the Acquisition as alleged in the Commission's Complaint; and

Whereas, entering into this Hold Separate shall in no way be construed as an admission by Saint-Gobain that the Acquisition is illegal or would have any anticompetitive effects; and

Whereas, Saint-Gobain understands that no act or transaction contemplated by this Hold Separate shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Hold Separate.

Now, Therefore, the Parties agree, upon the understanding that the Commission has not yet determined whether the Acquisition will be challenged, and in consideration of the Commission's agreement at the time it accepts the Consent Order for public comment that, unless the Commission determines to reject the Consent Order, the Commission will not seek a temporary restraining order, preliminary injunction, or permanent injunction to prevent consummation of the Acquisition, and will grant early termination of the Hart-Scott-Rodino waiting period, as follows:

1. Saint-Gobain agrees to execute and be bound by the attached Consent Order.

2. The terms ''Fused Cast Refractories,'' ''Hot Surface Igniters,'' ''Silicon Carbide Performance Refractories,'' ''Carborundum Fused Cast Refractories Properties to Be Divested,'' ''Carborundum Igniters Properties to Be Divested,'' ''Carborundum Silicon Carbide Properties to Be Divested,''

''Carborundum Properties to Be Divested,'' and ''Acquisition'' have the same definitions as in the Consent Order;

3. Saint-Gobain agrees that from the date this Hold Separate is accepted until the earliest of the dates listed in subparagraphs 3.a. or 3.b., it will comply with the provisions of paragraph 5 of this Hold Separate with respect to Carborundum:

a. Five (5) business days after the Commission withdraws its acceptance of the Consent Order pursuant to the provisions of Section 2.34 of the Commission's Rules;

b. The day after the Commission accepts as final the Consent Order pursuant to the provisions of Section 2.34 of the Commission's Rules.

Provided, however, that Saint-Gobain is not required to hold separate pursuant to this Hold Separate any of the following business groups or businesses of Carborundum: Ceramic Fiber; Microelectronics; Structural Ceramics; Boron Nitride; Ekonol Polyester Resin; Carborundum Specialty Products; Irrigation; or Carborundum's silicon carbide refractory manufacturing plants in Germany, The United Kingdom or Australia.

4. Saint-Gobain agrees that from the date this Hold Separate is accepted until the earliest of the dates listed in subparagraphs 4.a., or 4.b., it will comply with the provisions of paragraph 5 of this Hold Separate with respect to each of the Carborundum Properties to Be Divested:

a. Five (5) business days after the Commission withdraws its acceptance of the Consent Order pursuant to the provisions of Section 2.34 of the Commission's Rules;

b. The day after the respective divestiture required by the Consent Order is completed, or, as applicable with regard to the Carborundum Silicon Carbide Properties to Be Divested, an approved license granted.

5. Saint-Gobain shall hold Carborundum or the Carborundum Properties to Be Divested, as applicable pursuant to Paragraphs 3 and 4 (the ''Held-Separate Businesses''), as they are constituted on the date the Acquisition is consummated, separate and apart on the following terms and conditions:

a. The Held-Separate Business shall be held separate and apart and shall be operated independently of Saint-Gobain (meaning here and hereafter, Saint-Gobain excluding the Held-Separate Businesses and excluding all personnel connected with the Held-Separate Businesses as of the date this Hold Separate is signed) except to the extent that Saint-Gobain must exercise direction and control over the Held-Gobain must exercise direction and control over the Held-Separate Businesses to assure compliance with this Hold Separate or with the Consent Order.

b. Saint-Gobain shall not exercise direction or control over, or influence directly or indirectly, the Held-Separate Business, the New Board or Management Committee (as defined in subparagraph 5.d.), or any of its operations or businesses; provided, however, that Saint-Gobain may exercise only such direction and control over the Held-Separate Businesses as is necessary to assure compliance with this Hold Separate or with the Consent Order.

c. Saint-Gobain shall maintain the marketability, viability and competitiveness of the Held-Separate Businesses, and shall not take such action that will cause or permit the destruction, removal, wasting, deterioration or impairment of the Held-Separate Businesses, except in the ordinary course of business and except for ordinary wear and tear, and shall not sell, transfer, encumber (other than in the normal course of business), or otherwise impair the marketability, viability or competitiveness of the Held-Separate Businesses.

d. Upon consummation of the Acquisition, Saint-Gobain shall elect a three-person Board of Directors for the Held-Separate Business (the ''New Board''), or a three-person Management Committee. After the Order is made final pursuant to Section 2.34 of the Commission's rules, Saint-Gobain may elect a separate New Board or Management Committee for each of the Held-Separate Businesses. Each New Board or Management Committee for each Held-Separate Business shall consist of at least two Carborundum officers knowledgeable about the Held-Separate Business, one of whom shall be named Chairman of the New Board or Management Committee, and who shall remain independent of Saint-Gobain and competent to assure the continued viability and competitiveness of the Held-Separate Business, and one New Board or Management Committee Member who may also be an officer, agent or employee of Saint-Gobain (the ''Saint-Gobain New Board Management Committee Member''). The Saint-Gobain New Board or Management Committee Member for each New Board or Management Committee for each Held-Separate Business shall not have any direct responsibility relating to any Saint-Gobain business that manufactures, markets or uses the products, or products that compete with, products manufactured or marketed by such Held-Separate Business. Except for the Saint-Gobain New Board or Management Committee Member, Saint-Gobain shall not permit any director, officer, employee or agent of Saint-Gobain also to be a director, officer, employee or agent of Carborundum. Each New Board or Management Committee member shall enter into a confidentiality agreement agreeing to be bound by the terms and conditions of this Hold Separate.

e. Except as required by law and except to the extent that necessary information is exchanged in the course of complying with this Hold Separate or the Consent Order, or in the course of defending investigations or litigation or obtaining legal advice, or providing risk management services, Saint-Gobain shall not receive or have access to, or the use of, any Material Confidential Information of the Held-Separate Businesses, not in the public domain, except as such information would be available to Saint-Gobain in the ordinary course of business if the Acquisition had not taken place. Saint-Gobain may receive on a regular basis from the Held-Separate Businesses aggregate financial information necessary and essential to allow Saint-Gobain to file financial reports, tax returns and personnel reports, and such other information, other than information relating specifically to the Carborundum Properties to Be Divested, necessary in the course of evaluating and consummating the Acquisition. Any such information that is obtained pursuant to this subparagraph shall only be used for the purposes set out in this subparagraph. (''Material Confidential Information,'' as used in this Hold Separate, means competitively sensitive or proprietary information not independently known to Saint-Gobain from sources other than the Held-Separate Businesses or the New Board or Management Committee, as applicable, and includes but is not limited to customer lists, customers, price lists, prices, individual transactions, marketing methods, patents, technologies, processes, or other trade secrets.) In no event shall Saint-Gobain receive Material Confidential Information relating to any specific customer of Carborundum.

f. Saint-Gobain may retain an independent auditor to monitor the operation of the Held-Separate Businesses. Said auditor may report in writing to Saint-Gobain on all aspects of the operation of the Held-Separate Businesses other than information on customer lists, customers, price lists,

prices, individual transactions, marketing methods, patents, technologies, processes, or other trade secrets.

g. Except as permitted by this Hold Separate, the New Board or Management Committee member appointed by Saint-Gobain who is also an officer, agent, or employee of Saint-Gobain shall not receive any Material Confidential Information of the Held-Separate Businesses or Material Confidential Information of any person other than Saint-Gobain and shall not disclose any such information obtained through his or her involvement with the Held-Separate Businesses to Saint-Gobain or use it to obtain any advantage for Saint-Gobain. The Saint-Gobain New Board or Management Committee Member shall participate in matters that come before the New Board or Management Committee only for the limited purpose of considering any capital investment of over $250,000 for the Carborundum Fused Cast Refractories Properties to Be Divested, any capital investment over $150,000 for the Carborundum Igniters Properties to Be Divested, any capital investment over $150,000 for the Carborundum Silicon Carbide Properties to Be Divested, approving any proposed budget and operating plans, authorizing dividends and repayment of loans consistent with the provisions hereof, reviewing any material transactions described in paragraph 5.g., and carrying out Saint-Gobain's responsibilities under the Hold Separate and the Consent Order. Except as permitted by the Hold Separate, the Saint-Gobain New Board or Management Committee Member shall not participate in any other matter.

h. All material transactions, out of the ordinary course of business and not precluded by paragraph 5 hereof, shall be subject to a majority vote of the New Board or Management Committee (as defined in paragraph 5.d. hereof).

i. Saint-Gobain shall not change the composition of the New Board or Management Committee unless the Chairman of the New Board or Management Committee consents, or unless it is necessary to do so in order to assure compliance with this Hold Separate or with the Consent Order. The Chairman of the New Board or Management Committee shall have the power to remove members of the New Board or Management Committee for cause and to require Saint-Gobain to appoint replacement members of the New Board or Management Committee. Saint-Gobain shall not change the composition of the management of the Held-Separate Businesses except that the New Board or Management Committee shall have the power to remove management employees for any legal reason. If the Chairman ceases to act of fails to act diligently, a substitute Chairman shall be appointed in the same manner as provide in paragraph 5.d. Saint-Gobain shall circulate to the management employees of Carborundum and appropriately display a notice of the Hold Separate and the Consent Agreement at a Conspicuous place at all offices and facilities of the Held-Separate Businesses.

j. All earnings and profits of the Held-Separate Businesses shall be retained separately by Carborundum or the Carborundum Properties to Be Divested, as applicable. If necessary, Saint-Gobain shall provided the Held-Separate Businesses with sufficient working capital to operate at current rates of operation, upon commercially reasonable terms.

k. Should the Federal Trade Commission seek in any proceeding to compel Saint-Gobain to divest itself of Carborundum or to compel Saint-Gobain to divest any assets or businesses of Carborundum that it may hold, or to seek any other injunctive or equitable relief, Saint-Gobain shall not raise any objection based upon the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has permitted the Acquisition. Saint-Gobain also waives all rights to contest the validity of this Hold Separate.

6. For the purpose of determining or securing compliance with this Hold Separate, subject to any legally recognized privilege, and upon written request and ten days' notice to Saint-Gobain, Saint-Gobain shall permit any duly authorized representative(s) of the Commission:

a. Access during the office hours of Saint-Gobain and in the presence of counsel to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of Saint-Gobain or Carborundum relating to compliance with this Hold Separate;

b. Without restraint or interference from Saint-Gobain, to interview Saint-Gobain's or Carborundum's officers, directors or employees, who may have counsel present, regarding any such matters.

Analysis To Aide Public Comment on the Provisionally Accepted Consent Order

The Federal Trade Commission (''the Commission'') has accepted, for public comment, from Compagnie de Saint-Gobain and Saint-Gobain/Norton Industrial Ceramics Corporation, a wholly-owned subsidiary of Compagnie de Saint-Gobain (collectively ''Saint-Gobain'') an agreement containing a consent order. This agreement has been placed on the public record for sixty days for reception of comments from interested persons.

Comments received during this period will become part of the public record. After sixty days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's order.

The Commission's investigation of this matter concerns the proposed acquisition by Compagnie de Saint-Gobain, through its wholly-owned subsidiary, Societe Europeene des Produits Refractaries (''SEPR), of certain of the subsidiaries of British Petroleum Company p.l.c., which together comprise The Carborundum Company (''Carborundum''). As part of this acquisition, Saint-Gobain/Norton Industrial Ceramics Corporation will acquire United States assets of Carborundum, other than those relating to ceramic fibers. The Commission's proposed complaint alleges that Saint-Gobain and Carborundum compete with in each other in three lines of commerce: fused cast refractories, which glass manufacturers use to line furnaces; hot surface igniters (''HSIs''), which gas appliance manufacturers use as ignition sources; and silicon carbide refractory bricks, which manufacturers of aluminum, steel and other metals use to line furnaces.

The agreement containing consent order would, if finally accepted by the Commission, settle charges that the acquisition may substantially lessen competition in the production and sale of fused cast refractories, HSIs and silicon carbide refractory bricks in the United States and lead to a monopoly in those lines of commerce. The Commission has reason to believe that the acquisition and agreement violate Section 5 of the FTC Act and the acquisition would have anticompetitive effects and would violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act if consummated, unless an effective remedy eliminates such anticompetitive effects.

With respect to the market for fused cast refractories, which are used primarily by glass manufacturers in the furnaces where they melt raw materials, the Commission's complaint alleges that these refractories provide unique

characteristics, and that as a result, the use of these materials would not be diminished by even a large price increase. Imports of fused cast refractories, the Complaint further alleges, are small and come primarily from Saint-Gobain. Saint-Gobain and Carborundum are the only two producers of fused cast refractories in the United States, and entry of other producers not only is unlikely, but would be very time-consuming. The Commission's Complaint alleges that the proposed acquisition, which would result in a monopoly in the United States, would lessen competition by eliminating competition between Saint-Gobain and Carborundum, and would lead to higher prices and less product innovation.

In the market for HSIs, which are used primarily by gas appliance manufacturers as an ignition source, the Commission's Complaint alleges that HSIs, which differ by application in design and price, are the most reliable and cost-effective ignition sources for most types of gas appliances, such as ranges, dryers and furnaces. Moreover, customers would have to redesign appliances to use other products. As a result, according to the Complaint, the use of HSIs would not be diminished by even a large price increase. Saint-Gobain and Carborundum account for nearly all sales of HSIs in the United States, and the only other producer of HSIs in the United States has only limited sales, nearly all of which are to the aftermarket. The Commission's Complaint, citing factors such as the history of failed entry and the time required for new entry, alleges that entry would not deter or alleviate the anticompetitive effects of the acquisition. Therefore, according to the Commission's Complaint, the proposed acquisition, which would result in a near monopoly in the United States in HSIs and would combine the two closest substitutes under Saint-Gobain's control even if alternative ignition sources were included in the market, would lessen competition by eliminating competition between Saint-Gobain and Carborundum, and would lead to higher prices and less product innovation.

In the market for silicon carbide refractory bricks, which are used in such applications as lining aluminum reduction cells, steel blast furnaces and copper shaft furnaces, the Commission's Complaint alleges that because of the excellent corrosion resistance provided by silicon carbide, its use in these applications would not be diminished by a significant price increase. Imports of silicon carbide refractory bricks, according to the Commission's Complaint, would not constrain pricing in the United States. In the market for silicon carbide refractory bricks, the Complaint alleges, Saint-Gobain and Carborundum account for virtually all sales, and new entry of a competitive producer would both be unlikely and take a long time. Therefore, the Complaint alleges, the proposed acquisition would allow Saint-Gobain to unilaterally exercise market power, leading to higher prices for silicon carbide refractory bricks.

The proposed order accepted for public comment contains provisions that would require Saint-Gobain to divest Carborundum's Monofrax fused cast refractories business, Carborundum's HSI business, and its United States silicon carbide refractories manufacturing plant to an acquirer or acquirers receiving the prior approval of the Commission, by February 28, 1997. The divestitures include those portions of the centralized research and development operations at Carborundum that are related to these businesses. In addition to divesting these businesses, Saint-Gobain must divest ancillary assets and businesses and make any arrangements necessary to assure that these Carborundum properties are capable of being operated independently and competitively by the acquirer or acquirers of the businesses. Saint-Gobain's divestitures of the Carborundum businesses, if completed, would satisfy the requirements of the Order and remedy the lessening of competition alleged in the Complaint.

The proposed order provides that in lieu of divestiture of the Carborundum Monofrax fused cast refractories business, Saint-Gobain may propose divestiture of its own Corhart Refractories fused cast refractories business, together with results of related research and development done within Saint-Gobain organization, including research and development done overseas. Because the Corhart business is operated as part of the Saint-Gobain fused cast refractory business worldwide, and relies on the Saint-Gobain organization for certain support activities, the Commission has retained the discretion to approve or disapprove this alternative divestiture of the Corhart business, depending on whether divestiture to a particularly proposed acquirer fully satisfies the purposes of the proposed order and remedies the lessening of competition alleged in the Complaint. Among the factors that may be relevant to this issue include the nature of the business of the proposed acquirer, as well as the proposed acquirer's independent research and development capabilities in fused cast refractories and its product lines and sales and marketing organization for fused cast refractories, in light of the fact that Corhart would be divorced from Saint-Gobain's similar capabilities in fused cast refractories if such divestiture is approved. If Saint-Gobain proposes divestiture of the Corhart business, and its request is disapproved by the Commission, Saint-Gobain would continue to have the obligation to divest the Carborundum fused cast refractory business to a Commission approved acquirer by February 28, 1997.

The proposed order also provides that in lieu of divestiture of Carborundum's Keasbey, New Jersey silicon carbide refractories manufacturing facility in the United States, Saint-Gobain may propose, by August 30, 1996, to license Carborundum technology for the manufacture of nitride-bonded, sialon-bonded, and other types of silicon carbide refractory bricks, which technology the licensee could use to produce both bricks and other products. The Commission has retained the discretion to approve or disapprove the technology license to a particular proposed licensee depending on whether the proposed license and licensee fully satisfies the purposes of the proposed order and remedies the lessening of competition alleged in the Complaint. Among the factors that may be relevant to this issue are the likelihood that the licensee would enter into production and sale of silicon carbide refractory bricks, the time required for the licensee to enter and have a significant market impact in silicon carbide refractory bricks, the licensee's manufacturing capabilities and costs, and the types of products that the licensee intends to manufacture and market.

Under the terms of the proposed order, Saint-Gobain must divest Carborundum's fused cast refractories, HSI, and silicon carbide refractories businesses by February 28, 1997. If Saint-Gobain fails to divest either Carborundum's fused cast refractories, HSI, or silicon carbide performance refractories business by that date, or fails to accomplish the alternative divestiture or licensing if approved by the Commission, then the Commission may appoint a trustee to divest any remaining properties yet to be divested, along with ancillary assets or other arrangements that may be necessary to assure that any property yet to be divested is capable of being operated independently and competitively by its acquirer or acquirers.

A hold separate agreement made a part of the consent agreement requires

Saint-Gobain, until the proposed order is made final, to hold separate Carborundum, but allows Saint-Gobain to integrate certain discrete assets of Carborundum unrelated to the lines of commerce of competitive concern. It further requires Saint-Gobain, until it accomplishes the divestitures of Carborundum's fused cast refractories, HSI or silicon carbide business required by the order, or the alternative divestiture or licensing, or until the trustee accomplishes the divestitures required by the order, to hold separate and preserve all of the assets and businesses to be divested.

The purpose of this analysis is to invite public comment concerning the proposed order. This analysis is not intended to constitute an official interpretation of the agreement and order or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–5224 Filed 3–6–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Collection; Comment Request

Proposed Project(s)

Title: State Plan for Foster Care and Adoption Assistance—Title IV–E.

OMB No.: 0980–0141.

Description: Under section 471(a)(16) of title IV–E of the Social Security Act, in order for a State to be eligible for payments they must have an approved State plan which provides for the development of a case plan (as defined in section 475(I)) for each child receiving foster care maintenance payments and provides a case review system which meets the requirements in section 475(5)(B). Through these requirements the State also complies with title IV–B, section 422(b)(9) (as of 4/1/96), which assures certain protections for children in foster care.

Respondents: State governments.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Case plan	445,000	1	4	1,780,000

Estimated Total Annual Burden Hours: 1,780,000.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by title.

In addition, requests of copies may be made and comments forwarded to the Reports Clearance Officer over the Internet by sending a message to rkatson@acf.dhhs.gov. Internet messages must be submitted as an ASCII file without special characters or encryption.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: March 1, 1996.

Roberta Katson,

Director, Division of Information Resource Management Services.

[FR Doc. 96–5389 Filed 3–6–96; 8:45 am]

BILLING CODE 4184–01–M

Proposed Collection; Comment Request

Proposed Project(s)

Title: Adoption and Foster Care Analysis Reporting System for title IV–B and title IV–E.

OMB No.: 0980–0267.

Description: Section 479 of title IV–E of the Social Security Act directs States to establish and implement an adoption and foster care reporting system. The purpose of the data collected is to inform State/Federal policy decisions, program management, respond to Congressional and Department inquiries. Specifically, the data is used for short/long-term budget projections, trend analysis, and target areas for improved technical assistance. The data will provide information about foster care placements, adoptive parents, length of time in care, delays in termination of parental rights and placement for adoption.

Respondents: State governments.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Reporting System	51	2	3,251	331,602

Estimated Total Annual Burden Hours: 331,602.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the

information collection described below. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by title.

In addition, requests of copies may be made and comments forwarded to the Reports Clearance Officer over the Internet by sending a message to rkatson@acf.dhhs.gov. Internet messages must be submitted as an ASCII file without special characters or encryption.

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: March 1, 1996.

Roberta Katson,

Director, Division of Information Resource Management Services.

[FR Doc. 96–5390 Filed 3–6–96; 8:45 am]

BILLING CODE 4184–01–M

New and Pending Demonstration Project Proposals Submitted Pursuant to Section 1115(a) of the Social Security Act: February 1996

AGENCY: Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: This notice lists new proposals for welfare reform and combined welfare reform/Medicaid demonstration projects submitted to the Department of Health and Human Services for the month of February, 1996. It includes both those proposals being considered under the standard waiver process and those being considered under the 30 day process. Federal approval for the proposals has been requested pursuant to section 1115 of the Social Security Act. This notice also lists proposals that were previously submitted and are still pending a decision and projects that have been approved since February 1, 1995. The Health Care Financing Administration is publishing a separate notice for Medicaid only demonstration projects.

Comments: We will accept written comments on these proposals. We will, if feasible, acknowledge receipt of all comments, but we will not provide written responses to comments. We will, however, neither approve nor disapprove new proposals under the standard application process for at least 30 days after the date of this notice to allow time to receive and consider comments. Direct comments as indicated below.

ADDRESSES: For specific information or questions on the content of a project contact the State contact listed for that project.

Comments on a proposal or requests for copies of a proposal should be addressed to: Howard Rolston, Administration for Children and Families, 370 L'Enfant Promenade SW., Aerospace Building, 7th Floor West, Washington DC 20447; Phone: (202) 401–9220, Fax: (202) 205–3598.

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 1115 of the Social Security Act (the Act), the Secretary of Health and Human Services (HHS) may approve research and demonstration project proposals with a broad range of policy objectives.

In exercising her discretionary authority, the Secretary has developed a number of policies and procedures for reviewing proposals. On September 27, 1994, we published a notice in the Federal Register (59 FR 49249) that specified (1) the principles that we ordinarily will consider when approving or disapproving demonstration projects under the authority in section 1115(a) of the Act; (2) the procedures we expect States to use in involving the public in the development of proposed demonstration projects under section 1115; and (3) the procedures we ordinarily will follow in reviewing demonstration proposals. We are committed to a thorough and expeditious review of State requests to conduct such demonstrations.

On August 16, 1995, the Secretary published a notice in the Federal Register (60 FR 42574) exercising her discretion to request proposals testing welfare reform strategies in five areas. Since such projects can only incorporate provisions included in that announcement, they are not subject to the Federal notice procedures. The Secretary proposed a 30 day approval process for those provisions. As previously noted, this notice lists all new or pending welfare reform demonstration proposals under section 1115. Where possible, we have identified the proposals being considered under the 30 day process. However, the Secretary reserves the right to exercise her discretion to consider any proposal under the 30 day process if it meets the criteria in the five specified areas and the State requests it or concurs.

II. Listing of New and Pending Proposals for the Month of February, 1996

As part of our procedures, we are publishing a monthly notice in the Federal Register of all new and pending proposals. This notice contains proposals for the month of February, 1996.

Project Title: California—Work Pays Demonstration Project (Amendment).

Description: Would amend Work Pays Demonstration Project by adding provisions to: reduce benefit levels by 10% (but retaining the need level); reduce benefits an additional 15% after 6 months on assistance for cases with an able-bodied adult; time-limit assistance to able-bodied adults to 24 months, and not increase benefits for children conceived while receiving AFDC.

Date Received: 3/14/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Glen Brooks, (916) 657–3291.

Project Title: California—Work Pays Demonstration Project (Amendment).

Description: Would amend the Work Pays Demonstration Project by adding provisions to not increasing AFDC benefits to families for additional children conceived while receiving AFDC.

Date Received: 11/9/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Bruce Wagstaff, (916) 657–2367.

Project Title: Florida—Family Responsibility Act.

Description: Statewide, would require dependent children and caretaker relatives under age 18 to remain in school; pay half the AFDC benefit increment for the first child conceived by an AFDC recipient and provide no cash benefits for a second or subsequent child; exclude from the AFDC budget child support payments for children subject to the family cap; require AFDC recipients not participating in JOBS or actively seeking employment to engage

in 20 hours per week of community employment or work experience.

Date Received: 10/4/95.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Sallie P. Linton, (904) 921–5572.

Project Title: Georgia—Jobs First Project.

Description: In ten pilot counties, would replace AFDC payment with paid employment; extend transitional Medicaid to 24 months; eliminate 100 hour employment rule for eligibility determination in AFDC-UP cases.

Date Received: 7/5/94.

Type: AFDC.

Current Status: Pending (not previously published).

Contact Person: Nancy Meszaros, (404) 657–3608.

Project Title: Hawaii—Families Are Better Together.

Description: Statewide, would eliminate 100-hour, attachment to the work force, 30 day unemployment and principal wage earner criteria for AFDC-UP families.

Date Received: 5/22/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Patricia Murakami, (808) 586–5230.

Project Title: Illinois—Six Month Paternity Establishment Demonstration.

Description: In 20 counties, would require the establishment of paternity, unless good cause exists, within 6 months of application or redetermination as a condition of AFDC and Medicaid eligibility for both mother and child; would deny Medicaid to children age 7 and under, exclude children from filing rules, and exempt Department from making protective payments to eligible children, when custodial parent has not cooperated in establishing paternity; delegate the establishment of paternity in uncontested cases to caseworkers who perform assistance payment or social service functions under title IV–A or XX.

Date Received: 7/18/95.

Title: AFDC/Medicaid.

Current Status: Pending.

Contact Person: Karan D. Maxson, (217) 785–3300.

Project Title: Indiana—Impacting Families Welfare Reform Demonstration—Amendments.

Description: Statewide, proposes expansions and amendments to current demonstration to impose a lifetime 24-month limit on cash assistance and categorical Medicaid eligibility (12 months for resident alien); allow 1 month AFDC credit (to a maximum of 24 at any one time) for each 6 consecutive months full-time employment; count each month of AFDC receipt from another state within the previous 3 years as 1 month against the lifetime limit; restrict permissible ''specified relatives'' for AFDC children and minor parents; extend AFDC, Medicaid, and food stamp fraud disqualification penalties; establish 3 unexcused absences per year as the statewide definition of unacceptable school attendance; provide a voucher equal to 50% of assistance amount for family cap child for goods and services related to child care; divert AFDC grants to subsidize child care costs; establish an option for an employed AFDC recipient to receive guaranteed child care or an AFDC payment equal to the family's benefit before employment; require a child's mother to establish paternity as a condition of eligibility for the child and the caretaker; establish additional conditions of eligibility for AFDC; impose penalties for illegal drug use; base CWEP hours on the combined value of AFDC and Medicaid assistance; make JOBS volunteers subject to the same sanctions as mandatory participants; continue eligibility for AFDC recipients until countable income reaches 100% of the federal poverty guidelines; expand voluntary quit definition and penalties; impose income limits on transitional Medicaid and child care and limit each to 12 months in a person's lifetime; with some exceptions, deny Medicaid under all coverage provisions to those determined ineligible as a result of AFDC welfare reform provisions; restrict Medicaid payments made to employees with employer's health care benefits to the lesser of the employee's insurance premium or the amount the state would otherwise pay; and require minor parents to live with a legally responsible adult and count the income and resources of non-parent adults. Additional provisions: Food Stamp recipients could be required to participate CWEP and job search; increase AFDC and Food Stamp penalties for non-compliance with CWEP and job search; require cooperation with child support as condition of eligibility for Food Stamps.

Date Received: 12/14/95; Amendment received 2/6/96.

Type: Combined AFDC/Medicaid.

Current Status: New (Amendments).

Contact Person: James H. Hmurovich, (317) 232–4704.

Project Title: Iowa—Family Investment Plan (Amendments).

Description: Statewide, would amend the current Family Investment Plan Demonstration, changing the current JOBS exemption from parents with children younger than 6 months old to younger than 3 months old; for applicants who received AFDC in another state at any time during the 12 calendar months prior to application in Iowa, calculating benefits for 6 months using the prior state's need standard if its benefit level is lower than Iowa's; requiring minor parents to live with an adult parent or legal guardian; requiring parents age 19 and younger to attend parenting classes; requiring minor parents to participate in high school completion activities; disregarding earned income of full time students age 19 and younger; adopting the Section 416 Optional AFDC Fraud Control Program; and offering information to parents regarding family planning and the financial implications of having additional children.

Date Received: 2/9/96.

Type: AFDC.

Current Status: New.

Contact Person: Ann Weibers, (515) 281–7714.

Project Title: Kansas—Actively Creating Tomorrow for Families Demonstration.

Description: Would, after 30 months of participation in JOBS, make adults ineligible for AFDC for 3 years; replace $30 and 1/3 income disregard with continuous 40% disregard; disregard lump sum income and income and resources of children in school; count income and resources of family members who receive SSI; exempt one vehicle without regard for equity value if used to produce income; allow only half AFDC benefit increase for births of a second child to families where the parent is not working and eliminate increase for the birth of any child if families already have at least two children; eliminate 100-hour rule and work history requirements for UP cases; expand AFDC eligibility to pregnant women in 1st and 2nd trimesters; extend Medicaid transitional benefits to 24 months; eliminate various JOBS requirements, including those related to target groups, participation rate of UP cases and the 20-hour work requirement limit for parents with children under 6; require school attendance; require minors in AFDC and NPA Food Stamps cases to live with a guardian; make work requirements and penalties in the AFDC and Food Stamp programs more uniform; and increase sanctions for not cooperating with child support enforcement activities.

Date Received: 7/26/94.

Type: Combined AFDC/Medicaid.

Current Status: Pending.

Contact Person: Faith Spencer, (913) 296–0775.

Project Title: Maine—Welfare to Work Program.

Description: Statewide, would require caretaker relatives to sign a family contract; require participation in parenting classes and health care services; provide one-time vendor payments in lieu of AFDC for the purpose of obtaining/retaining employment; provide voucher payments to both married and unmarried minor parents; limit JOBS exemptions; expand eligibility for Transitional Medicaid and Child Care and replace sliding-scale fees with flat-rate fees; reduce Transitional Medicaid reporting requirements; disregard entire value of one vehicle; and apply any federal savings to the JOBS program services. In selected sites, implement ASPIRE-Plus, a subsidized employment program, would cash out food stamps, divert AFDC benefits and pass through all child support collected to families who participate in ASPIRE-Plus.

Date Received: 9/20/95.TYPE: AFDC/Medicaid.

Current Status: Pending.

Contact Person: Susan Dustin, (207) 287–3104.

Project Title: New Hampshire—Earned Income Disregard Demonstration Project.

Description: AFDC applicants and recipients would have the first $200 plus 1/2 the remaining earned income disregarded.

Date Received: 9/20/93.

Type: AFDC.

Current Status: Pending.

Contact Person: Avis L. Crane, (603) 271–4255.

Project Title: New Hampshire—New Hampshire Employment Program and Family Assistance Program.

Description: Statewide, would replace AFDC with Employment Program administered by both Employment Security Agency and Family Assistance Program; require job search and other employment-related activities for first 26 weeks of receipt followed by work-related activities for 26 weeks; eliminate JOBS target group funding requirement and change JOBS reporting requirements; require recipients attending post-secondary or part-time vocational training to participate in work-related activities; eliminate JOBS services priority for volunteers; establish limits for provision of transportation and other JOBS services based on activity and local conditions; eliminate remoteness as exemption from JOBS; require non-custodial parents to participate in JOBS; increase earned income disregard to 50%; eliminate AFDC–UP eligibility requirements; allow transitional case management for up to one year; raise resource limit to $2,000 and exclude one vehicle and life insurance policies; pass through child support directly to family; take SSI income into account in determining eligibility/payment; eliminate conciliation and apply JOBS sanction of 50% of AFDC benefits for three months followed by no payment for three months, allowing option to increase initial sanction up to 100%; exempt pregnant women from JOBS only during third trimester; for minor parents cases, include in assistance unit any parent or sibling living in the home; eliminate gross income test; disregard educational grants; allow emergency assistance for families with employment-related barriers; allow State to eliminate the certificate option for child care and development block grant funds and use of these funds for capital improvement; eliminate ceiling on At Risk Child Care funds; provide that FFP for AFDC not be reduced during life of demonstration; fund computer system modifications at 80% FFP; require pregnant recipients to cooperate with child support; require that AFDC apply for Medicaid as a unit and not individually; eliminate requirement of receipt of AFDC for 3 of last 6 months in order to receive transitional Medicaid; and allow State to require that some individuals be assigned to a managed care program; substitute outcome measures for JOBS participation rates; change participation requirements for parents with children under 6, UP recipients and minors; establish a medical deduction; increase the sanction for non-cooperation with child support; exempt individuals with significant employment barriers from JOBS; treat lump sum income and all real property, except a home, as a resource; and use 20% of gross earned income as a Medicaid disregard. Also contains various Food Stamp waivers.

Date Received: 9/18/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Marianne Broshek, (603) 271–4442.

Project Title: New Hampshire—New Hampshire Employment Program.

Description: In three pilot sites, would require work after 6 months of AFDC receipt; eliminate the exemption from JOBS for women in the second trimester of pregnancy; eliminate the JOBS exemption for caretaker of a child under 3 but not less than 1 year of age; replace the earned income disregard of $90 and $30 and ⅓ with a 50% disregard which is not time-limited; raise the resource limit for recipients to $2,000; disregard full value of one vehicle per adult for applicants and recipients; apply a full family sanction voluntarily quitting a job or refusing to accept a job; apply a sanction of reducing the payment standard by 30% for one month for failure to comply with JOBS in the first instance, by 60% in the second instance for one month, and in the third instance apply a full-family sanction for three months or until compliance; and require non-custodial parents to participate in JOBS.

Date Received: 10/6/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Marianne Broshek, (603) 271–4442.

Project Title: North Carolina—Cabarrus County Work Over Welfare Demonstration Project.

Description: In Cabarrus County, would require AFDC and Food Stamps applicants and recipients, with exemptions, to sign an agreement to participate in employment and training for up to 40 hours per week; would divert AFDC and Food Stamps benefits to private employers to supplement wages; and would disregard those wages for AFDC, Food Stamps, and Medicaid eligibility (for NPA participants). Also, would extend the $30 and 1/3 disregard to 2 years for unsubsidized earnings. Individuals who not comply would be denied AFDC, Food Stamps, and Medicaid (unless pregnant) according to the following schedule: first, until compliance; second: for a minimum of 4 months; and third and subsequently: for a minimum of 8 months. Adults who do not sign an agreement would be denied AFDC, Food Stamps, and Medicaid (unless pregnant) until they sign.

Date Received: 10/5/95.

Type: AFDC/Medicaid.

Current Status: Pending.

Contact Person: Kevin Fitzgerald, (919) 733–3055.

Project Title: Ohio—Ohio First.

Description: Statewide, would replace current earned income disregards with $250 and 1/2 for twelve months for recipients; eliminate the work history requirement for married parents in AFDC-UP cases; eliminate 100-hour rule for AFDC-UP; disregard of stepparent income for four months; increase the vehicle asset limit; use established vacancies for subsidized employment slots; require applicant job search as a condition of family eligibility; maintain food stamp benefit levels when the AFDC benefit is reduced as a result of sanction; impose progressive sanctions for noncompliance with JOBS leading to

whole family sanctions; establish that failure to comply with JOBS equates to failure to comply with work program requirements under the Food Stamp Program; limit AFDC eligibility to 36 months out of any 60 month period, unless exempt; allow the IV-D agency to determine good cause for noncooperation with Child Support Enforcement; change penalty for failure to cooperate with Child Support provisions to include a whole family sanction if the failure continues for two years; change penalty for fraud to include ineligibility for all assistance unit members until payments received fraudulently have been repaid; require development and signing of a self-sufficiency contract as a condition of eligibility for the assistance unit; require pregnant women receiving Medicaid to participate in substance abuse screening as part of prenatal care; implement sanctions for failure to cooperate with substance abuse screening leading to whole family sanctions.

Date Received: 10/27/95.TYPE: AFDC/Medicaid.

Current Status: Pending.

Contact Person: Joel Rabb, (614) 466–3196.

Project Title: Oklahoma—Welfare Self-Sufficiency Initiative.

Description: In four pilots conducted in five counties each, would 1) extend transitional child care to up to 24 months; 2) require that all children through age 18 be immunized and require that responsible adults with preschool age children participate in parent education or enroll the children in Head Start or other preschool program; 3) not increase AFDC benefits after birth of additional children, but provide voucher payment for the increment of cash benefits that would have been received until the child is two years old; and 4) pay lesser of AFDC benefit or previous state of residence or Oklahoma's for 12 months for new residents.

Date Received: 10/27/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Raymond Haddock, (405) 521–3076.

Project Title: Oregon—Oregon Option.

Description: As a statewide project, would incorporate waivers already approved in 1992 for JOBS Welfare Program and in 1994 for the JOBS Plus Demonstration with previously pending waiver requests to increase vehicle asset limit and extend transitional child care. Requests guaranteed level of federal funding, with funds not used for benefits to be used for other community support or prevention programs. Also would, with some exceptions, limit receipt of AFDC benefits to no more than 24 out of 84 months for families with employable parents; allow case manager to determine JOBS exemptions on an individual basis; eliminate the time restrictions on job search; impose progressive sanctions, leading to full-family ineligibility, for non-compliance with JOBS; require ineligible alien parents of AFDC children to participate in JOBS; require counseling for recipients with substance abuse problems; require teen parents to live in an adult-supervised setting; discontinue the AFDC-UP program from June through September each year and eliminate the 100-hour rule and work history requirements; increase asset limit to $2,500 for non-JOBS participants and $10,000 for JOBS participants, and treat lump-sum payments as an asset; require annual AFDC eligibility redeterminations; modify the rules for potential liability under Electronic Benefit Transfer.

Date Received: 7/10/95.

Type: AFDC/Medicaid.

Current Status: Pending.

Contact Person: Jim Neely, (503) 945–5607.

Project Title: Oregon—Expansion of the Transitional Child Care Program.

Description: Provide transitional child care benefits without regard to months of prior receipt of AFDC and provide benefits for 24 months.

Date Received: 8/8/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Jim Neely, (503) 945–5607.

Project Title: Oregon—Increased AFDC Motor Vehicle Limit.

Description: Would increase automobile asset limit to $9,000.

Date Received: 11/12/93.

Type: AFDC.

Current Status: Pending.

Contact Person: Jim Neely, (503) 945–5607.

Project Title: Pennsylvania—School Attendance Improvement Program.

Description: In 7 sites, would require school attendance as condition of eligibility.

Date Received: 9/12/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Patricia H. O'Neal, (717) 787–4081.

Project Title: Pennsylvania—Savings for Education Program.

Description: Statewide, would exempt as resources college savings bonds and funds in savings accounts earmarked for vocational or secondary education and disregard interest income earned from such accounts.

Date Received: 12/29/94.

Type: AFDC.

Current Status: Pending.

Contact Person: Patricia H. O'Neal, (717) 787–4081.

Project Title: South Carolina—Family Independence Program.

Description: Statewide, would, with exceptions, time limit AFDC benefits to families with able bodied adults to 24 months out of 120 months, not to exceed 60 months in a lifetime; eliminate increase in AFDC benefit resulting from birth of children 10 or more months after the family begins AFDC receipt, but provide benefits to such children in the form of vouchers for goods and services permitting child's mother to participate in education, training, and employment-related activities; eliminate deprivation requirements, principal earner provisions, work history requirements, and 100-hour rule for AFDC-UP; increase AFDC resource limit to $2,500 and disregard as resources one vehicle with a market value up to $10,000, the balance in an Individual Development Account (IDA) up to $10,000, and the cash value of life insurance; disregard from income up to $10,000 in lump sum payments deposited in an IDA within 30 days of receipt, earned income of children attending school, and interest and dividend income up to $400; require participation in a family skills training program; require certain AFDC recipients to submit to random drug tests and/or participate in alcohol or drug treatment; require children to attend school; increase amount of child support passed through to AFDC recipients; require more extensive information for child support enforcement purposes; modify JOBS exemptions and good cause criteria, and increase sanctions for non-compliance; make job search a condition of eligibility; allow non-custodial parents of AFDC children to participate in JOBS; pay transitional grant equaling 3 percent of the maximum family grant following employment; and provide transitional grant Medicaid and child care for 12 months from the date of employment for cases previously closed due to time limit.

Date Received: 6/12/95.

Type: AFDC.

Current Status: Pending.

Contact Person: Linda Martin (804) 737–6010.

Project Title: Texas—Achieving Change for Texans.

Description: Statewide, would implement requirement for a personal responsibility agreement which addresses issues such as child support

cooperation, early medical screening for children, work requirements, drug and alcohol abuse, school attendance, and parenting skills training; would limit the caretaker exemption from employment services, disregard the earned income and resources from earnings of a child, set resource limits which promote independence from AFDC, eliminate work history and 100-hour rules for otherwise eligible two-parent families. In Bexar County would time-limit AFDC benefits to 12, 24, and 36 months depending on education and job experience, with extensions of the time-limit based on severe personal hardship, or in cases where the State could not provide supportive services, or where the local economy was in such state that the recipient could not reasonably be expected to find employment, if State funds are available to continue assistance. Transitional Medicaid and child care services would be provided to individuals who exhaust their time-limited cash benefits. In two metropolitan statistical areas establish Individual Development Accounts to promote the transition to independence from AFDC, through allowable account deductions for education, business start-up costs and the like. In Fort Bend County would allow at recipient option, one-time AFDC cash emergency assistance payments of $1,000 in lieu of ongoing regular AFDC payments with prohibition from applying for regular AFDC for a period of 12 months from date of receipt. In Dallas-Fort Worth would require electronic imaging (fingerprinting combined with photographic identification).

Date Received: 10/6/95.

Title: AFDC/Medicaid.

Current Status: Pending.

Contact Person: Kent Gummerman, (512) 438–3743.

Project Title: Utah—Single-Parent Employment Demonstration (Amendments)

Description: Would amend the current Single Parent Employment Demonstration (SPED), requiring preschool children to be immunized and other children to attend school; considering as a single filing unit each family with a child in common, including all children in the household related to either parent; permitting parents removed from the grant due to non-cooperation or fraud to remain eligible for JOBS services, including support services; and allowing a ''best estimate'' of earnings in lieu of actual earnings so long as estimate is within $100 of actual earnings. These amendments would initially be limited to the Kearns office and later expanded to other SPED sites.

Date Received: 2/7/96.

Type: AFDC.

Current Status: New.

Contact Person: Bill Biggs, (801) 538–4337.

III. Listing of Approved Proposals Since February 1, 1995

Project Title: California—Assistance Payments Demonstration Project (Amendment)

Contact Person: Bruce Wagstaff, (916) 657–2367.

Project Title: Louisiana—Individual Responsibility Project.

Contact Person: Sammy Guillory, (504) 342–4089.

Project Title: Mississippi—A New Direction Demonstration Program—Amendment.

Contact Person: Larry Temple, (601) 359–4476.

Project Title: North Carolina—Work First Program.

Contact Person: Kevin Fitzgerald, (919) 733–3055.

IV. Requests for Copies of a Proposal

Requests for copies of an AFDC or combined AFDC/Medicaid proposal should be directed to the Administration for Children and Families (ACF) at the address listed above. Questions concerning the content of a proposal should be directed to the State contact listed for the proposal.

(Catalog of Federal Domestic Assistance Program, No. 93562; Assistance Payments—Research)

Dated: March 1, 1996.

Howard Rolston,

Director, Office of Planning, Research and Evaluation.

[FR Doc. 96–5338 Filed 3–6–96; 8:45 am]

BILLING CODE 4184–01–P

Food and Drug Administration

[Docket No. 95P–0110]

Guidance Documents; The Food and Drug Administration's Development and Use; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is requesting comment on issues relating to the agency's development and use of guidance documents. These issues were raised in a citizen petition submitted by the Indiana Medical Devices Manufacturers Council, Inc. (IMDMC). (See Docket No. 95P–0110). The petition requested that FDA control the initiation, development, and issuance of guidance documents by written procedures that assure the appropriate level of meaningful public participation. In its response to the petition, FDA agreed that public participation generally benefits the guidance document development process. FDA also stated the importance of communicating more clearly to its employees and to the public the nonbinding nature of guidance documents. Therefore, FDA agreed to take steps to improve its guidance document procedures. FDA is seeking an approach that addresses concerns regarding adequate public participation but does not make it impractical for the agency to continue making guidance available in a timely fashion. Some suggestions for improving FDA's guidance document procedures are set forth in this document. FDA is soliciting comment on these suggestions and is soliciting additional recommendations for improving its guidance document procedures. A public meeting on these issues will be held at least 30 days before the end of the comment period. The agency will announce the details of that meeting in a future issue of the Federal Register.

DATES: Written comments by June 5, 1996.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Margaret M. Dotzel, Office of Policy (HF–23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3380.

SUPPLEMENTARY INFORMATION:

I. FDA Guidance Documents

For purposes of this document, the term ''guidance documents'' means: (1) Documents prepared for FDA review staff and applicants/sponsors relating to the processing, content, and evaluation/approval of applications and relating to the design, production, manufacturing, and testing of regulated products; and (2) documents prepared for FDA personnel and/or the public that establish policies intended to achieve consistency in the agency's regulatory approach and establish inspection and enforcement procedures. Guidance documents do not include agency reports, general information provided to consumers, documents relating solely to internal FDA procedures, speeches, journal articles and editorials, media interviews, warning letters, or other communications or actions taken by

individuals at FDA or directed to individual persons or firms.

The purpose of FDA's guidance documents is to provide assistance to the regulated industry by clarifying requirements that have been imposed by Congress or promulgated by FDA and by explaining how industry may comply with those statutory and regulatory requirements. Guidance documents provide industry with the kind of specific detail that often is not included in the relevant statutes and regulations. Certain guidance documents provide information about what the agency considers to be the important characteristics of preclinical and clinical test procedures, manufacturing practices, and scientific protocols. Others explain FDA's views on how one may comply with the relevant statutes and regulations and how one may avoid enforcement actions. Guidance documents do not themselves establish legally enforceable rights or responsibilities. Rather, they explain how the agency believes the statutes and regulations apply to industry activities.

Guidance documents also are essential to the efficient administration of FDA's duties. By providing specific review and enforcement approaches, guidance documents help to ensure that FDA's employees implement the agency's mandate in a fair and consistent manner. Thus, when FDA staff are reviewing applications and petitions, they will be looking for the same kinds of supporting evidence from all submitters. Likewise, when field and headquarter enforcement personnel are reviewing companies' activities, they will have guidance in determining which activities comply with the law and which do not. This benefits industry because it helps to ensure a level playing field.

As a general matter, guidance documents reduce uncertainty; their absence would disadvantage the industry. Nevertheless, questions have been raised about guidance document use and the process by which guidance documents are developed and issued. Over the past several months, the agency has been reviewing its development, dissemination, and use of guidance documents to determine what steps it can take to make these processes more transparent and consistent throughout the agency. Representatives from FDA recently met with representatives from the IMDMC to discuss ideas for ''good guidance practices.'' Suggestions for good guidance practices are set forth below. FDA is seeking comment on these suggestions and is seeking additional recommendations for good guidance practices.

A. Nomenclature

Guidance documents currently are issued under a number of different names (e.g., guidelines, guidance, points to consider, blue book memos, compliance policy guides, etc.). Although a distinction can be drawn between certain types of guidance (e.g., compliance policy guides versus points to consider), there often is overlap in the types of information contained in many such documents (e.g., guidance memoranda and points to consider). The agency is seeking comment regarding whether a more standardized nomenclature would improve the public's understanding of the nature of guidance documents and would help to eliminate any confusion regarding which documents are guidance documents and their legal effect.

If a standardized nomenclature is desirable, then the agency would like to hear suggestions regarding a logical classification system. For example, is it appropriate to distinguish guidance based on how it is used (e.g., in the product approval areas versus inspections) or who are the intended users (e.g., FDA reviewers versus FDA inspectors versus the industry)? Also, is there some way to use a subset of the current names for all guidance documents?

If a standardized nomenclature is desired, then the agency also is seeking public comment on the best approach to take regarding the nomenclature for existing guidance documents, which currently are identified under a range of names, including those discussed above. There are major resource implications involved in undertaking a complete renaming of existing guidance documents. Well over a thousand such documents exist. The reprinting costs alone would be prohibitively high. Moreover, because both the public and the agency have been using these documents for some time, there may be confusion if names suddenly are changed. One approach would be to gradually change the names of existing guidance documents. FDA could revise the names of these documents as they are substantively updated or revised. In the meantime, FDA's lists of available guidance would identify existing guidance documents by their current names but under the appropriate category (i.e., the newly adopted nomenclature).

B. Effect of Guidance Documents

A guidance document, though not intended to be a comprehensive treatise, represents the agency's current thinking on a certain subject. A guidance document is not binding on the agency or the public. Such a document cannot itself be the basis for an enforcement action; there must be a violation of a statute or regulation. Similarly, a company affected by a guidance relating to premarket applications may use a method other than that set forth in the guidance if it can show that the alternate method satisfies the requirements of the applicable statute(s) and regulation(s).

The agency explicitly states that guidance is not binding in many of its guidance documents. Moreover, when FDA trains its employees, it instructs them that guidance documents are not binding. Nevertheless, some industry representatives say that industry feels bound by guidance documents and that FDA employees have not always been clear about the nature of such documents. Therefore, FDA plans to undertake a communication effort that will focus both on the language in guidance documents and on education of those who use and rely on guidance documents. With respect to guidance document language, the agency will take two steps. First, within each guidance document, FDA will explicitly state the principle that guidance is not binding. The language FDA has developed is:

> Although this guidance document does not create or confer any rights for or on any person and does not operate to bind FDA or the public, it does represent the agency's current thinking on ——.

Second, FDA will attempt to ensure that guidance documents use language that clearly conveys their nonbinding nature. Guidance documents should not use compulsory language such as ''shall'' and ''must,'' except when referring to a statutory or regulatory requirement. The agency currently reviews much of its newly issued guidance to ensure that it includes language such as that proposed above and that it excludes mandatory language. FDA plans to adopt internal procedures to ensure that such a review reaches all guidance documents. If it is determined that the agency should change the nomenclature of existing guidance, the agency will make any appropriate language changes to such guidance on the same schedule established for changing their titles. Otherwise, FDA will make any such language changes when the documents are substantively updated or revised. Regardless of when or whether appropriate language changes are made, existing guidance has the same nonbinding effect as newly issued guidance.

FDA believes that the language changes discussed above will serve to communicate the nonbinding nature of guidance. FDA also will develop an internal ''good guidance practices'' document that explicitly describes how the agency will use guidance. In addition, FDA will develop materials that accurately describe the legal effect of guidance to be used in internal FDA training programs. FDA believes that all of the internal efforts also should work to educate the public. Nevertheless, FDA would like to receive comments on additional ways to educate the public regarding guidance documents and their legal effect.[1]

C. Development/Public Input

The IMDMC petition argued that FDA should institute greater controls over the initiation, development, and issuance of guidance documents to assure the appropriate level of meaningful public participation. Although FDA recognizes the benefits of input from industry, consumer groups, and scientific experts and it increasingly solicits public input during guidance document development, FDA has not always been consistent in these respects. Therefore, the agency wants to implement consistent procedures for public input on its guidance documents.

As part of its effort to increase public participation in the guidance document process, FDA intends to develop an agency-wide practice to ensure that all of FDA's Centers and Offices are soliciting or accepting public input in connection with their guidance documents. The level of public input should allow the public opportunity to comment, but not be so extensive or prolonged that the burden and inherent delay make it too difficult for the agency to issue timely guidance. The IMDMC suggested that FDA adopt the Administrative Conference Recommendation 76–5, *Interpretive Rules of General Applicability and Statements of General Policy* (hereinafter referred to as the Recommendation). It is the agency's current judgment that such an approach is not practical.

The Recommendation would require FDA to use notice-and-comment rulemaking before promulgation of an ''interpretive rule of general applicability or a statement of policy which is likely to have a substantial impact on the public'' unless it makes a finding that it is ''impracticable, unnecessary, or contrary to the public interest'' to use such procedures (the Recommendation, ¶ 1). For other interpretive rules or policy statements, FDA would be required to invite the public to submit postpromulgation comments, unless such procedures would serve no public interest or would be so burdensome as to outweigh any foreseeable gain (the Recommendation, ¶ 2). FDA would be required to respond to such comments within a prescribed period of time.

The problems with this approach were articulated by FDA in the Federal Register of April 4, 1991 (56 FR 13757 at 13758), in the preamble to its final rule on amending § 10.40 (21 CFR 10.40). The substantial impact standard suggested by the Recommendation would invite litigation over virtually every agency decision to issue such rules (and statements) without engaging in informal rulemaking. Moreover, the courts have largely rejected that standard for determining whether a rule is subject to informal rulemaking. (See e.g., *American Hospital Ass'n.* v. *Bowen*, 834 F.2d 1037 (D.C. Cir. 1987); *Baylor University Medical Center* v. *Heckler*, 758 F.2d 1052 (5th Cir. 1985); *Alcaraz* v. *Block*, 746 F.2d 593 (9th Cir. 1984); *Levesque* v. *Block*, 723 F.2d 175 (1st Cir. 1983).) As to the proposed postpromulgation comment period, the approach suggested by the Recommendation would severely limit the agency's discretion and could require FDA to analyze and inevitably respond to comments on many matters of limited public interest. The burden of such requirements would exceed the benefits in most cases. Finally, FDA already has the option of following notice-and-comment rulemaking even where it is not required by the Administrative Procedure Act (§ 10.40(d)).

FDA must have flexibility as to what type of public input it solicits in connection with the development of guidance. There are certain documents that warrant greater or lesser input — the amount of public input should be tailored to the type of guidance document the agency is issuing.

One option would be to adopt a three-tiered system with each tier encompassing a different approach to public comment. For tier 1 documents, FDA would notify the public of its intent to issue a guidance and solicit comment before issuing that guidance. In addition, where appropriate (e.g., when complex scientific issues are raised), FDA might also hold a public meeting or workshop to discuss the guidance or could involve advisory committees in the development process. For tier 2 documents, FDA would notify the public after it issues the guidance and solicit comment at that time. For tier 3 documents, FDA would regularly notify the public of new guidance that recently has been issued and would not specifically solicit comment, but would accept comment. The approach to tier 3 documents is consistent with the principle that FDA is receptive to comments on all of its guidance documents—old and new— at any time. Under current practices, the public may comment on guidance using informal means (e.g., letters or telephone calls) or using the more formal procedures for petitioning or meeting and corresponding with FDA that are set forth in part 10 (21 CFR part 10) of FDA's regulations (see §§ 10.25, 10.30, and 10.65).

Under the three-tiered approach, comments received on the first two tiers of guidance documents would be submitted to a public docket and be available for public review. Comments regarding the third tier would be submitted directly to the Centers or Offices—either to a person or an office that has been identified on the guidance document. Regardless of the document tier, FDA would not be required to respond to each comment but FDA would make changes to the guidance if any comments convince the agency that such changes are appropriate.

Whether a guidance is placed into tier 1, 2, or 3 would depend on a number of factors. FDA would like to receive comment on the types of documents that the public believes should be placed into each of the three categories. FDA anticipates that tier 1 guidance would be guidance that represents a significant change, is novel or controversial, or raises complex issues about which FDA would like to have significant public input; tier 2 guidance would be guidance that merely states FDA's current practices or does not represent a significant or controversial change; tier 3 guidance would be guidance directed largely to FDA's own staff and that has a limited effect on the public.

The agency believes that an approach such as the three tiers described here would allow it to make public input genuinely meaningful. The agency does not want to make a commitment to extensive public participation in the

[1] In the Federal Register of October 15, 1992 (57 FR 47314), FDA proposed to amend §§ 10.85 and 10.90 (21 CFR 10.85 and 10.90), which address advisory opinions and guidelines, to delete the provisions that obligate the agency to follow advisory opinions and guidelines until they are amended or revoked (except in unusual situations involving immediate and significant danger to health). As set forth in the proposed rule, those provisions appear to be inconsistent with the general principle that Federal agencies may not be estopped from enforcing the law (see 57 FR 47314 at 47315). Although FDA has not yet issued a final rule, the agency plans to make final decisions on the 1992 proposal under that rulemaking.

development of large numbers of guidance documents and then find itself unable to fulfill its promise. In other words, FDA does not want to be in a position where it is unable to review comments or able only to perform a cursory review of comments. FDA is soliciting comment on the three-tiered approach. In addition to receiving comment on the types of documents that the public believes should be placed into each of the three tiers, FDA would like to hear whether the public believes that access to comments (i.e., by placing them on the public docket) is an important part of good guidance practices.

To make the three-tiered (or any other) approach to public participation meaningful, FDA has to enable the public to know when new guidance is available for comment. FDA would like to receive comment regarding the best way to achieve this. The agency believes that is it inefficient to issue a separate Federal Register document for each guidance. Such an approach has profound resource implications and would likely result in a backlog. FDA would like to receive comment on how or if it should use the Federal Register. FDA also would like to receive comment on alternate ways of notifying the public. For example, would it be sufficient (or perhaps better) if FDA announced the availability of new guidance on the World Wide Web/internet and/or in the trade press? Are there circumstances when it would be more appropriate to directly notify the interested public or trade associations by letter? If the three-tiered system is adopted, notification of the public could vary depending on the tier of the document at issue.

Thus far, this document has focused on the issue of soliciting input on guidance that the agency has decided it should issue. Another important part of public input relates to the public telling the agency when it believes guidance is needed and what it believes the agency's priorities should be in directing resources to guidance development. As set forth in this document, the public currently has a number of vehicles for making its views known. Interested persons can use the regulatory procedures for petitioning or meeting and corresponding with FDA (see §§ 10.25, 10.30, and 10.65). Alternatively, interested persons may simply write or call FDA to communicate the need for guidance. FDA also could use the Federal Register to remind the public that the agency is open to receiving ideas on new areas for guidance. FDA would like to receive comments on appropriate procedures for suggesting areas for guidance.

D. Dissemination/Availability to Public

Currently, the public can obtain lists of certain guidance documents from at least some of the Centers and Offices. As for the actual documents, the Centers for Drug Evaluation and Research (CDER), Biologics Evaluation and Research (CBER), and Devices and Radiological Health (CDRH) have FAX information systems through which the public can request copies of guidance documents to be sent by telecopy. CDRH also maintains an electronic docket through which subscribers can access their guidance documents. CBER is in the process of implementing a similar program. The Center for Food Safety and Applied Nutrition (CFSAN) and the Center for Veterinary Medicine (CVM) guidance documents are available directly from those Centers. Some CFSAN guidance is available on Prime Connection. CFSAN, CVM, CBER, and CDER are in the process of making their guidance available on the World Wide Web. The Office of Regulatory Affairs (ORA) makes its ''Guide to the inspection of * * *'' series available via a dial-in PC. A large number of FDA guidance documents are available through the National Technical Information Service (NTIS) or from the Government Printing Office. Finally, when new guidance is issued, the Centers and Offices often publish notices in the Federal Register and/or mail copies of the documents to the regulated industry, trade associations, and the interested public.

FDA intends to ensure that all current guidance documents are included on a list of guidance documents and that the public is aware that the list or lists exist. One option is to make the list or lists available electronically and on the established FAX information systems. FDA also could annually publish a list of guidance documents in the Federal Register. The electronic lists should be updated as new documents are developed or old documents are revised, but FDA also could update both the electronic and FAX systems at least quarterly.

As for obtaining the actual documents, FDA is seeking comment on the current systems that are in place (i.e., do the systems provide adequate access to guidance documents?). Moreover, is it feasible to rely principally on the FAX systems and electronic methods—such as the World Wide Web/internet—or are hard copy dockets necessary?[2] Even without a hard copy docket, the public could request hard copies. Nevertheless, FDA is concerned that significant reliance on electronic methods could leave some parts of the public without adequate access.

Finally, IMDMC has stated that affected parties do not always receive the most current version of guidance and that the public does not know when guidance is out of date. FDA will take steps to ensure that all guidance documents are dated and that superseded guidance is removed both from the lists of guidance and from the access systems. FDA also will explore ways of informing the public when existing guidance becomes obsolete.

E. Appeals

An effective appeals process assures the public that there will be full and fair reconsideration and review of how guidance is being applied. Such a process further protects against guidance documents being applied as binding requirements.

Under the general provisions set forth in part 10 of its regulations, FDA provides a number of vehicles that any person or firm may use to seek an appeal of an agency employee's decision. Pursuant to § 10.75, an interested person may request internal agency review of an agency decision made by anyone other than the Commissioner. Such review ordinarily would be by the employee's supervisor, but may move up the management chain to the Center Director or Commissioner's Office if the issue cannot be resolved, important policy matters are present, or it would be in the public interest. Sections 10.25 and 10.33 permit an interested person to petition the Commissioner to review any administrative action. This would permit a person or firm to petition the agency regarding guidance documents. The regulations also include less formal methods of appeal. For example, pursuant to § 10.65, an interested person may correspond or meet with FDA

[2] In the Federal Register of July 27, 1993 (58 FR 40150), CDRH implemented a 1-year pilot to test two methods of enhancing public access to agency documents—including guidance documents. Two dockets—a public (hard copy) docket and an electronic docket (discussed herein)—were established. Throughout the year, CDRH monitored the number of inquiries received on the two dockets. The hard copy docket received 100 document requests, while the electronic docket received 17,000 inquiries. In the Federal Register of February 7, 1995 (60 FR 7204), CDRH terminated the public (hard copy) docket because of its marginal utilization. The electronic docket was continued. (The CDRH FAX system, which is another means of obtaining hard copies of guidance documents, was not affected by this pilot program.)

about any matter under FDA's jurisdiction.

In addition, there are specific provisions and procedures that apply to or are used by the Centers. For example, FDA's new drug regulations provide procedures for dispute resolution regarding new drug applications. These procedures include informal meetings with the division reviewing the application, meetings with an ombudsman, and referrals to advisory committees (see § 314.103 (21 CFR 314.103)). The new drug regulations also provide the sponsor an opportunity for a hearing on the question of whether there are grounds for denying approval of the application (see § 314.110 (21 CFR 314.110)). CBER's review letters (''approvable'' and ''not approvable'') state the sponsor's options for appeal. Specifically, CBER's ''not approvable'' letter informs the sponsor that it may request a meeting with CBER to discuss the steps needed for approval or may request an opportunity for a hearing.

Finally, persons with concerns about the application of guidance documents may contact the FDA Office of the Chief Mediator and Ombudsman (the Ombudsman's Office). The Ombudsman's Office, which reports directly to the Commissioner, works on resolving issues and conflicts that arise in any FDA component. The Ombudsman's staff is available to discuss options, explain FDA's practices and procedures, and suggest approaches for resolution. When appropriate, the staff of the Ombudsman's Office may contact the FDA staff involved in the issue and mediate a dispute.

As the above discussion indicates, FDA already has a significant number of appeals mechanisms—all of which can be used by persons dissatisfied with how guidance is being applied. The agency recently established a working group to address the consistency and adequacy of dispute resolution processes across the agency and the effectiveness of education regarding the availability of such processes to industry. FDA is soliciting comment on whether the public is sufficiently aware of the appeals mechanisms that are in place and whether the public believes that the mechanisms are sufficient for appealing decisions relating to guidance documents. If the answer is that the mechanisms in place are not sufficient, FDA would like to hear why they are not and would like to receive suggestions on alternate methods or ways to improve our current procedures.

II. Summary of Issues for Comment

Sections I. A. through I. E. of this document set forth a number of issues about which the agency would like to receive public comment. A summary of those issues is set forth below:

(1) FDA is soliciting comment on the value of a standardized nomenclature for guidance documents. If a standardized nomenclature is desirable, FDA is soliciting comment on what that nomenclature should be and the best approach to take regarding the nomenclature of existing guidance.

(2) FDA is soliciting comment on how best to communicate to its own staff and to the public the principle that guidance is not binding.

(3) FDA is soliciting comment on the proposed three-tiered approach to public input (including comment on how to classify documents as tier 1, 2, or 3) and/or suggestions for alternatives to the three-tiered approach. FDA also wants to hear whether public access to comments should be included as a part of good guidance practices. Finally, FDA is soliciting comment regarding how FDA should notify the public of new guidance and how the public can notify FDA of the need for guidance.

(4) FDA is soliciting comment on the adequacy of its current guidance document access programs and suggestions for improving access to guidance documents.

(5) FDA is soliciting comment on whether the public is sufficiently aware of current appeals mechanisms and whether the mechanisms are sufficient for appealing decisions relating to guidance documents. If the current processes are not sufficient, FDA would like to hear why they are not and would like to receive suggestions on alternate methods or ways to improve the current procedures.

Interested persons may, on or before June 5, 1996, submit to the Dockets Management Branch (address above) written comments regarding this document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 29, 1996.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 96–5344 Filed 3–6–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95N–0200]

Regulatory Approach To Products Comprised of Living Autologous Cells Manipulated Ex Vivo and Intended for Structural Repair or Reconstruction; FDA Commissioner's Roundtable; Notice of Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a FDA Commissioner's roundtable public meeting on the regulatory approach to products comprised of living autologous cells manipulated ex vivo and intended for structural repair or reconstruction. The purpose of this meeting is to discuss FDA's current thinking on the regulatory approach of these products with respect to clinical and manufacturing issues, and to get input on the agency's tentative approach. The comments received to the Dockets Management Branch in response to an earlier hearing held on November 16 and 17, 1995, will also be discussed.

DATES: The Commissioner's roundtable public meeting will be held on Friday, March l5, l996, from 8 a.m. to 5 p.m.

ADDRESSES: The Commissioner's roundtable public meeting will be held at the Parklawn Bldg., 5600 Fishers Lane, third floor, conference rooms C and D, Rockville, MD.

FOR FURTHER INFORMATION CONTACT: Emma J. Knight, Office of Blood Research and Review (HFM–305), Center for Biologics Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0969. Those persons interested in attending this meeting should FAX their registration to Emma J. Knight, 30l–827–2844, or Jeanne White, 30l–827–0926, including name(s), affiliation, address, telephone and FAX numbers by March l3, 1996. There is no registration fee for this public meeting, but advance registration is required. Space is limited and all interested parties are encourage to register early.

SUPPLEMENTARY INFORMATION: The purpose of this public meeting is to interact with interested persons on the good manufacturing practice and clinical issues related to products comprised of living autologous cells manipulated ex vivo and intended for surgical repair or reconstruction, and to discuss FDA's approach to these issues. FDA will take this public discussion into consideration in reaching a final decision on the approach the agency will take.

Dated: February 29, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–5584 Filed 3–5–96; 3:44 pm]

BILLING CODE 4160–01–F

Health Care Financing Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* Hospital and Hospital Healthcare Complex Cost Report; *Form No.:* HCFA–2552–96; *Use:* This form is required by statute and regulation for participation in the Medicare program. The information is used to determine final payment for Medicare. Hospitals and related complexes are the main users. *Frequency:* Annually; *Affected Public:* Business or other for-profit, Not-for profit institutions, and State, local or tribal government; *Number of Respondents:* 7,000; *Total Annual Responses:* 7,000; *Total Annual Hours Requested:* 4,599,000. To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 29, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 96–5347 Filed 3–6–96; 8:45 am]

BILLING CODE 4120–03–P

Health Resources and Services Administration

Special Projects of National Significance, Evaluation Technical Assistance Center; Correction

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Correction.

SUMMARY: The Notice of Availability of Funds, Special Projects of National Significance, Evaluation Technical Assistance Center, which was published on February 28, 1996, at 61 FR 7527, is corrected to include the following:

Eligible Applicants

The statute, Section 2618(a)(1), specifies that grants may be awarded to public and non-profit entities to develop models of care for the treatment of people with HIV infection and disease. Eligible entities may include, but are not limited to, State, local, or tribal public health, mental health, or substance abuse departments; public or non-profit hospitals and medical facilities; community-based service organizations (e.g., AIDS service organizations, primary health care clinics, family planning centers, AIDS discrimination and advocacy organizations, hemophilia centers, community health or mental health centers, substance abuse treatment centers, urban and tribal Indian health centers or facilities, migrant health centers, etc.); institutions of higher education; and national service provider and/or policy development associations/organizations.

Dated: March 1, 1996.

John D. Mahoney,

Acting Administrator.

[FR Doc. 96–5293 Filed 3–6–96; 8:45 am]

BILLING CODE 4160–15–P

Special Projects of National Significance; Integrated Service Delivery Models

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Correction.

SUMMARY: The Notice of Availability of Funds, Special Projects of National Significance, Integrated Service Delivery Models, which was published on February 28, 1996, at 61 FR 7525, is corrected to include the following:

Eligible Applicants

The statute, Section 2618(a)(1), specifies that grants may be awarded to public and non-profit entities to develop models of care for the treatment of people with HIV infection and disease. Eligible entities may include, but are not limited to, State, local, or tribal public health, mental health, housing, or substance abuse departments; public or non-profit hospitals and medical facilities; community-based service organizations (e.g., AIDS service organizations, primary health care clinics, family planning centers, AIDS discrimination and advocacy organizations, homeless assistance providers, hemophilia centers, community health or mental health centers, substance abuse treatment centers, urban and tribal Indian health centers or facilities, migrant health centers, etc.); institutions of higher education; and national service provider and/or policy development associations/organizations.

Dated: March 1, 1996.

John D. Mahoney,

Acting Administrator.

[FR Doc. 96–5294 Filed 3–6–96; 8:45 am]

BILLING CODE 4160–15–P

Special Projects of National Significance; Health Care Services Demonstration Models for Youth Infected With HIV

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces the availability of $1,900,000 in fiscal year (FY) 1996 funds to be awarded under the Special Projects of National Significance (SPNS) program. HRSA expects to award three to five grants for approximately $380,000 - $633,000 each for a three year project period for Health Care Services Demonstration Models for Youth Infected with HIV. The SPNS program is authorized by Section 2618 (a) of the Public Health Service Act. This announcement solicits innovative services demonstration models of providing health and related support services for youth with HIV infection.

An HIV Evaluation Technical Assistance Center and SPNS Models of Integrated Service Delivery for Persons with HIV Disease are being solicited under separate announcements. The HIV Evaluation Technical Assistance Center will provide technical assistance to SPNS grantees in the design and implementation of evaluation studies and dissemination activities for individual projects and develop and coordinate the implementation of any multi-site evaluations.

Eligible projects include those serving pediatric and adolescent populations from 0–20 years of age. Care should include age-appropriate services for HIV testing and counseling. Models of care which target hard-to-reach youth, such as those who are/were clients of the criminal justice system, drug users, homeless or runaway youth, pregnant teenagers, are encouraged. Projects directed towards perinatally HIV infected youth and older children who face the psychosocial changes of adolescence also are encouraged.

Service models created or expanded through the projects should incorporate innovative health, nursing, and ancillary care services (such as mental health and substance abuse treatment) to improve participation by youth in HIV counseling and testing, diagnosis, prophylaxis, and treatment of manifestations and complications of HIV infection and AIDS, including: a) antiretroviral therapy to children and youth, and b) prophylactic therapy for opportunistic infections for children and youth, including tuberculosis. Models of care should determine: the spectrum of HIV disease among treated and untreated children/adolescents (upon entry into care), the progression of HIV disease among children/adolescents, physical growth and development, adherence to antiretroviral treatment and PCP prophylaxis, and the impact of the model of care upon these parameters longitudinally. By definition, these service models will go beyond the service configurations currently funded by Title IV or other Titles of the Ryan White CARE Act.

The SPNS program is designed to demonstrate and evaluate innovative and replicable HIV service delivery models. The authorizing legislation specifies three SPNS program objectives: (1) to support the development of innovative models of HIV care; (2) to evaluate the effectiveness of innovative program designs; and (3) to promote replication of effective models. Therefore, crucial factors in appraising proposals for the health care services demonstration models will include, among other factors, the degree to which the applicant's plan for conducting an evaluation of the model includes: (1) client health outcomes, such as stabilization of CD4 counts, adherence to antiretroviral therapy and PCP prophylaxis, delaying the progression to AIDS, and quality of life; (2) systems outcomes, such as regular/routine provision of HIV counseling and testing services to youth at risk, documentation of maintenance in primary care, adherence to published disease treatment and prophylaxis guidelines (including PHS recommendations for treatment of HIV infected pregnant women and youth with zidovudine to reduce perinatal HIV transmission), and avoidance of inappropriate inpatient hospital and emergency room care through innovative service strategies; (3) the applicant's evidence of ability to incorporate experienced evaluators and medical providers with HIV/AIDS expertise into the project or the applicant's history of successfully conducting process and outcomes evaluation activities; (4) the program's potential to improve access to and coordination of high quality HIV service delivery; and (5) a plan for disseminating findings about the model's effectiveness.

DATES: *Letter of Intent:* To allow HRSA to plan for the Objective Review Process, all applicants are encouraged to contact the grants office in writing to Ms. Glenna Wilcom, Grants Management Branch, Bureau of Health Resources Development, Health Resources and Services Administration, 5600 Fishers Lane, Room 7–15, Rockville, MD 20857. If notification is offered, it should be received within 30 days after the publication of the Notice of Availability of Funds in the Federal Register.

Applications: Applications must be received in the Grants Management Office by the close of business May 6, 1996 to be considered for competition. Applications will meet the deadline if they are either (1) received on or before the deadline date or (2) postmarked on or before the deadline date, and received in time for submission to the objective review panel. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted instead of a postmark. Private metered postmarks shall not be accepted as proof of timely mailing. Applications received after the deadline will be returned.

ADDRESSES: Grant applications, guidance materials, and additional information regarding business, administrative, and fiscal issues related to the awarding of grants under this Notice may be requested from Ms. Glenna Wilcom, Grants Management Officer, Bureau of Health Resources Development, Health Resources and Services Administration, 5600 Fishers Lane, Room 7–15, Rockville, MD 20857. The telephone number is (301) 443–2280 and the FAX number is (301) 594–6096. Applicants for grants will use Form PHS 5161–1, approved under OMB Control No. 0937–0189. Mail completed applications to the Grants Management Officer.

FOR FURTHER INFORMATION CONTACT: Additional technical information may be obtained from Evelyn M. Rodriguez M.D., M.P.H., Office of the Director, Bureau of Health Resources Development, Health Resources and Services Administration, 5600 Fishers Lane, Room 7–13, Rockville, MD 20857. The telephone number is (301) 443–9530 and the FAX number is (301) 443–9645. Questions concerning the HIV Evaluation Technical Assistance Center and the Models of Integrated Service Delivery for Persons with HIV Disease may be directed to the SPNS Branch, Office of Science and Epidemiology, Bureau of Health Resources Development, Health Resources and Services Administration, 5600 Fishers Lane, Room 7A–07, Rockville, MD 20857. The telephone number is (301) 443–9976 and the FAX number is (301) 594–2511.

Healthy People 2000 Objectives

The Public Health Service urges applicants to address a specific objective of the *Healthy People 2000* in their work plans. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report; Stock No. 017–001–00473–0) or *Healthy People 2000* (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone: (202) 783–3238).

SUPPLEMENTARY INFORMATION:

Background and Objectives

The SPNS program endeavors to advance knowledge and skills in HIV service delivery, to stimulate the design of innovative models of care, and to support the development of effective delivery systems for these services. SPNS accomplishes its purpose through funding, technical support and evaluation of innovative HIV service delivery models. This announcement seeks applications for a program ''Health Care Services Demonstration Models for Youth Infected with HIV.'' For the purposes of this announcement,

projects seeking SPNS support must propose models of care that address innovative medical, nursing, and ancillary care services (such as mental health and substance abuse treatment).

A ''health care services demonstration model'' refers to a mechanism and method for provision of health services. For example, antiretroviral therapy is not a model; however, a method for improving access to or utilization of antiretroviral therapy is an appropriate model for consideration under this amendment. SPNS funds may be used to establish or to augment models of care and to evaluate the effects of establishing or augmenting that model.

The SPNS program encourages innovative projects to rigorously evaluate implementation, utilization, costs, and process and health outcomes. Therefore, the program has not narrowly defined the nature of appropriate applications beyond that stated above. Proposed process and outcomes evaluation designs by demonstration services grantees will form the basis for the cross-site evaluation. SPNS funds should be used to create models of care that would likely not exist without SPNS support, or would extend the care model to previously unserved populations defined either geographically or demographically. Services provided through *SPNS funding currently should not be reimbursed or eligible for current reimbursement through other sources, including Medicaid, third party payers, or other Ryan White programs.* A model may deliver services or products that are reimbursable, but the services supported by SPNS should not be.

Review Criteria

A. Health Care Services Demonstration Models for Youth Infected With HIV

All applications submitted to the SPNS program will be reviewed and rated by an objective review panel. The application narrative may total no more than 40 single spaced pages.

Factors for the technical review of applications are as follows:

Factor 1 (15 points) Adequacy of justification of need within the community and target population for the proposed program. This justification of need should go beyond documenting the existence of an available population that needs HIV services; rather, it should justify the need for the particular model being proposed and the need for its evaluation.

Factor 2 (10 points) Adequacy of the identification of past/existing/future systematic or programmatic barriers that prevent the provision of comprehensive care to hard-to-reach children/adolescents with HIV with suggested or actual strategies for overcoming or compensating for these barriers.

Factor 3 (10 points) The degree to which there is evidence of substantial collaboration between community based providers of non-medical services for youth and a board certified pediatric or adolescent health care provider(s) with extensive HIV/AIDS clinical and research expertise; the likelihood of the project's significantly contributing to HIV care and the contribution to knowledge of HIV related health outcomes among children/adolescents; and the comprehensiveness of the program plan.

Factor 4 (20 points) Thoroughness, feasibility and appropriateness of the project's evaluation design from a methodological and statistical perspective. Process evaluation should allow identification of what worked in the health care demonstration services model and why. The design of the evaluation should allow a generalizable conclusion to be reached regarding the health outcomes of the model and its suitability for replication. Adequacy of computer hardware, software, and personnel to carry out data activities needed to evaluate the proposed project.

Factor 5 (15 points) The feasibility, clarity of the description, appropriateness, innovative quality, and potential for replication and plans for dissemination of the proposed model.

Factor 6 (10 points) Adequacy of the director's documentation of a successful history of completing HIV medical or health service related studies, or community-based process and outcomes evaluation studies. History of dissemination of the results of those studies through peer reviewed, professional publications and through presentations at scientific conferences.

Factor 7 (10 points) Competency of the applicant organization in fiscal and program management as evidenced by (a) the consistency between the proposed level of effort and the budget justification; (b) skill level and time commitment required in the personnel specifications; (c) the level of resources and evaluation staff being proposed to conduct a quality evaluation of the project; (d) an organizational structure conducive to evaluation and health outcomes studies, and (e) appropriate confidential handling of medical, social service, and epidemiological data.

Factor 8 (10 points) Extent of documentation of coordination and formal collaboration and specific linkages with related HIV activities, including other Ryan White activities, within the project's catchment area.

Availability of Funds

The SPNS program is authorized by Section 2618(a) of the Public Health Service (PHS) Act. Grants may be awarded directly to public and non-profit private entities to promote the statute's objectives. For this initiative, the program has $1.9 million dollars available, and it is expected that approximately three to five awards for demonstration programs will be made with an average annual budget of about $126,000 to $211,000. The budget and project periods for approved and funded projects will begin on or about July 1, 1996. Project periods must be requested for three years. Applicants are required to submit, in the initial application, budgets for each proposed project year.

All grants funded should recognize that this initiative is not designed to provide continuous support once the SPNS demonstration project is complete and evaluated. Demonstration programs are strongly encouraged to secure non-SPNS funding support during their projects if the evaluation suggests that the model is effective and merits continuation.

Eligible Applicants

The statute, Section 2618(a)(1), specifies that grants may be awarded to public and non-profit private entities to fund special programs for the care and treatment of people with HIV disease. Eligible applicants should have experience in serving youth, actively encourage youth at risk to know their HIV serostatus, and provide or refer youth for HIV counseling and testing. The project director or co-project director of the demonstration projects must be a medical provider with experience in HIV/AIDS. Eligible entities for the demonstration services models may include, but are not limited to, State, local, or tribal public health, mental health, or substance abuse departments; public or non-profit hospitals; community-based service organizations (e.g., AIDS service organizations, primary health care clinics, family planning centers, organizations serving the homeless or runaway youth, family planning centers, community mental health centers, substance abuse treatment centers, urban Indian health centers, migrant health centers, organizations receiving funds from Ryan White CARE Act Title I, II, IIIb and IV clinics, etc.); institutions of higher education; non-profit research organizations; national associations; and policy development organizations.

Allowable Costs

The basis for determining allocable and allowable costs to be charged to PHS grants is set forth in 45 CFR Part 74, Subpart Q and 45 CFR Part 92 for State, local or tribal governments. The four separate sets of cost principles prescribed for public and private non-profit recipients are: OMB Circular A–87 for State, local or tribal governments; OMB Circular A–21 for institutions of higher education; 45 CFR Part 74, Appendix E for hospitals; and OMB Circular A–122 for non-profit organizations.

Reporting and Other Requirements

A successful applicant under this notice will submit an annual activity summary report in accordance with provisions of the general regulations which apply under 45 CFR Part 74, Subpart J, ''Monitoring and Reporting of Program Performance,'' with the exception of State and local governments to which 45 CFR Part 92, Subpart C reporting requirements apply. The applicant must be prepared to collaborate with other funded projects working with similar populations in developing an evaluation strategy.

Federal Smoke-Free Compliance

The Public Health Service strongly encourages all grant and contract recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements which have been approved by the Office of Management and Budget under No. 0937–0195. Under these requirements, any community-based, non-governmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to keep State and local health officials apprised of proposed health services grant applications submitted from within their jurisdictions.

All applicants are required to submit, no later than the Federal due date for receipt of the application, the following information to the administrator of the State and local health agencies and to the State and local AIDS program director in the area(s) to be impacted by the proposal: (1) a copy of the face page of the application (SF 424); and, (2) a summary of the project, not to exceed one page, which provides: (a) a description of the population to be served; (b) a summary of the services to be provided; and, (c) a description of the coordination planned with the appropriate State or local health agencies. Copies of the letters forwarding the PHSIS to these authorities must be contained in the application materials submitted to this program.

Executive Order 12372

The Special Projects of National Significance Grant Program has been determined to be a program subject to the provisions of Executive Order 12372, concerning intergovernmental review of Federal Programs, as implemented by 45 CFR Part 100. Under urgent conditions, the Secretary may waive any provision of this regulation. (See 45 CFR Part 100.13.) The Secretary has waived 45 CFR Part 100 due to the compelling need to get funds to grantees.

The OMB *Catalog of Federal Domestic Assistance* number for the Special Projects of National Significance is 93.928.

Dated: February 29, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–5361 Filed 3–6–96; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

National Institute of Mental Health, Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: to review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: March 4, 1996.

Time: 5 p.m.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Angela L. Redlingshafer, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: March 1, 1996.

Margery G. Grubb,

Senior Committee Management Specialist, NIH.

[FR Doc. 96–5313 Filed 3–1–96; 4:33 pm]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Center for Mental Health Services; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Center for Mental Health Services (CMHS) National Advisory Council in April 1996.

The meeting of the CMHS National Advisory Council will focus on the implications of the AIDS epidemic for patients with serious mental illness, performance partnerships grants, positioning CMHS in the marketplace through the Knowledge Exchange Network (KEN) and a demonstration of the functioning of KEN. In addition, there will be a report on CMHS ''Futures'' Planning, presentations from David Mactas, Director, Center for Substance Abuse Treatment, and Vivian Smith, Deputy Director, Center for Substance Abuse Prevention, and an update on consumer initiatives.

A summary of the meeting and/or roster of Council members may be obtained from: Julie Pearson, Committee Management Office, CMHS, Room 11C–26, Parklawn Building, Rockville, Maryland 20857, Telephone: (301) 443–7919.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Center for Mental Health Services National Advisory Council.

Meeting Dates: April 11–12, 1996.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Chevy Chase, Maryland 20814.

Open: April 11, 9:00 a.m.–5:00 p.m.

Open: April 12, 9:00 a.m.–adjournment.

Contact: Anne Mathews-Younes, Ed.D., Room 11C–26, Parklawn Building, Telephone: (301) 443–3606.

Dated: March 1, 1996.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 96–5360 Filed 3–6–96; 8:45 am]

BILLING CODE 4162–20–P

National Advisory Council; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the teleconference meeting of the Substance Abuse and Mental Health Services Administration (SAMHSA) National Advisory Council on March 5, 1996.

A portion of the meeting will be open and will include a roll call, general announcements and a discussion on review procedures. Attendance by the public will be limited to space available.

The meeting will also include the review, discussion and evaluation of contract proposals. Therefore a portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c) (3), (4) and (6) and 5 U.S.C. App. 2, § 10(d).

A summary of the meeting and a roster of Council members may be obtained from: Ms. Susan E. Day, Program Assistant, SAMHSA National Advisory Council, 5600 Fishers Lane, Room 12C–15, Rockville, Maryland 20857; Telephone: (301) 443–4640.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Substance Abuse and Mental Health Services Administration National Advisory Council.

Meeting Date: March 5, 1996.

Place: Substance Abuse and Mental Health Services Administration, Parklawn Building, Conference Rm. 12–94, 5600 Fishers Lane, Rockville, MD 20857.

Open: March 5, 1996—2:45 p.m. to 3:15 p.m.

Closed: March 5, 1996—3:15 p.m. to 4:00 p.m.

Contact: Toian Vaughn, Room 12C–15, Parklawn Building; Telephone: (301) 443–4640 and FAX: (301) 443–1450.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: March 1, 1996.

Jeri Lipov,

Committee Management Officer, SAMHSA.

[FR Doc. 96–5345 Filed 3–4–96; 10:48 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3968–N–01]

Office of the Assistant Secretary for Public and Indian Housing; Voter Registration Notice

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

ACTION: Notice.

SUMMARY: This notice provides voter registration guidance to public housing agencies, Indian housing authorities, and Resident Management Corporations.

EFFECTIVE DATE: March 7, 1996.

FOR FURTHER INFORMATION CONTACT: Office of the Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 4100, Washington, D.C. 20410. Telephone number (202) 708–0950, TDD (202) 708–0850. (These numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Purpose

The purpose of this Notice is to provide guidance on efforts by Public Housing Agencies (''PHAs'') to promote voter registration consistent with provisions of the National Voter Registration Act, 42 U.S.C. 1973gg, in connection with the operation of the Public and Indian Housing (''PIH'') including the Section 8 voucher and certificate programs.

II. Policy

It is the policy of HUD that all participants in public housing programs, including Section 8 programs, be afforded the opportunity to register to vote. Opportunities to provide voter registration information to PIH and Section 8 program participants can occur during the normal application process, the annual recertification process, or when tenants come into the management office for purposes such as paying rent or requesting maintenance service.

III. Background

In the National Voter Registration Act, 42 U.S.C. 1973gg, Congress found that the right of citizens to vote is a fundamental right. Further, Congress found that it is the duty of the Federal, State, and local governments to promote the exercise of that right. The Department of Housing and Urban Development recognizes its responsibility to help promote voter participation in a non-partisan manner. Accordingly, the Department is issuing this notice to provide guidance to Public and Indian Housing Authorities on promoting the free exercise of this fundamental right.

IV. Permissible Voter Registration Activities by PHAs

At each PHA, HUD's policy that all participants in PIH and Section 8 programs be afforded the opportunity to vote may be implemented in the following ways:

a. PHAs are encouraged to include voter-registration applications in their program applications and recertification materials.

b. PHAs are encouraged to apply to States to operate as a voter registration agency under the National Voter Registration Act.

c. PHAs are encouraged to solicit and permit approved non-profit, non-partisan organizations that are voter registration agencies to provide information and application forms to their tenants and program participants on the PHAs' premises.

d. PHAs can provide mail-in voter-registration applications to their residents.

e. PHAs can also use non-partisan posters to inform residents of their right to register to vote and to inform them of places, either on the PHA premises or in the local area, where they may go to register to vote. PHAs may accept the completed voter registration application forms and transmit these forms to the appropriate State election official. Completed forms should be transmitted to the appropriate State election official on a regular basis.

f. PHAs are encouraged to provide assistance to tenants seeking to understand the voter registration materials or to fill out voter registration forms.

g. PHAs may use Section 8 administrative fees and public housing operating subsidies to meet the costs for permissible voter registration activities.

V. Impermissible Voter Registration Activities by PHAs

Since the right to vote should be exercised freely and voluntarily, HUD's policy of affording participants in PIH and Section 8 programs the opportunity to vote may not involve any act that would:

a. intimidate the participant into voting or registering to vote, or
b. intimidate the participant into voting in a way or registering under a party that is not their choice, or
c. suggest that benefits are in any way tied to a participant's voting activity, or

d. give the appearance that the processes of voter registration or voting are not voluntary processes.

Dated: February 27, 1996.

Kevin Emanuel Marchman,

Deputy Assistant Secretary for Distressed and Troubled Housing Recovery.

[FR Doc. 96–5300 Filed 3–6–96; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Draft Environmental Impact Statement for the Palau Compact Road Project

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of intent.

SUMMARY: In this notice the Office of Insular Affairs (OIA) states its intent to prepare a Draft Environmental Impact Statement (DEIS) for the proposed Palau Compact Road Project, Babeldaob Island, Republic of Palau.

DATES: Two scoping meetings are scheduled in Honolulu, HI and Koror, Palau in April 1996 which will be open to individuals or organizations. Specific dates, locations and times of the meetings will be announced in the local news media and by public notices. Comments and suggestions should be received not later than 15 days following the public scoping meetings to be considered in the EIS.

ADDRESSES: Interested persons or organizations should submit comments to the Director, Office of Insular Affairs, 1849 C Street, NW., Mail Stop 4328, Washington, D.C. 20240 (202–208–4736 voice, 202–208–7585 facsimile), or District Engineer, U.S. Army Corps of Engineers, Pacific Ocean Division, Building 230, Fort Shafter, HI 96858 (808–438–7974 voice, 808–438–7801 facsimile).

FOR FURTHER INFORMATION CONTACT: Tom Bussanich, Office of Insular Affairs (202–208–6971 voice, 202–208–7585 facsimile) or Allen Chin, U.S. Army Corps of Engineers (808–438–7974 voice, 808–438–7801 facsimile).

SUPPLEMENTARY INFORMATION: The Compact of Free Association between the United States Government and the Republic of Palau (ROP) became effective on October 1, 1994. In accordance with Annex A of the Agreement Regarding Construction Projects in Palau Concluded Pursuant to Section 212(a) of the Compact, the United States Government is obligated to construct a 53-mile road, 18 feet wide, with double bituminous surface treatment and two-foot-wide shoulders on each side, on Babeldaob Island in the Republic of Palau. The U.S. Department of the Interior (DOI) has selected the U.S. Army Corps of Engineers, Pacific Ocean Division, Honolulu Engineer District as the Project Manager for all aspects of the road project, including planning, environmental documentation, design and construction. In lieu of this Compact-defined road, the ROP and the U.S. DOI reached an agreement which allows for the road to be upgraded to one with an asphalt concrete surface and up to 24 feet wide, of undetermined length, but not more than 53 miles.

The road will be constructed with proper drainage, adequate crossings over streams and rivers to meet the 50-year storm event, and with safety features such as guard-rails, barriers and warnings signs where needed. The project will not include sidewalks and curbs, roadway lighting, and traffic signals.

Alternatives

a. No Action.

b. Different alignments of a road system.

c. Different configurations of the proposed action.

Scoping

Comments received as a result of this notice will be used to assist the Department of the Interior in identifying potential impacts to the quality of the human environment. Individuals or organizations may participate in the scoping process by written comment or by attending one of two scoping meetings which are scheduled to be held in Honolulu, Hawaii and in Koror, Palau in April 1996. The locations, dates and times for the scoping meetings will be announced in the local news media and by public notices. Comments and suggestions should be received not later than 15 days following the public scoping meetings in order to be considered in the DEIS.

Allen P. Stayman,

Director.

[FR Doc. 96–5380 Filed 3–6–96; 8:45 am]

BILLING CODE 4310–RK–M

Bureau of Land Management

[UT–056–1430–01–24–1A; 4–00152]

Management Framework Plans, etc.: Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Proposed Plan Amendment.

SUMMARY: The Bureau of Land Management completed a Proposed Plan Amendment/EA/FONSI for the Mountain Valley Management Framework Plan (MFP) on February 8, 1996. All public lands and the mineral estate have been analyzed. The environmental assessment (EA) revealed no significant impact from the proposed action. The Mountain Valley MFP would be amended to identify the following public lands suitable for direct sale to Mr. A.C. Robertson and Mr. Douglas Bjerregaard, of Mayfield, Utah: T. 19 S., R. 2 E., Sec. 19, Lot 8, and Section 30, Lots 5 and 8, Salt Lake Meridian, Utah. Containing a total of 10.2 acres. All minerals in the lands would be reserved to the United States. A Notice of Intent proposing to amend the MFP was published in the Federal Register on January 31, 1996.

This plan amendment would allow the Sevier River Resource Area to sell the identified public land, at fair market value, pursuant to Section 203 of the Federal Land Policy and Management Act (FLPMA) of 1976 (90 Stat. 2750,43 U.S.C. 1713), and Title 43 CFR Part 2710.

A 30 day protest period for the planning amendment will commence with publication of this Notice of Availability.

FOR FURTHER INFORMATION CONTACT: Dave Henderson, Sevier River Resource Area Manager, 150 East 900 North, Richfield, Utah 84701. Existing planning documents and information are available at the above address or telephone (801)896–8221. Comments on the proposed plan amendment should be sent to the above address.

SUPPLEMENTARY INFORMATION: The planning amendment is subject to protest from any adversely affected party who participated in the planning process. Protests must be made in accordance with provisions of 43 CFR 1610.5–2, as follows: Protests must pertain to issues that were identified in the plan or through the public participation process. As a minimum, protests must contain the name, mailing address, telephone number, and interest of the person filing the protest. A statement of the issue or issues being protested must be included. A statement of the part or parts being protested and a citing of pages, paragraphs, maps, etc., of the proposed amendment, where practical, should be included. A copy of all documents addressing the issue(s) submitted by the protester during the planning process or a reference to the date when the protester discussed the issue(s) for the record. A concise statement as to why the protester

believes the BLM State Director's decision is incorrect. Protests must be received at the following address; Director (480), Bureau of Land Management, Resource Planning Team, 1849 C Street, N.W., Washington, DC 20240, within 30 days after the publication of this Notice of Availability for the planning amendment.

Douglas M. Koza,

Acting State Director, Utah.

[FR Doc. 96–5201 Filed 3–6–96; 8:45 am]

BILLING CODE 4310–DQ–P

[ID–060–1610–00]

Resource Advisory Council; Idaho; Meeting

AGENCY: Bureau of Land Management, Upper Columbia Salmon Clearwater Districts, Idaho.

ACTION: Notice of Resource Advisory Council Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, the Bureau of Land Management (BLM) announces the meeting of the Upper Columbia Salmon Clearwater Districts Resource Advisory Council (RAC) on Thursday, March 21 and Friday, March 22, 1996 in Coeur d'Alene, Idaho. The meeting will be held at the BLM office at 1808 North Third Street in Coeur d'Alene.

The purpose of the meeting is for the RAC members to continue discussions concerning proposed rangeland standards and guidelines. Other administrative issues may be discussed as time permits. The RAC will meet from 8:00 a.m. to 4:30 p.m. each day. The public may address the Council during the public comment period on March 21, 1996 starting at 1:30 p.m.

SUPPLEMENTARY INFORMATION: All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

The Council's responsibilities include providing long-range planning and establishing resource management priorities; and assisting the BLM to identify state standards for rangeland health and guidelines for grazing.

FOR FURTHER INFORMATION CONTACT: Ted Graf (208) 769–5004.

Dated: February 26, 1996.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 96–5353 Filed 3–6–96; 8:45 am]

BILLING CODE 4310–GG–M

[CA–068–06–1430–02; CACA 36686; 6–00160]

California Desert District, Barstow and Ridgecrest Resource Areas, Notice of Intent To Initiate Amendment to the California Desert Conservation Area Plan, Notice of Realty Action for Classification and Conveyance of Public Lands for Landfill Purposes, San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent To Initiate Plan Amendment and Environmental Assessment, and Notice of Realty Action for Classification and Conveyance of Lands for Landfill Purposes.

SUMMARY: This action consists of the proposed conveyance (patent), under the provisions of the Recreation and Public Purposes (RPP) Act, as amended (43 U.S.C. 869 et seq.), of the following described public lands to the County of San Bernardino, a body corporate and politic of the State of California, for continuing use of established sanitary landfills (SLF) and establishment of a new waste transfer station:

San Bernardino Meridian, California

T. 2 N., R. 6 E.
Sec. 20, lots 8, 9 and 10, SE¼SE¼,
Sec. 21, lots 5 and 6, S½SW¼,
Sec. 28, lots 1 and 2, N½NW¼,
Sec. 29, lots 1 and 2, E½NE¼.
Containing 657.92 acres (Landers SLF).

T. 8 N., R. 3 E.
Sec. 3, SE¼SE¼.
Containing 40.00 acres (Newberry Transfer Alternative No. 1).

T. 8 N., R. 3 E.
Sec. 10, S½SW¼SW¼,
Sec. 15, SW¼NW¼NE¼NW¼, NW¼SW¼NE¼NW¼, N½NW¼NW¼, N½S½NW¼NW¼.
Containing 55.00 acres (Newberry SLF).

T. 8 N., R. 23 E.
Sec. 7, SE¼SW¼, S½SE¼,
Sec. 18, N½N½NE¼, N½NE¼NW¼.
Containing 180.00 acres (Needles SLF).

T. 9 N., R. 3 E.
Sec. 32, NW¼SW¼.
Containing 40.00 acres (Newberry Transfer Alternative No. 2).

T.10 N., R. 2 E.
Sec. 22, SW¼SW¼, W½W½SE¼SW¼,
Sec. 27, NW¼NW¼NE¼NW¼, N½N½NW¼NW¼,
Sec. 28, NE¼NE¼NE¼NE¼.
Containing 65.00 acres (Yermo SLF).

T. 3 N., R. 5 W.
Sec. 13, SE¼NE¼, NE¼SE¼.
Containing 80.00 acres (Hesperia SLF).

T. 6 N., R. 4 W.
Sec. 23, NE¼, S½S½NE¼NW¼, SE¼NW¼, SW¼, W½SE¼, W½E½SE¼.
Containing 490.00 acres (Victorville SLF).

T. 9 N., R. 1 W.
Sec. 30, S½SE¼SE¼NE¼,
Sec. 31, NE¼, N½SE¼,
Sec. 32, NW¼, N½SW¼.
Containing 485.00 acres (Barstow SLF).

T. 1 S., R.10 E.
Sec. 5, W½ lot 4, lot 5, N½SW¼NW¼, NW¼SE¼NW¼,
Sec. 6, E½E½ lot 1, E½NE¼SE¼NE¼.
Containing 107.25± acres (29 Palms SLF).

Mount Diablo Meridian, California

T.25S., R.42E.
Sec. 13, unsurveyed (metes and bounds description).

T.25S., R.43E.
Sec. 18, S½ lot 2, S½ lot 3, N½ lot 4, lot 5, lot 6.
Containing 144.20± acres (Trona-Argus SLF).

The above public lands aggregate 2,344.37 acres, more or less. The descriptions and acreage for the 29 Palms SLF and the Trona-Argus SLF will be revised by survey and approval of supplemental plats for the affected lands.

Approximately 71 percent, or 1,676.94 acres, have been classified and leased for nine existing landfills since 1963–1965. Of the nine existing sanitary landfills proposed for conveyance, the lands described for six locations (Newberry, Yermo, Victorville, Barstow, 29 Palms and Trona-Argus) include expansion areas aggregating 587.43 acres to meet future demands and new California State requirements for buffer zones. In addition, a new 40.00 acre transfer station, to be selected from the two alternatives described above, is proposed for the Newberry area. All sites are located in and serve communities of San Bernardino County. This action will consolidate the existing classifications, and classify all of the existing and additional lands as suitable for use under the RPP Act and to open the lands for conveyance for landfill purposes.

This action also constitutes a Notice of Intent by the Bureau to initiate an amendment to the California Desert Conservation Area (CDCA) Plan to change the existing Multiple-Use Class (MUC) ''Limited'' designations at three locations (Newberry Transfer Alternative No. 1, Newberry SLF, Yermo SLF) to ''Unclassified''. Public lands in the CDCA must be classified as either MUC M (moderate use) or be unclassified in order to be patented.

An environmental assessment will be prepared to analyze the proposed plan

amendment, and analyze the impacts of the suitability of public lands for classification and conveyance for landfill purposes under the RPP Act. A ''Landfill Transfer Audit'' (LTA) document will be prepared for each site/location. Following completion of the environmental assessment and upon signature of a Decision Record, and if the plan amendment as described above is approved, the classification of the public lands as suitable for conveyance will be effective, and the process to convey the public lands may be completed. Conveyance of the lands would be subject to the following terms, conditions and reservations:

1. Provisions of the RPP Act and applicable regulations of the Secretary of the Interior.
2. A right-of-way for ditches or canals constructed by the authority of the United States.
3. All valid and existing rights documented on the official public land records at the time of patent issuance.
4. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

Upon publication of this Notice in the Federal Register, the public lands described above are segregated from all forms of appropriation under the public land laws, including the mining laws, except for conveyance under the RPP Act and leasing under the Mineral Leasing Act. A notice terminating the segregation on lands not classified suitable for conveyance will be published.

For information concerning these actions, contact Mike DeKeyrel (619–255–8730) or Edy Seehafer (619–255–8713), Barstow Resource Area, 150 Coolwater Lane, Barstow, CA 92311. For a period of 45 days after the publication of this notice in the Federal Register, interested parties may submit comments to the Area Manager, Barstow Resource Area at the above address.

PLAN AMENDMENT COMMENTS: Interested parties may submit comments concerning the proposed amendments to the CDCA Plan for public lands at the proposed Newberry Transfer Station, and the existing Newberry and Yermo landfills.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the lands for sanitary landfill and/or transfer station purposes. Comments on the classification of lands are restricted to whether the lands are physically suited for the use, whether the use will maximize the use or future uses, whether the use is consistent with local planning and zoning, or whether the use is consistent with State or Federal programs.

APPLICATION/ENVIRONMENTAL ASSESSMENT/CONVEYANCE COMMENTS: Interested parties may submit comments regarding the specific proposed use in the applications and plans of development, anticipated impacts of the proposal, and the Bureau's administrative procedure used in reaching a decision on conveyance of the public lands.

Dated: February 27, 1996.

Bradley N. Blomquist,

Acting Area Manager.

[FR Doc. 96–5311 Filed 3–6–96; 8:45 am]

BILLING CODE 4310–40–P

[CO–934–96–1310–01; COC56882]

Colorado; Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease COC56882, Rio Blanco County, Colorado, was timely filed and was accompanied by all required rentals and royalties accruing from September 1, 1995, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $10 per acre and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee for the lease and has reimbursed the Bureau of Land Management for the cost of this Federal Register notice.

Having met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended, (30 U.S.C. 188 (d) and (e)), the Bureau of Land Management is proposing to reinstate the lease effective September 1, 1995, subject to the original terms and condition of the lease and the increased rental and royalty rates cited above.

Questions concerning this notice may be directed to Milada Krasilinec of the Colorado State Office (303) 239–3767.

Dated: February 5, 1996.

Milada Krasilinec,

Land Law Examiner, Oil and Gas Lease Management Team.

[FR Doc. 96–5356 Filed 3–6–96; 8:45 am]

BILLING CODE 4310–JB–M

[WY–921–41–5700; WYW117525]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

February 23, 1996.

Pursuant to the provisions of 30 U.S.C. 188 (d) and (e), and 43 CFR 3108.2–3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW117525 for lands in Big Horn County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this Federal Register notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW117525 effective October 1, 1995, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Panela J. Lewis,

Chief, Leasable Minerals Section.

[FR Doc. 96–5355 Filed 3–6–96; 8:45 am]

BILLING CODE 4310–22–M

[CO–050–1430–01; COC–56629]

Notice of Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Sale of Public Lands in Prowers County, Colorado.

SUMMARY: The following described land has been examined and found suitable for disposal by direct sale under Section 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713) at no less than the appraised fair market value:

Sixth Principal Meridian, Colorado,

T. 24 S., R. 47 W.,
Sec. 22: NW¼NE¼.
Comprising 40 acres.

The land described is hereby segregated from appropriation under the public land laws, including the mining laws, until the land is sold or 270 days from publication of this notice, whichever occurs first. The parcel will be offered by direct sale to Georgetta

Tempel. The land will not be offered for sale until at least 60 days after the date of this notice. All minerals will be reserved to the United States. If this parcel is not sold to Georgetta Tempel, the parcel will be offered competitively to the public through sealed bids. Information on specific sale procedures, including minimum sale price, will be available upon request.

ADDRESSES: Bureau of Land Management, Canon City District, 3170 E. Main St., Canon City, Colorado 81212.

DATES: Interested parties may submit comments to the District Manager at the above address until May 1, 1996.

FOR FURTHER INFORMATION CONTACT: Jan Fackrell, Realty Specialist, (719) 269–8225.

SUPPLEMENTARY INFORMATION: Any adverse comments will be evaluated by the State Director, and he may vacate, modify, or continue this realty action.

Donnie R. Sparks,

District Manager.

[FR Doc. 96–5322 Filed 3–6–96; 8:45 am]

BILLING CODE 4310–JB–M

[WY–010–1430–01; WYW–136529]

Realty Action; Sale for Recreation and Public Purposes; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Recreation and Public Purposes classification and application for sale in Washakie County.

SUMMARY: The following public lands in Washakie County, Wyoming have been examined and found suitable for classification for conveyance to the City of Worland under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The City of Worland proposes to use the lands for a law enforcement shooting range.

Sixth Principal Meridian

T. 47 N. R. 93 W.

Section 13, lot 4, E½E½SW¼SW¼.

Containing 44.13 acres more or less.

The lands are not needed for Federal purposes. Conveyance is consistent with current BLM land use planning and would be in the public interest.

The patent, when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. Those rights to be granted for an existing powerline owned and operated by Pacific Power and Light Company.

Detailed information concerning this action is available for review at the Office of the Bureau of Land Management, Worland District Office, 101 South 23rd, Worland, Wyoming.

Upon publication of this notice in the Federal Register, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the Federal Register, interested persons may submit comments regarding the proposed conveyance or classification of the lands to the District Manager, Worland District Office, P.O. Box 119, Worland, WY 82401.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a law enforcement shooting range. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a law enforcement shooting range.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the Federal Register.

Dated: February 27, 1996.

David Atkins,

Bighorn Basin Assistant Area Manager.

[FR Doc. 96–5323 Filed 3–6–96; 8:45 am]

BILLING CODE 4310–22–M

[MT–034–1220–00]

Notice of Intent To Comment on Area of Critical Environmental Concern in Meade County; South Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The South Dakota Resource Area is finalizing a revision of the Recreation Management Plan for the Fort Meade Recreation Area near Sturgis, South Dakota. The revision, which was initiated in 1992, updates the present plan which was approved in 1981 and incorporated into the South Dakota Resource Management Plan (RMP) in 1985. During the revision process, the Fort Meade Recreation Area was internally nominated for designation as an Area of Critical Environmental Concern (ACEC). In response, the South Dakota Resource Area evaluated the area as a potential ACEC and found it met the relevance and importance criteria for its historic and cultural resource values. As a result, another alternative will be analyzed which considers ACEC designation and the management prescriptions that would accompany such a designation.

In accordance with 43 CFR 1610.7–2, written comments will be accepted for 60 days, beginning with the date of this Federal Register notice. Written comments received during the comment period will be considered in the plan amendment and environmental analysis.

ADDRESSES: Written comments on the proposal should be directed to Tom Steger, Area Manager, Bureau of Land Management, South Dakota Resource Area Office, 310 Roundup Street, Belle Fourche, South Dakota 57717.

FOR FURTHER INFORMATION CONTACT: Dennis Bucher, Outdoor Recreation Planner, South Dakota Resource Area Office, Belle Fourche, South Dakota 57717, 605–892–2526.

SUPPLEMENTARY INFORMATION: The Fort Meade Recreation Area, consisting of 6700 acres, would be designated as an ACEC. This area would be managed to protect its unique cultural and historical values. Resource use limitations for this area would be: Closure to off-road vehicle travel, restrictions on land use authorizations, restrictions on recreational facility development, commercial and noncommercial removal of forest products allowed with restrictions, prescribed fire allowed, livestock grazing allowed, closed to entry for minerals.

Dated: February 28, 1996.

Tom Steger,

Area Manager.

[FR Doc. 96–5352 Filed 3–6–96; 8:45 am]

BILLING CODE 4310–DN–P

[MT–926–06–1420–00]

Land Resource Management

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described land are scheduled to be officially filed in the Montana State Office, Billings, Montana, thirty (30) days from the date of this publication.

Principal Meridian, Montana

T. 6 S., R.50 E.

The plat, in two sheets, representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of section 28, and survey of portions of the right and left bank meanders of the Powder River, downstream, through section 28, and the subdivision of section 32 and survey of portions of the right and left meanders of the Powder River, Township 6 South, Range 50 East, Principal Meridian, Montana, was accepted February 15, 1996.

T. 7 S., R. 50 E.

The plat representing the dependent resurvey of portions of the north boundary, subdivisional lines, and the adjusted original meanders of the former left bank of the Powder River, downstream, through section 6, and the subdivision of section 6, and the survey of the new meanders of the present left bank of the Powder River, downstream, through section 7, and through a portion of section 6, and certain division of accretion lines in sections 6 and 7, Township 7 South, Range 50 East, Principal Meridian, Montana, was accepted February 15, 1996.

These surveys were executed at the request of the Miles City District Office for a proposed land exchange.

The triplicate original of the proceeding described plats will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against these surveys, as shown on these plats, is received prior to the date of the official filings, the filings will be stayed pending consideration of the protests. These particular plats will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 26800, Billings, Montana 59107–6800.

Dated: February 26, 1996.

Larry E. Hamilton,

State Director.

[FR Doc. 96–5310 Filed 3–6–96; 8:45 am]

BILLING CODE 4310–84–P

Fish and Wildlife Service

Availability of a Draft Recovery Plan for the Rare Species of Soldier Meadows for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the threatened desert dace, *Eremichthys acros,* and the category 1 candidate Soldier Meadows cinquefoil, *Potentilla basaltica.* These species are endemic to Soldier Meadows, Humboldt County, Nevada. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before May 6, 1996, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the State Supervisor, Nevada State Office, U.S. Fish and Wildlife Service, 4600 Kietzke Lane, Building C–125, Reno, Nevada, 89502–5093 (Phone: 702–784–5227). Written comments and materials regarding the plan should be sent to Mr. Carlos H. Mendoza, State Supervisor, at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Selena Werdon at the above address and telephone number.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's (Service) endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for reclassification or delisting, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

Desert dace are endemic to Soldier Meadows, located in western Humboldt County, Nevada. The species occupies 10 thermal spring systems and approximately 5 kilometers (3.1 miles) of spring outflow stream habitat. No recent population estimate is available, but the species is considered to be relatively abundant in some spring systems. Threats to the species when listed included habitat modifications due to agricultural diversions, potential geothermal and/or mineral development; and introductions of nonnative fishes; and parasites. Potential threats include trampling and overgrazing by livestock and wild horses and burros, and increasing recreational use of the species' habitat. Recovery efforts will focus on restoring historical habitat in one spring outflow, monitoring population stability and health, and eliminating threats from ongoing habitat modification and sympatric nonnative species. Habitat for desert dace is currently public land administered by the Bureau of Land Management and private land under a conservation easement.

Soldier Meadows cinquefoil are also endemic to Soldier Meadows, although one additional population occurs in Ash Valley, Lassen County, California. In Soldier Meadows, the species occupies alkali meadow, seep, and marsh habitats bordering thermal springs, outflow streams, and depressions. Soldier Meadows contains 10 subpopulations of the cinquefoil. An estimated 84,650 individual plants are distributed on approximately 28 hectares (69 acres). Threats to the species include habitat

modifications due to agricultural diversions, trampling and overgrazing by livestock and wild horses and burros, and recreational use; and competing nonnative plants. Conservation efforts will focus on eliminating threats from ongoing habitat modification and invading nonnative plants, and monitoring population stability and health. Habitat for Soldier Meadows cinquefoil in Soldier Meadows is currently public land administered by the Bureau of Land Management and private land under a conservation easement.

Public Comments Solicited

The Service solicits written comments on the *Recovery Plan for the Rare Species of Soldier Meadows.* All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: February 22, 1996.

Thomas Dwyer,

Acting Regional Director.

[FR Doc. 96–5348 Filed 3–6–96; 8:45 am]

BILLING CODE 4310–55–M

North American Wetlands Conservation Council; Availability of Document

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that a final document, U.S. Grant Application Instructions Package For Funding Consideration Through the North American Wetlands Conservations Council Under Authority of North American Wetlands Conservation Act, is available.

DATES: Proposals may be submitted at any time. FY 1997 proposals will be accepted through August 2, 1996.

ADDRESSES: Copies of this document can be obtained by contacting the Fish and Wildlife Service, Publications Unit, Mail Stop 130 Webb, 4401 N. Fairfax Drive, Arlington, VA 22203 during normal business hours (7:45 am–4:15 pm) in writing or by phone (703) 358–1711.

FOR FURTHER INFORMATION CONTACT: Dr. Byron Kenneth Williams, Coordinator, North American Wetlands Conservation Council at (703) 358–1784.

SUPPLEMENTARY INFORMATION: This document provides the schedules, review criteria, definitions, description of information required in the proposal, and a format for proposals submitted for Fiscal Year 1997 funding. Major changes since last year are: (1) Federal projects must have a 1:1 match; (2) Executive Summary expanded in content and length; (3) Projects with dependent phases may be submitted, not to exceed 5 years in duration; (4) Grant request cap reduced to $1 million, although larger requests may be made if well justified; (5) Answers to six Technical Assessment Questions required and non-game bird species list changed; (6) Matches are eligible up to 2 years prior to the date the proposal is submitted; (7) One budget table required; (8) SF424 not required at proposal stage; and (9) Computer disk containing proposal outline, budget table, and Technical Assessment Questions does not accompany the document but will be sent on request.

This document was prepared to comply with the ''North American Wetlands Conservation Act.'' The Act established a North American Wetlands Conservation Council. This Federal-State-Private body annually recommends wetland acquisition, restoration, and enhancement conservation projects to the Migratory Bird Conservation Commission. These project recommendations will be selected from proposals made in accordance with this document. The Council requires that proposals contain a minimum of 50 percent non-Federal matching funds.

Dated: February 27, 1996

Jay L. Gerst,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 96–5371 Filed 3–6–96; 8:45 am]

BILLING CODE 4310–55–M

Sport Fishing and Boating Partnership Council Workshop; Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: As provided in Section 10(a)(2) of the Federal Advisory Committee Act, the Service announces a meeting designed to foster partnerships to enhance recreational fishing and boating in the United States. This meeting sponsored by the Sport Fishing and Boating Partnership Council (Partnership Council), is open to the public, and interested persons may make oral statements to the Council or may file written statements for consideration.

DATES: March 26, 1996, beginning at 1:00 p.m.

ADDRESSES: The meeting will be held at the Adam's Mark Hotel, Bravo Dining Room, 100 East Second Avenue, Tulsa, Oklahoma 74103, telephone (918) 582–9000.

Summary minutes of the conference will be maintained by the Coordinator for the Sport Fishing and Boating Partnership Council at 1033 North Fairfax Street, Suite 200, Arlington, VA 22314, and will be available for public inspection during regular business hours within 30 days following the meeting. Personal copies may be purchased for the cost of duplication.

FOR FURTHER INFORMATION CONTACT: Doug Alcorn, Council Coordinator, at 703/519–9691.

SUPPLEMENTARY INFORMATION: The Partnership Council will convene with the National Recreational Fisheries Coordination Council (Federal Council) to continue implementing the President's June 7, 1995, Executive Order for Recreational Fisheries (No. 12962). The Councils will discuss the status of the National Recreational Fisheries Conservation Plan and the process whereby the Partnership Council will monitor and evaluate implementation of that plan. The Councils will also discuss a joint policy being developed between the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, that supports endangered species protection and recovery while allowing for recreational fisheries. The Councils will also discuss how to involve recreational fisheries stakeholders in partnerships with Federal and State resource management agencies. The Partnership Council will convene separately after a 3:00 p.m. break to discuss development of the U.S. Fish and Wildlife Service's Strategic Plan for Recreational Fisheries. Staff will report on the Council's financial expenditures and the membership status of the Council's Technical Working Group.

Bruce Blanchard,

Acting Director.

[FR Doc. 96–5308 Filed 3–6–96; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

General Management Plan/ Environmental Impact Statement Manassas National Battlefield Park, VA; Notice of Intent

In accordance with section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service

(NPS) is preparing an Environmental Impact Statement (EIS) to assess the impacts of alternative management strategies for the General Management Plan (GMP) for Manassas National Battlefield Park in Manassas, Virginia.

The GMP/EIS will evaluate a range of alternatives which address cultural and natural resources protection, socioeconomic concerns, traffic circulation, visitor use and facility development.

The NPS will be holding public scoping meetings on the following dates and times:

March 18, 1996, 7–9 p.m.
Park Visitor Center, Route 234 north of Manassas, VA

March 20, 1996, 7–9 p.m.
Park Visitor Center, Route 234 north of Manassas, VA

The purpose of these meetings is to determine the content that should be addressed in the GMP/EIS. Individuals unable to attend the scoping meetings may request information from the Superintendent of Manassas National Battlefield Park at the address listed below. Written comments must be submitted by April 12, 1996.

The draft GMP/EIS are expected to be completed and available for public review by fall, 1997. After public and interagency review of the draft document, comments will be considered and a final EIS will be prepared for release by summer, 1998, which will be followed by a record-of-decision. The responsible official is Robert G. Stanton, Field Director, National Capital Area, NPS. Written comments should be submitted to the Superintendent of Manassas National Battlefield Park, 12521 Lee Highway, Manassas, Virginia, 22110.

Terry R. Carlstrom,

Acting Deputy Field Director.

[FR Doc. 96–5375 Filed 3–6–96; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–360]

International Harmonization of Customs Rules of Origin

AGENCY: International Trade Commission.

ACTION: Request for public comment on draft proposals for chapters 64–70.

EFFECTIVE DATE: February 28, 1996.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (O/TA&TA) (202–205–2595), or Lawrence A. DiRicco (202–205–2606).

Parties having an interest in particular products or HTS chapters and desiring to be included on a mailing list to receive available documents pertaining thereto should advise Diane Whitfield by phone (202–205–2610) or by mail at the Commission, 500 E Street SW., Room 404, Washington, DC 20436. Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. The media should contact Margaret O'Laughlin, Director, Office of Public Affairs (202–205–1819).

BACKGROUND: Following receipt of a letter from the United States Trade Representative (USTR) on January 25, 1995, the Commission instituted Investigation No. 332–360, International Harmonization of Customs Rules of Origin, under section 332(g) of the Tariff Act of 1930 (60 FR 19605, April 19, 1995).

The investigation is intended to provide the basis for Commission participation in work pertaining to the Uruguay Round Agreement on Rules of Origin (ARO), under the General Agreement on Tariffs and Trade (GATT) 1994 and adopted along with the Agreement Establishing the World Trade Organization (WTO).

The ARO is designed to harmonize and clarify nonpreferential rules of origin for goods in trade on the basis of the substantial transformation test; achieve discipline in the rules' administration; and provide a framework for notification, review, consultation, and dispute settlement. These harmonized rules are intended to make country-of-origin determinations impartial, predictable, transparent, consistent, and neutral, and to avoid restrictive or distortive effects on international trade. The ARO provides that technical work to those ends will be undertaken by the Customs Cooperation Council (CCC) (now informally known as the World Customs Organization or WCO), which must report on specified matters relating to such rules for further action by parties to the ARO. Eventually, the WTO Ministerial Conference is to ''establish the results of the harmonization work program in an annex as an integral part'' of the ARO.

In order to carry out the work, the ARO calls for the establishment of a Committee on Rules of Origin of the WTO and a Technical Committee on Rules of Origin (TCRO) of the CCC. These Committees bear the primary responsibility for developing rules that achieve the objectives of the ARO.

A major component of the work program is the harmonization of origin rules for the purpose of providing more certainty in the conduct of world trade. To this end, the agreement contemplates a 3-year CCC program, to be initiated as soon as possible after the entry into force of the Agreement Establishing the WTO. Under the ARO, the TCRO is to undertake (1) to develop harmonized definitions of goods considered wholly obtained in one country, and of minimal processes or operations deemed not to confer origin, (2) to consider the use of change in Harmonized System classification as a means of reflecting substantial transformation, and (3) for those products or sectors where a change of tariff classification does not allow for the reflection of substantial transformation, to develop supplementary or exclusive origin criteria based on value, manufacturing or processing operations or on other standards.

To assist in the Commission's participation in work under the Agreement on Rules of Origin (ARO), the Commission is making available for public comment draft proposed rules for goods of:

Chapter 64—Footwear, Gaiters and the Like; Parts of Such Articles
Chapter 65—Headgear and Parts Thereof
Chapter 66—Umbrellas, Sun Umbrellas, Walking-Sticks,Seat-Sticks, Whips, Riding-Crops, and Parts Thereof
Chapter 67—Prepared Feathers and Down and Articles Made of Feathers or of Down; Artificial Flowers; Articles of Human Hair
Chapter 68—Articles of Stone, Plaster, Cement, Asbestos, Mica or Similar Materials
Chapter 69—Ceramic Products
Chapter 70—Glass and Glassware

of the Harmonized System that are not considered to be wholly made in a single country. The rules rely largely on the change of heading as a basis for ascribing origin.

Copies of the proposed revised rules will be available from the Office of the Secretary at the Commission, from the Commission's Internet web server (http://www.usitc.gov), or by submitting a request on the Office of Tariff Affairs and Trade Agreements voice messaging system, 202–205–2592 or by FAX at 202–205–2616.

These proposals, which have been reviewed by interested government agencies, are intended to serve as the basis for the U.S. proposal to the Technical Committee on Rules of Origin (TCRO) of the Customs Cooperation Council (CCC) (now known as the World Customs Organization or WCO).

The proposals do not necessarily reflect or restate existing Customs treatment with respect to country of origin applications for all current non-preferential purposes. Based upon a decision of the Trade Policy Staff Committee, the proposals are intended for future harmonization for the nonpreferential purposes indicated in the ARO for application on a global basis. They seek to take into account not only U.S. Customs current positions on substantial transformation but additionally seek to consider the views of the business community and practices of our major trading partners as well. As such they represent an attempt at reaching a basis for agreement among the contracting parties. The proposals may undergo change as proposals from other government administrations and the private sector are received and considered. Under the circumstances, the proposals should not be cited as authority for the application of current domestic law.

If eventually adopted by the TCRO for submission to the Committee on Rules of Origin of the World Trade Organization, these proposals would comprise an important element of the ARO work program to develop harmonized, non-preferential country of origin rules, as discussed in the Commission's earlier notice. Thus, in view of the importance of these rules, the Commission seeks to ascertain the views of interested parties concerning the extent to which the proposed rules reflect the standard of substantial transformation provided in the Agreement. In addition, comments are also invited on the format of the proposed rules and whether it is preferable to another presentation, such as the format for the presentation of the NAFTA origin or marking rules. Forthcoming Commission notices will advise the public on the progress of the TCRO's work and will contain any harmonized definitions or rules that have been provisionally or finally adopted.

WRITTEN SUBMISSIONS: Interested persons are invited to submit written statements concerning this phase of the Commission's investigation. Written statements should be submitted as quickly as possible, and follow-up statements are permitted; but all statements must be received at the Commission by the close of business on April 12, 1996, in order to be considered. Information supplied to the Customs Service in statements filed pursuant to notices of that agency has been given to us and need not be separately provided to the Commission. Again, the Commission notes that it is particularly interested in receiving input from the private sector on the effects of the various proposed rules and definitions on U.S. exports. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be available for inspection by interested persons. All submissions should be addressed to the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Issued: March 1, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96–5327 Filed 3–6–96; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Long Range Plan for the Federal Courts

AGENCY: Judicial Conference of the United States.

ACTION: Notice of Conference approval and publication of the Long Range Plan for the Federal Courts (December 1995).

The Judicial Conference of the United States has approved the first Long Range Plan for the Federal Courts and published it for general information. This plan is derived from a proposal that the Conference received from its Committee on Long Range Planning in March 1995. As explained in an earlier notice (60 FR 30317), the Conference members reviewed at length the 101 recommendations and 77 implementation strategies in the proposed long range plan and, as a result, 64 recommendations and 48 strategies were approved without substantive change in April and May 1995. All other items in the proposed plan were referred to other committees of the Conference for additional study.

Based on reports from the other committees, Conference review of the proposed long range plan was completed in September 1995. At that time, the following recommendations and implementation strategies were approved without change:

Recommendations	Implementation strategies
8	4a–4c
13	12b
17–18	
20	
22	
24	
28	28a–28b
33	
42	42a–42b
49	49a–49b
52	52a(2)–(3), 52b(1)–(4), 52c(2)
90	92b–92c, 92e–92f

The following items were approved with substantive revisions or technical corrections:

Recommendations	Implementation strategies
4	
7	
10	
12	12a, 12c
14	
23	
25	
27	39c
44	
48	52c(5)
65	
66–68	
69	69a–69d
89	
92	92a, 92d, 92g 94d
96	

And the following items were deleted in their entirety:

Recommendations	Implementation strategies
15	
29	
70	70a–70c
71–75	

At the direction of the Executive Committee of the Conference, the entire plan document was republished in light of the Conference actions. This included renumbering of the approved items and conforming revisions and updates to commentary and other supplementary text. In addition, the Executive Committee authorized on the Conference's behalf a number of minor,

conforming technical corrections in the following items:

Recommendations	Implementation strategies
7	
13	
51 (formerly 53)	51a (formerly 53a)
54–55 (formerly 56–57)	
56 (formerly 58)	56a–56b (formerly 58a–58b)
57–58 (formerly 59–60)	

The newly published Long Range Plan for the Federal Courts (December 1995) provides a guide for policy making and administration by the Judicial Conference and other judicial branch authorities. It should be emphasized, however, that only the recommendations and implementation strategies represent judicial branch policy. All other text in the document, including commentary on recommendations and strategies, serves to explain and supplement the approved items but does not necessarily reflect the views of the Judicial Conference.

The Long Range Plan is intended to promote continued public dialogue concerning the future of the federal courts. To that end, the plan already has been distributed to all federal judges and senior judicial staff, all members of Congress and relevant congressional staff, other federal agencies, state judges and judicial staff, bar associations, law schools, and other interested parties. Copies can be obtained by contacting the Long Range Planning Office in the Administrative Office of the United States Courts. The plan is also available to Internet users at the Federal Courts' Home Page on the World Wide Web (http://www.uscourts.gov).

FOR FURTHER INFORMATION CONTACT: Long Range Planning Office, Administrative Office of the United States Courts, Suite 4–170, One Columbus Circle, N.E., Washington, D.C. 20544, 202–273–1810.

Dated: February 29, 1996.

Leonidas Ralph Mecham,

Secretary to the Judicial Conference of the United States.

[FR Doc. 96–5304 Filed 3–6–96; 8:45 am]

BILLING CODE 2210–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

NACOSH HazCom Workgroup Meeting

Notice is hereby given that a workgroup of the National Advisory Committee on Occupational Safety and Health (NACOSH), established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act, will meet on March 20–21 in N3437 A–D of the Department of Labor Building located at 200 Constitution Avenue NW, Washington, DC. This meeting was previously announced in the November 15, 1995, Federal Register, but a second day has been added. This meeting is open to the public and will run from 10:00 am to approximately 4:30 pm the first day, and from 8:00 am to approximately 3:00 pm the second day.

The Occupational Safety and Health Administration (OSHA) has asked NACOSH to form a workgroup to identify ways to improve chemical hazard communication and the right-to-know in the workplace. OSHA has asked the Committee to provide OSHA with recommendations in approximately six months related to simplification of material safety data sheets, reducing the amount of required paperwork, improving the effectiveness of worker training, and revising enforcement policies so that they focus on the most serious hazards.

On March 20–21, presentations by specialists will be made on the following subjects: label comprehension, electronic access systems, training programs, and the experience of the American National Standards Institute (ANSI) in developing standards for the preparation of material safety data sheets (MSDSs) and labeling of hazardous industrial chemicals.

It is anticipated that the final product of this workgroup will be submitted to the full National Advisory Committee on Occupational Safety and Health in the summer.

Written data, views or comments for consideration by the workgroup may be submitted, preferably with 20 copies, to Joanne Goodell at the address provided below. Any such submissions will be provided to the members of the Workgroup and will be included in the record of the meeting. Individuals with disabilities who need special accommodations should contact Tom Hall (202–219–8615) a week before the meeting.

FOR ADDITIONAL INFORMATION CONTACT: Joanne Goodell, Directorate of Policy, Occupational Safety and Health Administration, Room N–3641, 200 Constitution Avenue, NW., Washington, DC., 20210, telephone (202) 219–8021, extension 107.

Signed at Washington, D.C., this 29th day of February, 1996.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 96–5407 Filed 3–6–96; 8:45 am]

BILLING CODE 4510–26–M

Pension and Welfare Benefits Administration

[Application No. D–10218]

Proposed Class Exemption to Permit the Restoration of Delinquent Participant Contributions to Plans

AGENCY: Pension and Welfare Benefits Administration (PWBA), Department of Labor.

ACTION: Notice of proposed class exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed class exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code of 1986 (the Code). The proposed class exemption would provide exemptive relief for certain transactions involving the failure to transmit participant contributions to pension plans where such delinquent amounts are voluntarily restored to such plans with lost earnings. This exemption is being proposed as part of the Department's Pension Payback Program, which is targeted at persons who failed to transfer participant contributions to pension plans, including section 401(k) plans, within the time frames mandated by the Department's participant contribution regulation, and thus violated Title I of ERISA. If granted, the proposed exemption would affect plans, participants and beneficiaries of such plans and certain other persons engaging in such transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before April 21, 1996.

ADDRESSES: All written comments (at least three copies) and requests for a public hearing should be sent to: Office of Exemption Determinations, Pension

and Welfare Benefits Administration, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, (attn: D–10218). Comments received from interested persons will be available for public inspection in the Public Documents Room, Pension and Welfare Benefits Administration, U.S. Department of Labor, room N–5638, 200 Constitution Avenue, NW., Washington, DC. Written comments may also be sent by the Internet to the following address: hinz@access.digex.net.

FOR FURTHER INFORMATION CONTACT: Ms. Lyssa Hall, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, (202) 219–8971, (This is not a toll-free number.); or William Taylor, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, (202) 219–9141. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed class exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of ERISA and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code.

The Department is proposing the class exemption on its own motion pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR part 2570, subpart B, (55 FR 32836, August 10, 1990).[1]

Review Under the Paperwork Reduction Act of 1995

The collection of information contained in this proposed class exemption has been submitted to the Office of Management and Budget for review under section 3507(d) of the Paperwork Reduction Act of 1995. 44 U.S.C. 3507(d). For copies of the OMB submission, contact Mrs. Theresa O'Malley, U.S. Department of Labor, OASAM/DIRM, Room N–1301, 200 Constitution Ave. NW., Washington, D.C. 20210, 202–219–5095 or via Internet to tomalley@dol.gov. Comments are solicited on the Department's need for this information, specifically to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Persons wishing to comment on the collection of information should direct their comments to the Office of Information and Regulatory Affairs, OMB, Room 10235, NEOB, Washington, D.C. 20503, Attn: Desk Officer for PWBA. Comments must be filed with the Office of Management and Budget within 30 days of this publication.

Title: Class Exemption To Permit The Restoration of Delinquent Participant Contributions to Plans.

Summary: This document contains a notice of pendency before the Department of a proposed class exemption from the prohibited transaction restrictions of ERISA and the Code. The proposed class exemption would provide exemptive relief for certain transactions involving the failure to transmit participant contributions to pension plans where such delinquent amounts are voluntarily restored to such plans with lost earnings. This exemption is being proposed as part of the Department's Pension Payback Program, which is targeted at persons who failed to transfer participant contributions to pension plans, including section 401(k) plans, in accordance with the time frames described in the Department's participant contribution regulation, and thus violated Title I of ERISA (29 CFR 2510.3–102). If granted, the proposed exemption would affect plans, participants and beneficiaries of such plans and certain other persons engaging in such transactions.

Needs and Uses: ERISA requires that the Department make a finding that the proposed exemption meets the statutory requirements of section 408(a) before granting the exemption. The Department therefore finds it necessary to receive certain information from the applicants, and that participants and beneficiaries receive notice and an opportunity to comment on the proposed transaction.

Respondents and Proposed Frequency of Response: The Department staff estimates that approximately 1,772 plan sponsors will seek to take advantage of this class exemption and/or participate in the Pension Payback Program. The respondents will be parties in interest to plans.

Estimated Annual Burden: According to 1992 Form 5500 data, approximately 172,246 plans (including approximately 139,704 401(k) plans) permitted participant contributions. We have no hard data on the number of plan sponsors that might wish to participate in the conditional compliance program. However, on the basis of preliminary investigations conducted by the Department, the number of plan sponsors who fail to transfer participant contributions to pension plans as required by ERISA appears to be quite small. We estimate only about one percent of the plans that permit participant contributions will actually be interested in participating in this program. Consequently, the number of respondents is 1,722 (.01×172,246). We also estimate that it will take those plan sponsors who are interested in participating in this program and using the exemption only one hour. Consequently, the total burden hours are 1,722 (1×1,722).

Under the proposed exemption, one condition that must be satisfied is that all delinquent participant contributions be restored to the pension plan plus earnings from the date on which such contributions were paid to, or withheld by, the employer until such money is restored to the plan. The earnings are calculated at the greater of: (1) The amount that would have been earned on the participant contributions during such period if applicable plan provisions had been followed, or (2) the amount that would have been earned on the participant contributions during such period using an interest rate equal to the underpayment rate defined in section 6621(a)(2) of the Code during such period. In the Department's view, this condition requires that the earnings be calculated on an account by account basis in order to mirror the earnings the participants would have otherwise accrued. The Department's burden hour calculation does not reflect any hours imposed by this requirement because of a lack of data.

Background

In 1988, the Department published a final regulation defining when certain monies which a participant pays to, or has withheld by, an employer for contribution to a plan are ''plan assets'' for purposes of Title I of ERISA and the related prohibited transaction provisions of the Code. 53 FR 17628 (May 17, 1988). The final participant contribution regulation provided that

[1] Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978, 5 U.S.C. App. 1 [1995]) generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975 of the Code to the Secretary of Labor.

the assets of a plan include amounts (other than union dues) that a participant or beneficiary pays to an employer, or amounts that a participant has withheld from his or her wages by an employer, for contribution to the plan as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets, but in no event more than 90 days from the date on which such amounts are received by the employer (in the case of amounts that a participant or beneficiary pays to an employer) or 90 days from the date on which such amounts would otherwise have been payable to the participant in cash (in the case of amounts withheld by an employer from a participant's wages).[2] This final rule was based on a record developed with respect to a proposed regulation published in 1979. 44 FR 50363 (August 28, 1979).

Except as provided in ERISA section 403(b), plan assets are required to be held in trust by one or more trustees pursuant to section 403(a) of ERISA.[3] In addition, ERISA's fiduciary responsibility provisions apply to the management of plan assets. Among other things, ERISA sections 403 and 404 make clear that the assets of a plan may not inure to the benefit of any employer and shall be held for the exclusive purpose of providing benefits to participants in the plan and their beneficiaries, and defraying reasonable expenses of administering the plan. These basic fiduciary provisions are supplemented by the *per se* rules set forth in section 406 which prohibit certain classes of transactions between plans and persons defined as parties in interest under section 3(14) of ERISA. The term ''party in interest'' includes a fiduciary and an employer any of whose employees are covered by the plan.

As previously noted, amounts paid by a participant or beneficiary to an employer and/or withheld by an employer for contribution to the plan are participant contributions that become plan assets as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets. An employer holding these assets after that date commingled with its general assets will have engaged in a prohibited use of plan assets under section 406 of ERISA.

Recent investigations conducted by the Department have revealed employer delays in transmitting or a failure to transmit to pension plans amounts that a participant or beneficiary pays to an employer, or amounts that employers withhold from participants' wages, for contribution to the plans.[4] It appears that many employers who receive participant contributions are under the misimpression that current regulation permits a delay of up to 90 days in segregating such contributions, even if the participant contributions can be reasonably segregated much sooner. Such delays deprive participants of earnings on their contributions and increase the risk to participants and their beneficiaries that their contributions will be lost due to the employer's insolvency or misappropriation by the employer.

In order to better protect the security of participant contributions to employee benefit plans, the Department determined to revise the final regulation published in 1988. The proposed regulation (60 FR 66036, December 20, 1995) revises the 1988 regulation by changing the maximum period during which participant contributions to an employee benefit plan may be treated as other than ''plan assets''. Under the proposed rule, the maximum period for an employer to transmit participant contributions to the plan would be the same number of days in which the employer is required to deposit withheld income taxes and employment taxes under rules promulgated by the IRS.[5] The proposed regulation also solicited comments on the advisability of other measures that the Department might consider to address the problem of delays in transmitting participant contributions to plans.

In addition to the proposed revision to the participant contribution regulation, the Department, adopted a conditional compliance program for those persons who voluntarily restore delinquent participant contributions to pension plans.

The Pension Payback Program (the Program), which is being published today, is designed to benefit workers by encouraging persons to restore delinquent participant contributions to pension plans. This Program is targeted at persons who failed to transfer participant contributions plus lost earnings to pension plans, including section 401(k) plans, within the time frames mandated by the Department's participant contribution regulation, and thus violated Title I of ERISA. Those who comply with the terms of the Program will avoid potential ERISA civil actions initiated by the Department, the assessment of civil penalties under section 502(1) of ERISA and Federal criminal prosecutions arising from their failure to timely remit such contributions. The Department of Justice has indicated its support for the Program. This proposed class exemption under section 408(a) of ERISA, when finalized, will govern those transactions described in the Program. However, persons who participate in the Program may rely on the proposed exemption notwithstanding any subsequent modifications made in issuing the final exemption. Thus, on a temporary basis, pending promulgation by the Department of the final class exemption setting forth the conditions for retroactive relief, the Department will not pursue enforcement against persons who comply with the conditions of the Program with respect to any prohibited transaction liability which may have arisen as a result of a delay in forwarding participant contributions. The Internal Revenue Service has advised the Department that it will not seek to impose the Code section 4975 (a) and (b) sanctions with respect to any prohibited transaction that is covered by the proposed class exemption, notwithstanding any subsequent changes to the proposed exemption when it is finalized, provided that all requirements specified in the proposed class exemption have been met.

Discussion of the Proposed Exemption

1. Scope

The proposed exemption would provide conditional relief from the restrictions of sections 406(a)(1) (A)

[2] The Department has taken the position that elective contributions to an employee benefit plan, whether made pursuant to a salary reduction agreement or otherwise, constitute amounts paid to or withheld by an employer (i.e., participant contributions) within the scope of section 2510.3–102, without regard to the treatment of such contributions under the Internal Revenue Code. *See* 53 FR 29660 (August 8, 1988).

[3] ERISA section 403(b) contains a number of exceptions to the trust requirements for certain types of assets, including assets which consist of insurance contracts, and for certain types of plans. In addition, the *Secretary* has issued a technical release, T.R. 92–1, which provides that, with respect to certain welfare plans (e.g., cafeteria plans), the Department will not assert a violation of the trust or certain reporting requirements in any enforcement proceeding, or assess a civil penalty for certain reporting violations, involving such plans solely because of a failure to hold participant contributions in trust. 57 FR 23272 (June 2, 1992), 58 FR 45359 (August 27, 1993).

[4] In the Spring of 1995, PWBA began a project to investigate misuse of employee contributions to employee benefit plans and in particular 401(k) plans. As of October 31, 1995 there were 417 employee contribution investigations open and 130 cases were closed during the year. More than $3.7 million has been recovered through voluntary compliance in situations where employee contributions were not placed in trust for participants.

Of the 130 closed employee contribution cases, 44, or 33.8 percent of closed cases, resulted in findings of violations of ERISA's fiduciary provisions. This compares to a finding of fiduciary violations in 12 percent of all other closed cases in FY 95.

[5] See 26 CFR section 31.6302–1.

through (D), 406(b)(1) and 406(b)(2) of ERISA and the sanctions resulting from the application of section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, for transactions that result from a person's failure to transmit participant contributions to pension plans within the time frames required by the participant contribution regulation, provided that such delinquent contributions are restored to the plans together with lost earnings.

The Department notes that the proposal only provides relief for those transactions involving delinquent participant contributions and earnings that are restored to pension plans no later than September 7, 1996. The payments to the plan must relate to amounts paid by participants to, or withheld by, an employer for contribution to a plan no later than 30 days following the date of announcement of the Program.[6] The Department believes that it is appropriate to propose limited relief in order to provide employers with the opportunity to restore delinquent participant contributions plus earnings to plans and to modify their withholding practices without fear of legal action or excise taxes.

2. Proposed Conditions

The proposal contains conditions, as discussed below, which the Department views as necessary to ensure that any transaction covered by the proposed exemption would be in the interests of plan participants and beneficiaries and to support a finding that the proposed exemption meets the statutory standards of section 408(a) of ERISA.

Under the proposed exemption, all delinquent participant contributions must be restored to the pension plan plus earnings from the date on which such contributions were paid to, or withheld by, the employer until such money is restored to the plan. The earnings are calculated at the greater of: (1) The amount that would have been earned on the participant contributions during such period if applicable plan provisions had been followed, or (2) the amount that would have been earned on the participant contributions during such period using an interest rate equal to the underpayment rate defined in section 6621(a)(2) of the Code during such period.[7] In the Department's view, this condition requires that the earnings be calculated on an account by account basis in order to mirror the earnings the participants would have otherwise accrued.

Second, the proposal requires that the total of all outstanding delinquent participant contributions on the date of announcement of the Program, excluding earnings, does not exceed the aggregate amount of participant contributions that were received or withheld by an employer from the employees' wages for calendar year 1995. Provided that the preceding limitation is met, the proposal also would permit the restoration of any earnings on participant contributions that have been restored to the plan prior to the effective date of the Program.

Third, the proposed exemption requires that the person meet the requirements set forth in paragraphs (2) through (6) of the Program. Those requirements include, among other things, that: (1) The person notify the Department in writing of its intention to participate in the Program and provide written evidence demonstrating that participant contributions and earnings have been restored to the plan; (2) the person notify affected participants (and send a copy to the Department) that prior delinquent contributions and lost earnings have been restored to their accounts pursuant to participation in the Program; (3) at the time of notification to the Department of the person's determination to participate in the Program, neither the Department nor any other Federal agency has informed such person of its intention to investigate or examine the plan or otherwise make inquiry with respect to the status of participant contributions under the plan; and (4) the person must certify in writing, under oath, that it is in compliance with the requirements of the Program and, to its knowledge, not the subject of any criminal investigation or prosecution involving any offense against the United States; has not been convicted of any criminal offense involving employee benefit plans or any other offense involving financial misconduct, nor entered into a consent decree with the Department or have been found by a court of competent jurisdiction to have violated any fiduciary responsibility provision of ERISA.

Notice to Interested Persons

Because many participants, plans, fiduciaries, and parties in interest with respect to plans could be considered interested persons, the only practical form of notice of the proposed exemption is publication in the Federal Register.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of ERISA and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan from certain other provisions of ERISA and the Code to which the exemption does not expressly apply and the general fiduciary responsibility provisions of section 404 of ERISA. Section 404 requires, in part, that a fiduciary discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of ERISA. Nevertheless, the Department notes that those persons who comply with the conditions of the Pension Payback Program will avoid potential ERISA civil actions initiated by the Department resulting from their failure to timely remit participant contributions to pension plans.

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of ERISA or section 4975(c)(1)(F) of the Code.

(3) Before this exemption may be granted under section 408(a) of ERISA and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of plans and of participants and beneficiaries and protective of the rights of participants and beneficiaries of such plans.

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of other provisions of ERISA and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(5) If granted, the proposed class exemption will be applicable to a transaction only if the conditions specified in the class exemption are satisfied.

[6] The Department notes that this date corresponds to the date contained in the Program.

[7] The underpayment rate defined in section 6621(a)(2) is based on the Federal short-term rate determined quarterly by the Secretary of the Treasury and is designed to reflect market rates of interest rather than serve as a penalty. Courts have applied rates determined under section 6621 in awarding prejudgment interest in cases under title I of ERISA. *Martin* v. *Harline,* No. 87–NC–115J (D. Utah Mar. 31, 1992) 15 Emp. Ben. Cases (BNA) 1138, 1153; *Whitfield* v. *Cohen,* 686 F. Supp. 188, 193 (E.D.N.Y. 1988); *Whitfield* v. *Tomasso,* 682 F. Supp. 1287, 1306 (E.D.N.Y. 1988).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a public hearing on the proposed exemption to the address above and within the time period set forth above. Comments received will be made part of the record and will be available for public inspection at the above address.

Proposed Exemption

The Department has under consideration the granting of the following class exemption, under the authority of section 408(a) of ERISA and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR 2570, subpart B (55 FR 32836, August 10, 1990).

I. The restrictions of sections 406(a)(1)(A) through (D), 406(b)(1) and 406(b)(2) of ERISA and the sanctions resulting from the application of section 4975(a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to transactions that result from a person's failure to transmit participant contributions to a pension plan within the time frames required by the plan asset—participant contribution regulation (29 CFR 2510.3–102), provided that the following conditions are met:

(a) All delinquent participant contributions are restored to the pension plan plus the greater of:

(1) The amount that otherwise would have been earned on the participant contributions from the date on which such contributions were paid to, or withheld by, the employer until such money is fully restored to the plan, had such contributions been invested in accordance with applicable plan provisions, or

(2) The amount the participant would have earned on the participant contributions during such period using an interest rate equal to the underpayment rate defined in section 6621(a)(2) of the Code from the date on which such contributions were paid to, or withheld by, the employer until such money is fully restored to the plan.

(b) The total of all outstanding delinquent participant contributions on March 7, 1996, excluding earnings, does not exceed the aggregate amount of participant contributions that were paid to, or withheld by, the employer for contribution to the plan for calendar year 1995. Provided that the preceding limitation is met, the proposed exemption shall apply without limit to the restoration of any earnings on delinquent participant contributions that have been restored to the plan prior to the effective date of the Program.

(c) The conditions set forth in paragraphs (2) through (6) of the Program are met.

II. Definitions: For purposes of this proposed exemption:

(a) The term ''plan'' means an employee pension benefit plan described in section 3(2) of ERISA.

(b) The term ''person'' means a person as that term is defined in section 3(9) of ERISA.

(c) The term ''Program'' means the Pension Payback Program published by the Department on March 7, 1996.

III. Effective Date: If granted, the proposed exemption provides retroactive and prospective relief for those transactions involving participant contributions and earnings that are restored to pension plans no later than September 7, 1996. Such restorative payments must relate to amounts paid to, or withheld by, an employer for contribution to a plan no later than April 5, 1996.

Signed at Washington, D.C. this 4th day of March, 1996.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Department of Labor, Pension and Welfare Benefits Administration.

[FR Doc. 96–5392 Filed 3–6–96; 8:45 am]

BILLING CODE 4510–29–P

Advisory Council on Employee Welfare and Pension Benefits Plan; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on April 8, 1996, in Room S2508, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC 20210.

The purpose of the meeting, which will begin at 9:30 a.m. and end at approximately noon, is to consider the items listed below and to invite public comment on any aspect of the administration of ERISA.

I. Welcome and Introduction of New Council Members
II. Assistant Secretary's Report
  A. PWBA Priorities for 1996
  B. Report to Congress
  C. Miscellaneous Issues
  D. Announcement of Council Chairperson and Vice Chairperson
III. Introduction of PWBA Senior Staff and Orientation of New Members
IV. Report of Advisory Council Working Groups (1994/1995 Term)
V. Determination of Council Working Groups for 1996
VI. Procedure for Establishing Council and Working Group Meeting Dates
VII. Statements from the General Public
VIII. Adjourn

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copiers on or before March 25, 1996 to Sharon Morrissey, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Acting Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by March 25 at the address indicated.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Acting Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before March 25, 1996.

Signed at Washington, DC, this 1st day of March, 1996.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 96–5408 Filed 3–6–96; 8:45 am]

BILLING CODE 4510–29–M

Pension Payback Program

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of adoption of voluntary compliance program for restoration of delinquent participant contributions.

SUMMARY: This document announces the adoption of a voluntary compliance program which will allow certain persons to avoid potential Employment Retirement Income Security Act civil actions initiated by the Department of Labor, the assessment of civil penalties under section 502(l) of ERISA and Federal criminal prosecutions arising from their failure to timely remit participant contributions and the failure to disclose such non-remittance. The program also includes relief from certain prohibited transaction liability. The program is designed to benefit workers by encouraging employers to restore delinquent participant contributions to employee pension

benefit plans covered by Title I of ERISA.

DATES: The program applies to certain delinquent participant contributions that are restored to pension plans no later than September 7, 1996. Restorative payments must relate to amounts paid by participants or withheld by an employer from participants' wages for contribution to a pension plan on or before April 5, 1996. Written notification of intention to participate in the program must be received by the Department no later than September 7, 1996.

ADDRESSES: Notification of intention to participate in the program must be sent in writing to: Pension Payback Program Pension and Welfare Benefits Administration, U.S. Department of Labor, P.O. Box 77235, Washington, DC 20013–7235.

FOR FURTHER INFORMATION CONTACT: Jeffrey Monhart, Pension Investigator, Office of Enforcement, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, DC (202) 219–4377. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under a current regulation, issued by the Department of Labor in 1988, assets of an employee benefit plan include amounts (other than union dues) that a participant or beneficiary pays to an employer, or amounts that a participant has withheld from his or her wages by an employer, for contribution to the plan as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets, but in no event to exceed 90 days from the date on which such amounts are received by the employer (in the case of amounts that a participant or beneficiary pays to an employer) or 90 days from the date on which such amounts would otherwise have been payable to the participant in cash (in the case of amounts withheld by an employer from a participant's wages). 29 CFR 2510.3–102.

Except as provided in ERISA § 403(b), plan assets are required to be held in trust by one or more trustees.[1] ERISA § 403(a), 29 U.S.C. 1103(a). In addition, ERISA's fiduciary responsibility provisions apply to the management of plan assets. Among other things, these provisions make clear that the assets of a plan may not inure to the benefit of any employer and shall be held for the exclusive purpose of providing benefits to participants in the plan and their beneficiaries, and defraying reasonable expenses of administering the plan. ERISA §§ 403–404, 29 U.S.C. 1103–1104. They also prohibit a broad array of transactions involving plan assets. ERISA §§ 406–408, 29 U.S.C. 1106–1108.

Employers who fail to transmit promptly participant contributions, and plan fiduciaries who fail to make diligent efforts to collect those amounts in a timely manner, will violate the requirement that plan assets be held in trust; in addition, such employers and fiduciaries may be engaging in prohibited transactions.

As was noted in the preamble to the final regulation published in 1988, the Department of Justice takes the position that, under 18 U.S.C. 664, the embezzlement, conversion, abstraction, or stealing of ''any of the moneys, funds, securities, premiums, credits, property, or other assets of any employee welfare benefit plan or employee pension benefit plan, or any fund connected therewith'' is a criminal offense, and that under such language, criminal prosecution may go forward in situations in which the participant contribution is not a plan asset for purposes of Title I of ERISA. 53 FR 17628 (May 17, 1988). The final regulation defined when participant contributions become ''plan assets'' only for the purposes of Title I of ERISA and the related prohibited transaction excise tax provisions of the Code. The Department reiterates that this regulation may not be relied upon to bar criminal prosecutions pursuant to 18 U.S.C. 664.

Recent investigations conducted by the Department have revealed numerous violations related to employers' delay in transmitting or failing to transmit to employee benefit plans amounts that a participant or beneficiary pays to an employer, or amounts that employers withhold from participants' wages, for contribution to the plans. Although the Department believes that in the vast majority of contributory employee benefit plans, participant contributions are handled with integrity, evidence uncovered in ongoing investigations indicates that such delays are not uncommon.[2] The recent enforcement activities, which focused on participant contributions, indicate a significantly higher frequency of violations for such investigations than the Department encounters in general.[3]

In addition, the Department, in responding to requests for technical assistance from employers and participants, has received information that many employers who receive participant contributions are under the misimpression that the current regulation permits a delay of up to 90 days in segregating such contributions, even if the participant contributions can reasonably be segregated much sooner. The Department has also received similar information from a variety of other sources. Such delays deprive participants of earnings on their contributions and increase the risk to participants and their beneficiaries that their contributions will be lost due to the employer's insolvency or misappropriation by the employer.

In order to better protect the security of participant contributions to employee benefit plans, on December 20, 1995, the Department of Labor published in the Federal Register a notice of proposed rulemaking to revise the regulation at 29 CFR 2510.3–102 (60 FR 66036). The Department's proposal would change the maximum period during which participant contributions to an employee benefit plan may be treated as other than ''plan assets'' to the same number of days as the period in which the employer is required to deposit withheld income taxes and employment taxes under rules promulgated by the Internal Revenue Service (IRS). The proposed regulation also solicited comments on the advisability of other measures that the Department might consider to address the problem of delays in transmitting participant contributions to plans. The comment period for this proposal expired on February 5, 1996. The Department held a public hearing on the proposal on February 22 and 23, 1996, in Washington, DC.

[1] ERISA § 403(b) contains a number of exceptions to the trust requirement for certain types of assets, including assets which consist of insurance contracts, and for certain types of plans. In addition, the Secretary has issued a technical release, T.V. 92–01, which provides that, with respect to certain welfare plans (*e.g.*, cafeteria plans), the Department will not assert a violation of the trust or certain reporting requirements in any enforcement proceeding, or assess a civil penalty for certain reporting violations, involving such plans solely because of a failure to hold participant contributions in trust. 57 FR 23272 (June 2, 1992), 58 45359 (Aug. 27, 1993).

[2] In the Spring of 1995 PWBA began a project to investigate misuse of employee contributions to employee benefit plans and in particular in 401(k) plans. As of October 31, 1995 there were 417 employee contribution investigations open and 130 cases were closed during the year. More than $3,7 million has been recovered through voluntary compliance in situations where employee contributions were not placed in trust for participants.

[3] Of the 130 closed employee contribution cases, 44, or 33.8 percent of closed cases, resulted in findings of violations of ERISA's fiduciary provisions. This compares to a finding of fiduciary violations in 12 percent of all other closed cases in FY 95.

The Pension Payback Program

In order to encourage persons who have been delinquent in remitting participant contributions to pension plans, the Department has determined to announce a voluntary compliance program to be known as the Pension Payback Program. The program applies only to the restoration of participant contributions and lost earnings to employee pension benefit plans as defined in section 3(2) of ERISA. As described in the following notice, the Pension Payback Program contains two principal elements.

1. The Program will permit certain persons who are delinquent in the remittance of participant contributions to pension plans to avoid civil actions brought by the Department of Labor and Federal criminal prosecutions for such delinquencies if the conditions of the Program are met.

2. A final class exemption under section 408(a) of ERISA that is being published in proposed form today will govern these transactions. However, persons who participate in the Program transaction. However, persons who participate in the Program may rely on the proposed exemption notwithstanding any subsequent modifications made in issuing the final exemption. Thus, on a temporary basis, pending promulgation by the Department of the final class exemption setting forth the condition for retroactive relief, the Department will not pursue enforcement against persons who comply with the conditions of the Program with respect to any prohibited transaction liability which may have a risen as a result of a delay in forwarding participant contributions. The Internal Revenue Service has advised the Department of Labor that it will not seek to impose the Internal Revenue Code section 4975 (a) and (b) sanctions with respect to any prohibited transaction that is covered by the proposed class exemption notwithstanding any subsequent changes to the proposed exemption when it is finalized, provided that all the requirements of the proposed class exemption are met.

The conditions for each of the two elements are the same and are set forth in the following notice. In particular, the Program is available to a person only if the delinquent participant contributions withheld or received by an employer, excluding earnings, do not exceed the aggregate amount of participant contributions that were received by the employer for the calendar year 1995. The purpose of this limitation is to prevent the Program from being available to persons involved in particularly serious delinquencies.

The program applies only to delinquent participant contributions that are restored to pension plans no later than September 7, 1996. Restorative payments must relate to amounts paid by participants or withheld by an employer from participants' wages for contribution to a pension plan on or before April 5, 1996. Written notification of intention to participate in the Program must be received by the Department no later than September 7, 1996.

Under the proposed exemption, all delinquent participant contributions must be restored to the pension plan plus earnings from the date on which such contributions were paid to, or withheld by, the employer until such money is restored to the plan. The earnings are calculated at the greater of: (1) The amount that would have earned on the participant contributions during such period if applicable plan provisions had been followed, or (2) the amount that would have earned on the participant contributions during such period using an interest rate equal to the underpayment rate defined in section 6621(a)(2) of the Internal Revenue Code during such period. In the Department's view, this condition requires that the earnings be calculated on an account by account basis in order to mirror the earnings the participants would have otherwise accrued. The underpayment rate defined in section 6621(a)(2) is based on the Federal short-term rate determined quarterly by the Secretary of the Treasury and is designed to reflect market rates of interest rather than serve as a penalty. Courts have applied rates determined under section 6621 in awarding prejudgment interest in cases under Title I of ERISA. *Martin* v. *Harline*, No. 87–NC–115J (D. Utah Mar. 31, 1992) 15 Emp. Ben. Cases (BNA) 1138, 1153; *Whitfield* v. *Cohen*, 686 F. Supp. 188, 193 (E.D.N.Y. 1988); *Whitfield* v. *Tomasso*, 682 F. Supp. 1287, 1306 (E.D.N.Y. 1988).

Except as provided in the final class exemption, the Program does not afford relief from civil actions that may be filed by persons other than the Departments of Labor and Justice, and the Internal Revenue Service. Upon finalization of the class exemption, persons who have complied with its conditions will not be subject to the restrictions of sections 406(a)(1) (A) through (D), 406(b)(1) and 406(b)(2) of ERISA and the sanctions resulting from the application of section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, for transactions that result from such person's failure to transmit participant contributions to pension plans in accordance with the time frames described in the participant contribution regulation at 29 CFR 2510.3–102. The Program does not apply to criminal prosecutions brought by State governments, although the Department has determined not to affirmatively refer information to the States for criminal prosecution concerning persons who voluntarily restore participant contributions in accordance with the terms of the Program.

Notice of Adoption of Voluntary Compliance Program for Restoration of Delinquent Participant Contributions

Pension Payback Program

The Department of Labor (the Department) today announced adoption of the Pension Payback Program which is designed to benefit workers by encouraging employers to restore delinquent participant contributions plus lost earnings to pension plans. This program is targeted at ''persons'', as that term is defined at section 3(9) of the Employee Retirement Income Security Act (ERISA), who failed to transfer participant contributions to pension plans defined under section 3(2) of ERISA, including section 401(k) plans, in accordance with the time frames described by the Department's regulations, and thus violated Title I of ERISA.

The conditional compliance program is available to certain persons who voluntarily restore delinquent participant contributions to pension plans. Those who comply with the terms of the Program will avoid potential ERISA civil actions initiated by the department, the assessment of civil penalties under section 502(l) of ERISA and Federal criminal prosecutions arising from their failure to timely remit such contributions and non-disclosure of the non-remittance. The Department of Justice has indicated its support for the Program. The Department of Labor will not pursue enforcement against persons who comply with the conditions of the Program with respect to any prohibited transaction liability which may have arisen as a result of the person's delay in forwarding the participant contributions until promulgation by the Department of a final class exemption setting forth the conditions for retroactive exemptive relief. A notice of proposed exemption is being published today in the Federal Register. Participation in the Program will be available to persons who rely on the

proposed exemption notwithstanding any subsequent modifications to the final exemption. The Department has further determined not to affirmatively refer information to the states for criminal prosecution concerning those persons who voluntarily restore participant contributions in accordance with the Program. The Internal Revenue Service has advised the Department of Labor that it will not seek to impose Internal Revenue Code section 4975 (a) and (b) sanctions with respect to any prohibited transaction that is covered by the proposed class exemption notwithstanding any subsequent changes to the proposed class exemption when it is finalized, provided that all the requirements specified in the proposed class exemption are met.

The Program only applies to certain delinquent participant contributions plus earnings that are restored to pension plans no later than September 7, 1996. Such restorative payments must relate to amounts paid by participants or withheld by an employer from participants' wages for contribution to a plan on or before thirty days following the date of this announcement. Specifically, the Program applies to delinquent participant contributions plus earnings, provided that the delinquent contributions outstanding on the effective date of the Program, excluding earnings, do not exceed the aggregate amount of participant contributions that were received or withheld from the employees' wages for calendar year 1995. Provided that the contribution limitation described in the previous sentence is not exceeded, the Program will also apply, without limit, to the restoration of any earnings on delinquent participant contributions that have been restored to the plan prior to the effective date of this announcement.

The Program is available only if the following conditions are met:

(1) All delinquent participant contributions are restored to the employee benefit plan plus the greater of (a) or (b) below.

(a) The amount that otherwise would have been earned on the participant contributions from the date on which such contributions were paid to, or withheld by, the employer until such money is fully restored to the plan had such contributions been invested during such period in accordance with applicable plan provisions, or

(b) Interest at a rate equal to the underpayment rate defined in section 6621(a)(2) of the Internal Revenue Code from the date on which such contributions were paid to, or withheld by, the employer until such money is fully restored to the plan,

provided that the total of all outstanding delinquent contributions on the effective date of the Program, excluding earnings, does not exceed the aggregate amount of participant contributions that were received or withheld from the employees' wages for calendar year 1995.

(2) The Department is notified in writing no later than September 7, 1996 of the person's decision to participate in the Program and provided with: (a) Copies of cancelled checks or other written evidence demonstrating that all participant contributions and earnings have been restored to the employee benefit plan; (b) the certification described in paragraph (6) below; and (c) evidence of such bond as may be required under section 412 of ERISA.

(3) The person informs the affected participants within 90 days following the notification of the Department described in paragraph (2) above, that prior delinquent contributions and lost earnings have been restored to their accounts pursuant to the person's participation in the Program and, thereafter, provides a copy of such notification to the Department. If a statement of account or other scheduled communication between the plan or its sponsor and the participants is scheduled to occur within this time period, such statement may include the notification required by this paragraph.

(4) The person has complied with all conditions set forth in an exemption proposed by the Department today.

(5) At the time that the Department is notified of the person's determination to participate in the Program, neither the Department nor any other Federal agency has informed such person of an intention to investigate or examine the plan or otherwise made inquiry with respect to the status of participant contributions under the plan.

(6) Each person who applies for relief under the Program shall certify in writing, under oath and pain of perjury, that it is in compliance with all terms and conditions of the Program and, to its knowledge, neither it nor any person acting under its supervision or control with respect to the operation of an ERISA covered employee benefit plan:

(a) Is the subject of any criminal investigation or prosecution involving any offense against the United States;[4]

(b) Has been convicted of a criminal offense involving employee benefit plans at any time or any other offense involving financial misconduct which was punishable by imprisonment exceeding one year for which sentence was imposed during the preceding thirteen years or which resulted in actual imprisonment ending within the last thirteen years, nor has such person entered into a consent decree with the Department or been found by a court of competent jurisdiction to have violated any fiduciary responsibility provisions of ERISA during such period; or

(c) Has sought to assist or conceal the non-remittance of participant contributions by means of bribery, graft payments to persons with responsibility for ensuring remittance of plan contributions or with the knowing assistance of persons engaged in ongoing criminal activity.

Signed at Washington, D.C., this 4th day of March 1996.

Olena Berg,

Assistant Secretary for Pension and Welfare Benefits, U.S. Department of Labor.

[FR Doc. 96–5391 Filed 3–6–96; 8:45 am]

BILLING CODE 6510–29–M

[4] For purposes of this paragraph, an ''offense'' includes criminal activity for which the Department of Justice may seek civil injunctive relief under the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. 1964(b)). A ''subject'' is any individual or entity whose conduct is within the scope of any ongoing inquiry being conducted by a Federal investigator(s) who is authorized to investigate criminal offenses against the United States.

MISSISSIPPI RIVER COMMISSION

Sunshine Act Meeting

TIME AND DATE: 8:30 a.m., March 25, 1996.

PLACE: On board MISSISSIPPI V at the Foot of Eight Street, Cairo, IL.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in Memphis District.

* * * * *

TIME AND DATE: 8:30 a.m., March 26, 1996.

PLACE: On board MISSISSIPPI V at City Front, Memphis, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; and (2) Views and suggestions from members of the public on any matters

pertaining to the Flood Control, Mississippi River and Tributaries Project.

* * * * *

TIME AND DATE: 9:30 a.m., March 27, 1996.

PLACE: On board MISSISSIPPI V at City Front, Vicksburg, MS.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in Vicksburg District.

* * * * *

TIME AND DATE: 9:00 a.m., March 28, 1996.

PLACE: On board MISSISSIPPI V at the McKinney Towing facility, 2500 River Road, Baton Rouge, LA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in New Orleans District.

* * * * *

CONTACT PERSON FOR MORE INFORMATION: Mr. Noel D. Caldwell, telephone 601–634–5766.

Noel D. Caldwell,

Executive Assistant, Mississippi River Commission.

[FR Doc. 96–5483 Filed 3–4–96; 8:45 am]

BILLING CODE 3710–GX–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Electrical and Communications Systems (1196).

Date and Time: March 25, 1996, 8:30 am to 5:00 pm.

Place: Room 320, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Deborah Crawford, Program Director, Solid State and Microstructures, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, telephone: (703) 306–1339.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Solid State and Microstructures Research Equipment proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 4, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–5381 Filed 3–7–96; 8:45 am]

BILLING CODE 7555–01–M

Notice of Workshop

The National Science Foundation (NSF) will hold a two day workshop April 18–20, 1996. The workshop will take place at the NSF headquarters, 4201 Wilson Boulevard, Arlington, VA 22230. Sessions will be held from 6:30–9:30 p.m. on April 18th, from 8:00 a.m.–5:00 p.m. on April 19th, and from 9:00 a.m.–2:30 p.m. on April 20th.

The goal of the workshop is to provide a forum for gathering the views and input of leaders in the undergraduate education community on the impact of and future directions for the application of information technology to teaching and learning.

The workshop will not operate as an advisory committee. It will be open to the public. Participants will include approximately 30 leaders in various science, engineering, mathematics, and technology fields, administrators, representatives of the publishing industry, and members of educational societies dedicated to the examination of information technology issues.

For additional information, contact Dr. Lee L. Zia, Program Director, Division of Undergraduate Education, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1666.

Dated: February 27, 1996.

D.E. McBride,

Acting Division Director, Division of Undergraduate Education.

[FR Doc. 96–5382 Filed 3–6–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–482]

Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations for Facility Operating License No. NPF–42, issued to Wolf Creek Nuclear Operating Corporation (the licensee), for operation of the Wolf Creek Generating Station (WCGS) located in Coffey County, Kansas.

Environmental Assessment

Identification of Proposed Action

The proposed action would exempt Wolf Creek Nuclear Operating Corporation from the requirements of 10 CFR 70.24, which requires a monitoring system that will energize clearly audible alarms if accidental criticality occurs in each area in which special nuclear material is handled, used or stored. The proposed action would also exempt the licensee from the requirements of 10 CFR 70.24(a)(3) to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm and to conduct drills and designate responsible individuals for such emergency procedures.

The proposed action is in accordance with the licensee's application for exemption dated September 19, 1995.

The Need for the Proposed Action

Power reactor license applicants are evaluated for the safe handling, use, and storage of special nuclear materials. The proposed exemption from criticality accident requirements is based on the original design for radiation monitoring at WCGS as discussed in the NUREG–0830, ''Safety Evaluation Report Related to the Operation of Wolf Creek Generating Station, Unit No. 1.'' The exemption was granted with the original Part 70 license, but it expired with the issuance of the Part 50 license when the exemption was inadvertently not

included in that license. Therefore, the exemption is needed to clearly define the design of the plant as evaluated and approved for licensing.

Environmental Impacts of the Proposed Action

The NRC staff has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the exemption is granted. Inadvertent or accidental criticality will be precluded through compliance with the Wolf Creek Technical Specifications, the geometric spacing of fuel assemblies in the new fuel storage facility and spent fuel storage pool, and administrative controls imposed on fuel handling procedures. New fuel shipping containers only carry two new fuel assemblies. The procedure used for new fuel receipt requires the use of the monorail auxiliary hoist on the cask handling crane for all lifting operations. A special new fuel handling tool is required to be attached to the monorail auxiliary hoist to lift each fuel assembly from the shipping container. This new fuel handling tool can only be attached to the top nozzle of one fuel assembly at a time. The attached fuel assembly is moved to either the new fuel storage racks or the new fuel elevator if the assembly is going to be stored in the spent fuel facility. Both of these storage positions will only accommodate one fuel assembly in a designed location. The spacing between new fuel assemblies in the storage racks is sufficient to maintain the array in a subcritical condition, even when flooded by non-borated water. The new fuel storage building provides space for dry storage of 66 new fuel assemblies, arranged in three double rows (2x11) of ports. Each port will hold just one fuel assembly. The ports within each double row are on 21 inch centers and there is a nominal 28 inch aisle between each pair of rows. The storage racks are protected from dropped objects by a steel protective cover. Therefore, the design of the new fuel storage rack, the fuel handling equipment, and the administrative controls are such that subcritically is assured under normal and accident conditions.

The spent fuel pool is divided into two separate and distinct regions, which for the purpose of criticality considerations may be considered as separate pools. Region 1, reserved for core-off-loading, has the capacity for a minimum of 200 assemblies. Region 2, reserved for fuel that has sustained at least 85 percent of design burnup, has an ultimate capacity to store 1140 spent fuel assemblies. Region 1 has fuel assemblies stored in two out of four box positions in a checker board pattern; the unused boxes serve to allow cooling water flow. The center-to-center distance for actual fuel assemblies is 12.92 inches, measured diagonally. The center-to-center spacing between any two adjacent fuel assemblies in the same row is 18.28 inches. Region 2 has fuel assemblies stored in three out of four box positions. During a normal refueling operation, each fuel assembly is first removed from the reactor to Region 1. After the refueling operation is complete and the suitability of each spent fuel assembly for movement into Region 2 is verified, the fuel assembly may be moved into Region 2. Technical Specification (TS) 3.9.12 states that no spent fuel assemblies shall be placed in Region 2, nor shall any storage location be changed in designation from being in Region 1 to being in Region 2, while refueling operations are in progress. The TS also require that prior to storage of any fuel assembly in Region 2 that the burnup history of the fuel element be ascertained by analysis of its burnup history and independently verified. In summary, the training provided to all personnel involved in fuel handling operations, the design of the fuel handling equipment, the administrative controls, the technical specifications on new and spent fuel handling and storage and the design of the new and spent fuel storage racks preclude inadvertent or accidental criticality. In accordance with the NRC's Regulatory Position in Regulatory Guide 8.12, Revision 1, ''Criticality Accident Alarm Systems,'' dated January 1981, an exemption from 10 CFR 70.24 is appropriate.

The proposed exemption will not affect radiological plant effluents nor cause any significant occupational exposures. Only a small amount, if any, radioactive waste is generated during the receipt and handling of new fuel (e.g., smear papers or contaminated packaging material). The amount of waste would not be changed by the exemption.

With regard to potential nonradiological impacts, the proposed exemption involves systems located within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative would be to deny the requested exemption. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the ''Final Environmental Statement related to the operation of Wolf Creek Generating Station,'' dated June 1982 (NUREG–0878).

Agencies and Persons Consulted

In accordance with its stated policy, on March 1, 1996, the staff consulted with the Kansas State official, Mr. Gerald Allen of the Kansas Department of Health and Environment, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated September 19, 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 rooms located at the Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801, and the Washburn University School of Law Library, Topeka, Kansas 6621.

Dated at Rockville, Maryland, this 1st day of March 1996.

For the Nuclear Regulatory Commission.

James C. Stone,

Senior Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–5363 Filed 3–6–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–390]

Tennessee Valley Authority Watts Bar Nuclear Plant Unit No. 1; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition dated January 25, 1996, as

supplemented on January 30, 1996, Jane A. Fleming (Petitioner) has requested that the NRC take action with regard to Watts Bar Nuclear Plant. Specifically, the Petitioner requests that the low-power license for Watts Bar be suspended or revoked.

As a basis for her request, the Petitioner asserts that the NRC staff was not fully aware of the licensee's commitments and compliance with these commitments when it issued a low-power license on November 9, 1995. Specifically, the Petitioner asserts that a letter from Stewart D. Ebneter, Regional Administrator, Region II, to Oliver Kingsley, TVA dated January 12, 1996, which states that open issues regarding the radiation monitoring system for Watts Bar existed when TVA requested the operating license, raises a question as to the conclusion drawn by the NRC staff in the Supplemental Safety Evaluation Report issued in September 1995, that the system meets the acceptance criteria of the NRC's Standard Review Plan and is, therefore, acceptable.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and has been referred to the Director of the Office of Nuclear Reactor Regulation. By letter dated February 7, 1996, the Petitioner's request that the low-power license immediately be suspended or revoked was denied.

A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street NW., Washington, DC 20037.

Dated at Rockville, Maryland, this 7th day of February 1996.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 96–5365 Filed 3–6–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–282, 50–306]

Northern States Power Company; Prairie Island Nuclear Generating Plant Receipt of Addendum To Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by letter dated February 19, 1996, the Nuclear Information and Resource Service (NIRS) and the Prairie Island Coalition request that the U.S. Nuclear Regulatory Commission (NRC) take immediate action with regard to steam generator tube inspections at the Prairie Island Nuclear Generating Plant. The letter was an addendum to an earlier Petition dated June 5, 1995.

The Petitioners request that the NRC not allow Prairie Island Unit 1 to be returned to operation until a full-length inspection of all steam generator tubes is performed using the Zetec Plus Point probe.

As the basis for this request, the Petitioners state that in a briefing before the Commission on January 31, 1996, the Director of the NRC's Office of Nuclear Reactor Regulation stated that NRC had learned of a few isolated cases of free span cracking in steam generator tubes, that is, cracks not located within the tube support plate or the tube sheet regions.

This addendum to the Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations and has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by 10 CFR 2.206, appropriate action will be taken on the Petition within a reasonable time. By letter dated March 1, 1996, the Director denied the request for immediate action to not allow Prairie Island Unit 1 to be returned to operation.

Copies of the addendum to the Petition and the Director's letter are available for inspection at the Commission's Public Document Room at 2120 L Street NW., Washington, DC, and at the Local Public Document Room, Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland, this 1st day of March 1996.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 96–5364 Filed 3–6–96; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

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

Title and Purpose of information collection: Application for Survivor Insurance Annuities: OMB 3220–0030 Under Section 2(d) of the Railroad Retirement Act (RRA), monthly survivor annuities are payable to surviving widow(er)s, parents, unmarried children, and in certain cases, divorced wives (husbands), mothers (fathers), remarried widow(er)s, and grandchildren of deceased railroad employees. The collection obtains the information required by the RRB to determine entitlement of the annuity applied for.

The RRB currently utilizes Form(s) AA–17 (Application for Widow(ers) Annuity), AA–17b (Applications for Determination of Widow(er) Disability), AA–18 (Application for Mother's/Father's and Child's Annuity), AA–19 (Application for Child's Annuity), AA–19b (Application for Determination of Child Disability), AA–19s (Application for child's Annuity/Full-time Student), and AA–20 (Application for Parent's Annuity) to obtain the necessary information. One response is requested of each respondent. Completion is required to obtain benefits.

In order to implement a presumed Electronic Funds Transfer policy, revisions to Forms AA–17, AA–18, AA–19, and AA–20 are being proposed that request information about an applicant's financial institution. Additional changes to Forms AA–17 and AA–20 are being proposed that will expedite Medicare enrollment and reduce jurisdictional problems with other agencies. Modifications proposed to Form AA–19 will allow Form AA–19s to be eliminated. Assorted minor editorial and reformatting changes are also being proposed to all of the forms.

Estimate of Annual Respondent Burden

The estimated annual respondent burden is as follows:

Form No.	Annual responses	Time (min)	Burden (hrs.)
AA–17 (with assistance)	3,800	25	1,583
AA–17 (without assistance)	200	45	150
AA–17b (with assistance)	380	40	253
AA–17b (without assistance)	20	50	17
AA–18 (with assistance)	333	25	139
AA–18 (without assistance)	17	45	13
AA–19 (with assistance)	237	25	99
AA–19 (without assistance)	13	45	10
AA–19a (with assistance)	285	45	214
AA–19a (without assistance)	15	65	16
AA–20 (with assistance)	13	25	5
AA–20 (without assistance)	2	45	2

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–5309 Filed 3–6–96; 8:45 am]

BILLING CODE 7905–01–M

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

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

Title and Purpose of Information Collection

Continuing Disability Report; OMB 3220–0187

Under Section 2 of the Railroad Retirement Act, an annuity is not payable or is reduced for any month in which the annuitant works for a railroad or earns more than prescribed dollar amounts from either non-railroad employment or self-employment. Certain types of work may indicate an annuitant's recovery from disability. The provisions relating to the reduction or non-payment of annuities by reasons of work and an annuitant's recovery from disability for work are prescribed in 20 CFR 220.17–220.20.

Form G–254, Continuing Disability Report, is used by the RRB to obtain information needed to determine if a reduction in or the non-payment of a disability annuity because of work performed by a disability annuitant is in order. Completion of the form becomes necessary when the RRB receives information indicating work activity or a change in the physical or mental condition of the disabled annuitant. One response is requested of each respondent. Completion is required to retain a benefit. The RRB proposes minor editorial changes to Form G–254.

Estimate of Annual Respondent Burden

The estimated annual respondent burden is as follows:

Form Nos.	Annual responses	Time minutes	Burden hours
G–254	2,100	35	1,225

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–5357 Filed 3–6–96; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Frontier Communications Services Inc., 9% Senior Subordinated Notes Due May 15, 2003) File No. 1–11966

March 1, 1996.

Frontier Communications Services Inc. (formerly Allnet Communication Services, Inc.) (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities (''Securities'') from listing and registration on the American Stock Exchange, Inc. (''Amex'').

The reasons alleged in the application for withdrawing the Securities from listing and registration include the following:

According to the Company, the withdrawal from listing of the Securities is warranted because: As of the date hereof, there are only eight registered holders of the Securities. Approximately 97.1% of the principal amount of currently outstanding Securities is held in the name of the nominee for the Depositary Trust Company (''DTC''). According to the latest information provided by DTC, there are only 29 participants owning Securities through DTC.

There is limited trading in the Securities on the Exchange and the Company believes that it is unlikely that the Securities will become actively traded in the futures. Continued listing

of the Securities is costly to the Company. Because of the limited number of holders of the Securities, after delisting and the filing of a Form 15 with the Commission, the Company will no longer be subject to the reporting requirements of the Securities Exchange Act of 1934, as amended. This will allow the Company to save compliance costs incurred in preparing annual and periodic reports to be filed with the Commission.

The Company is not obligated under the Indenture or any other documents to maintain the listing of the Securities on the Exchange or any other exchange.

The Company further represents, however, that following the filing with the Commission of a Form 15 in respect of the Securities, the Company has undertaken to provide holders of the securities with annual audited financial statements and other information regarding the Company. In addition, the Company further represents that it has received a letter from Lehman Brothers indicating its intention to make a market in the Securities following the withdrawal of the Securities from listing on Amex.

Any interested person may, on or before March 22, 1996, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–5405 Filed 3–6–96; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Gulf Canada Resources Limited, Ordinary Shares, Without Par Value; and Fix/Adjustable Rate Senior Preference Shares, Series 1, Without Par Value) File No. 1–9073

March 1, 1996.

Gulf Canada Resources Limited (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and rule 12d2–(d) promulgated thereunder, to withdraw the above specified securities (''Securities'') from listing and registration on the American Stock Exchange, Inc. (''Amex'').

The reasons alleged in the application for withdrawing the Securities from listing and registration include the following:

According to the Company, it has listed the Security with the New York Stock Exchange, Inc. (''NYSE''). In making the decision to withdraw the Securities from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of the Securities on the NYSE and on the Amex. The Company does not see any particular advantage in the dual trading of the Securities and believes that dual listing would fragment the market for its Securities.

Any interested person may, on or before March 22, 1996, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–5406 Filed 3–6–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. IC–21794; 812–9986]

Pacifica Funds Trust, et al.; Notice of Application

March 1, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Pacifica Funds Trust and Pacifica Variable Trust (the ''Trusts''), on behalf of their separate investment portfolios (''Funds''), and First Interstate Capital Management, Inc. (''Adviser'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) for an exemption from section 15(a).

SUMMARY OF APPLICATION: First Interstate Bancorp (''First Interstate''), the Adviser's indirect holding company, will be merged with Wells Fargo & Company (''Wells Fargo''). The merger will result in the assignment, and thus the termination, of the Funds' existing investment advisory agreements (''Existing Advisory Agreements'') with the Adviser. Applicants request an order to permit the implementation, without shareholder approval, of interim advisory agreements (the ''New Advisory Agreements'') during a period not to exceed 120 days beginning with the earlier of the consummation date of the merger (the ''Effective Date'') or May 1, 1996, and ending with shareholder approval or disapproval of the New Advisory Agreements (the ''Interim Period''). The order also will permit the Adviser to receive fees earned during the Interim Period following approval by the Funds' shareholders.

FILING DATE: The application was filed on February 9, 1996, and amended on February 29, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 26, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants: The Trusts, 237 Park Avenue, New York, New York 10017; the Adviser, 7501 McCormick Parkway, Scottsdale, Arizona 85258.

FOR FURTHER INFORMATION CONTACT: Mercer E. Bullard, Staff Attorney, (202) 942–0565, or Alison E. Baur, Branch Chief, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Pacifica Funds Trust is a Massachusetts business trust that is registered as an open-end management investment company under the Act. It is organized as a series investment company and currently offers twenty-three Funds to the public. Pacifica Variable Trust is a Delaware business trust that is registered as an open-end management investment company under the Act. It is organized as a series company and currently offers five Funds to purchasers of variable annuity contracts investing in a separate account established and maintained by Anchor National Life Insurance Company, an indirect wholly-owned subsidiary of SunAmerica, Inc. The Adviser is a wholly-owned subsidiary of First Interstate Bank of California, which is a wholly-owned subsidiary of First Interstate, a multi-bank holding company. The Adviser currently serves as investment adviser to all of the Funds.

2. On January 24, 1996, First Interstate and Wells Fargo entered into an Agreement, pursuant to which First Interstate will be merged with and into Wells Fargo (the ''Merger''). Wells Fargo will be the surviving corporation. Applicants have set March 28, 1996, as the date the respective shareholders of First Interstate and Wells Fargo will vote on whether to approve the Merger. Applicants anticipate that the Merger will occur between April 1, 1996 and May 1, 1996.

3. At a regularly scheduled meeting held on February 22, 1996, the respective Boards of Trustees of the Trusts (''Boards'') met to discuss the Merger. During this meeting, the Boards, including a majority of the Board members who are not ''interested persons'' (as that term is defined in the Act) of the respective Trusts (the ''Independent Trustees''), with the advice and assistance of counsel to the Independent Trustees and to the Trusts, made a full evaluation of the New Advisory Agreements. In accordance with section 15(c) of the act, the Boards voted to approve the New Advisory Agreements. In approving the New Advisory Agreements, the Boards considered that each such Agreement would have the same terms and conditions as the respective Existing Advisory Agreement except for the effective and termination dates, and that the Adviser would provide investment advisory and other services to the Funds during the Interim Period of a scope and quality at least equivalent to the scope and quality of services currently provided to the Funds. The Board of each Trust also voted to recommend that the shareholders of each Fund approve the related New Advisory Agreement.

4. In approving the New Advisory Agreements, the Boards concluded that payment of the advisory fee during the Interim Period would be appropriate and fair because there will be no diminution in the scope and quality of services provided to the Funds, the fees to be paid will be unchanged from the fees paid under the Existing Advisory Agreements, the fees will be maintained in an interest-bearing escrow account until payment is approved or disapproved by shareholders, and the nonpayment of fees would be inequitable to the Adviser in view of the substantial services to be provided.

Applicants' Legal Analysis

1. Section 15(a) of the Act prohibits any person from acting as investment adviser to a registered investment company except under a written contract that, among other things, provides for its automatic termination in the event of an assignment and has been approved by a majority of the company's outstanding voting securities. Section 2(a)(4) of the Act defines ''assignment'' to include any direct or indirect transfer of a contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company. Beneficial ownership of more than 25% of a company's voting securities is presumed to constitute control.

2. Upon consummation of the Merger, many management changes are expected to occur. The Chairman and Chief Executive Officer of First Interstate will not succeed to any position in Wells Fargo, the surviving corporation. In addition, the Adviser will become a wholly-owned subsidiary of Wells Fargo. Applicants believe, therefore, that it is reasonable to conclude that the Merger will result in an ''assignment'' of the Existing Advisory Agreements and that the contracts will terminate by their terms on the Effective Date.

3. Rule 15a–4 provides, among other things, that if an advisory contract is terminated by assignment, the investment adviser may confine to act as such for 120 days at the previous compensation rate if a new contract is approved by the board of directors of the investment company, and if the investment adviser or a controlling person of the investment adviser does not directly or indirectly receive money or other benefit in connection with the assignment. Because the shareholders of First Interstate will receive a benefit in connection with the assignment of the Existing Advisory Agreements, applicants may not rely on the rule.

4. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard.

5. Applicants maintain that because the Funds did not have sufficient advance notice of the Merger, given the uncertainty surrounding the events leading up to the Merger and the setting of the Effective Date, it will not be possible for the Funds to obtain shareholder approval of the New Advisory Agreements in accordance with section 15(a) of the 1940 Act prior to the closing of the Merger. In this regard, Applicants assert that the terms and timing of the Merger were determined by First Interstate and Wells Fargo in response to a number of factors relating principally to their commercial banking and other similar business concerns.

6. Applicants also assert that it is likely that one or more Funds will be merged into a corresponding fund of the Wells Fargo family of funds during or by the end of the Interim Period. Applicants maintain that the 120-day period requested by the Application would facilitate the orderly and reasonable consideration of the New Advisory Agreements by the shareholders, as well as the possible fund reorganization, by allowing one proxy solicitation to be conducted, in which shareholders will be presented with one overall plan of reorganization of the funds and the New Advisory Agreements for approval. Applicants contend that proceeding in this manner would benefit shareholders of the Funds because it would reduce costs and minimize any shareholder confusion that might arise in the circumstances.

Applicants' Conditions

Applicants agree, as conditions to the requested exemptive relief, that:

1. Each New Advisory Agreements will have the same terms and conditions as the respective Existing Advisory Agreements, except for the effective and termination dates.

2. Fees earned by the Adviser and paid by a Fund during the Interim Period in accordance with a New

Advisory Agreements will be maintained in an interest-bearing escrow account, and amounts in such account (including interest earned on such paid fees) will be paid to the Adviser only upon the approval of the related Fund shareholders or, in the absence of such approval, to the related Fund.

3. Each Trust will hold meetings of shareholders to vote on the approval of the New Advisory Agreements for the Funds on or before the 120th day following the earlier of the termination of the Existing Advisory Agreements on the Effective Date or May 1, 1996.

4. First Interstate and/or one or more of its subsidiaries will pay the costs of preparing and filing this Application. First Interstate and/or one or more of its subsidiaries will pay the costs relating to the solicitation of the Fund shareholder approvals, to the extent such costs relate to approval of the New Advisory Agreements necessitated by the Merger.

5. The Adviser will take all appropriate actions to ensure that the scope and quality of advisory and other services provided to the Funds under the New Advisory Agreements will be at least equivalent, in the judgment of the respective Boards, including a majority of the Independent Trustees, to the scope and quality of services provided previously. In the event of any material change in personnel providing services pursuant to the New Advisory Agreements, the Adviser will apprise and consult the Boards of the affected Funds to assure that such Boards, including a majority of the Independent Trustees, are satisfied that the services provided by the Adviser will not be diminished in scope or quality.

For the SEC, by the Division of Investment Management, under delegated authority.

Maragret H. McFarland,

Deputy Secretary.

[FR Doc. 96–5403 Filed 3–6–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26480]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

March 1, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 25, 1996, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

The Columbia Gas System, Inc.

The Columbia Gas System, Inc. (''Columbia''), 20 Montchanin Road, Wilmington, Delaware 19807, a registered public utility holding company, has filed an application-declaration with this Commission under sections 6(a), 7, 9(a), 10 and 12(f) of the Act.

Columbia proposes, through either an existing, direct subsidiary or through the establishment of one or more direct or indirect subsidiaries (''Energy Products Companies''), to: (1) market energy-related products including propane, natural gas liquids and petroleum; and (ii) market and/or broker electric energy at wholesale, and, to the extent permitted by state law, at retail, provided the activities will be limited to ensure the Energy Products Companies do not come within the definition of ''electric utility company'' under section 2(a)(3) of the Act. Columbia proposes to create and fund one or more Energy Products companies from time to time through December 31, 1997 through the purchase of up to $5 million of common stock, $25 par value per share, at a purchase price at or above par value. Alternatively, Columbia proposes to fund an existing subsidiary or subsidiaries with up to $5 million from time to time through December 31, 1997.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–5404 Filed 3–6–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36912; File No. SR–CHX–96–08]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to the Adoption of a Monthly Examinations Fee and the Rebilling of Certain Other Costs

February 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 7, 1996 the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On February 22, 1996, the Exchange filed Amendment No. 1 to the proposal with the Commission.[2] 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

In order to compensate for the extensive staff time and costs associated with examining off-floor firms that are not active participants in the CHX market, the Exchange is proposing to adopt an examinations fee of $1,000 per month, which would be applicable to CHX members and member organizations for which the Exchange is the Designated Examining Authority (''DEA''). This fee would be effective February 7, 1996. The following CHX members and member organizations would be exempt from the examinations fee: (1) inactive organizations; (2) organizations that operate from the Exchange's trading floor; (3) organizations that incur transaction or clearing fees charged directly to them by the Exchange or by its registered clearing subsidiary, provided, however, that such exemption shall only apply on

[1] 15 U.S.C. 78s(b)(1).

[2] Amendment No. 1 changed the effective date for the new fee and added a detailed explanation of the new fee. *See* Letter dated February 21, 1996 from David T. Rusoff, Attorney, Foley & Lardner, to Anthony P. Pecora, Attorney, SEC.

a month-by-month basis and shall only apply to the extent the fees exceed the examinations fee for that month;[3] and (4) organizations affiliated with an organization exempt from this fee due to the second or third category.[4]

Affiliation includes an organization that is a wholly owned subsidiary of, as well as an organization controlled by or under common control with, an ''exempt'' member or member organization. An inactive organization is one that had no securities-related transaction revenue, as determined by annual FOCUS reports, as long as the organization continues to have no revenue each month.[5]

The CHX also proposes to amend its fee schedule to pass through the cost of providing the CHX Rule Book, printed by Commerce Clearing House, Inc. (''CCH, Inc.''), to members and member organizations. Currently, the Exchange absorbs the cost of providing the Rule Book, printed by CCH, Inc., and monthly amendments thereto, to members and member organizations. The Exchange proposes to rebill members and member organizations the Exchange's cost in providing this service.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 15b2–2(b) requires that broker-dealers designated to a self-regulatory organization (''SRO'') be examined for compliance with applicable financial responsibility rules within six months of registration with the Commission.[6] In addition, the examining SRO must conduct an examination within twelve months of Commission registration to review compliance with all other Commission rules. Thereafter, examinations are conducted on a periodic basis. In accordance with Commission rules, the CHX administers an examinations program conducting reviews of organizations for which the Exchange is the DEA. The examinations focus on an organization's compliance with applicable financial and record keeping requirements, including net capital, books and records maintenance, Regulation T and financial reporting, of the CHX as well as the Commission.

The Market Regulation Department incurs certain costs in the course of conducting these examinations, including travel and staff costs. Of course, such costs rise when the offices of the organization being reviewed are located outside of the Chicago area. The staff time required to conduct an examination is substantially longer when the businesses of the firm are atypical of those firms for which the CHX has historically served as DEA. Because of the familiarity that inherently results from repeatedly conducting similar examinations, CHX Market Regulation staff has accumulated substantial experience regarding where to focus and locate information revealing potential areas of concern.

The Exchange, however, is currently the DEA for approximately seven firms that engage in CHX-atypical businesses from remote locations, and trade products not available on the CHX. For instance, two member organizations registered as CHX market makers for whom the CHX is the DEA derive over ninety percent of their revenue from commodities futures transactions. Yet these two member organizations generated less than two hundred dollars in total revenue on the CHX during 1995. Five other member organizations for which the CHX is the DEA engage in off-floor proprietary trading whereby transactions are entered and executed via floor brokers or principally through automated execution systems located at market centers other than the CHX. The majority of their revenue also is derived from non-CHX traded instruments. Two additional firms are seeking applications for CHX membership with a similar type of business operation. The heightened costs of examining these firms, which include both money as well as valuable staff time, may be due to an atypically lengthy examination, travel and specific training regarding non-CHX trading instruments.

In addition to actual costs incurred in conducting required examinations, the Exchange notes that, as the DEA for a firm, the CHX, similar to other SROs, also frequently performs an advisory role respecting the regulatory obligations of its members and member organizations. This ''service'' function may take the form of answering telephone calls and other questions of such firms regarding Exchange and Commission rules, as well as the types of procedures such firm should have in place. Initially, in becoming a member or member organization of the CHX, the Exchange assists in the firm's set-up of its financials and communicates with the firm, providing sample forms and general guidance. Thereafter, a firm may require periodic follow-up advice. These advisory costs to the Exchange of serving as the DEA are greater for the CHX-atypical firms.

These heightened costs, however, may be offset by transaction charges and related revenues received by the Exchange if such firms trade in CHX markets. In reviewing these costs, the Exchange notes that CHX members and member organizations may be required to pay various fees and transaction charges, which usually constitute a large part of the revenue collected by the Exchange. Organizations not trading on the CHX do not pay these fees, while the Exchange remains obligated to administer various regulatory functions, including costlier examinations. In the area of examinations, the factor of staff time is particularly pronounced. Without this income source, the Exchange has determined to adopt an examinations fee in order to alleviate certain costs of conducting examinations. Currently, the CHX charges a minimal field examination fee that is only applicable under certain circumstances.[7] In contrast, most other

[3] The $1,000 threshold is required in order for a firm to be exempt from the examinations fee. For example, a firm with $600 in transaction fees for a month is still required to pay the full amount of the $1,000 examinations fee.

[4] For purposes of the foregoing exemption, affiliated firms would be permitted to aggregate their respective transaction fees to meet the $1,000 threshold, *i.e.*, each firm would not be required to meet a separate threshold.

[5] It is the policy of the Exchange to require its inactive organizations to file an annual FOCUS report, Securities and Exchange Commission Form X–17A–5, Financial and Operational Combined Uniform Single Report. Telephone conversation between David T. Rusoff, Attorney, Foley & Lardner, and Glen P. Barrentine, Senior Counsel, SEC (February 28, 1996).

[6] 17 CFR 240.15b2–2(b).

[7] *See* CHX Membership Dues and Fees Schedule § (i) (charging $85 per day for professional fees, plus actual living expenses up to a maximum of $35 per day, plus actual travel expenses for field examinations in excess of one per year). Firms subject to the Designated Examining Authority Fee are also subject to the Field Examinations Fee. February 22, 1996 telephone conversation between David T. Rusoff, Attorney, Foley & Lardner, and Anthony P. Pecora, Attorney, SEC.

SROs in the U.S. impose direct examinations fees.[8] For the above reasons, therefore, the CHX is proposing such a fee for those organizations for which it serves as DEA, with certain exceptions. The proposed examinations fee would apply primarily to those members and member organizations that do not execute trades on the CHX.

In order to fairly allocate the proposed examinations fee, the Exchange has determined to exempt those members and member organizations that actively trade on the Exchange, thereby counterbalancing examination costs with transaction fees. Organizations that for any month incur transaction or clearing fees charged directly to them by the Exchange or by its registered clearing subsidiary would be exempt from the fee, provided that the fees exceed the examinations fee for that month. Inactive organizations would be exempt because examinations are not customarily conducted for such organizations. Compliance with the inactive status will be determined by gross securities-related transaction revenues reported on the organization's most recent annual FOCUS report. In addition, the organization must continue to lack such revenues, as determined monthly, in order to be exempt from the examinations fee.

Similarly, a member or member organization that is wholly owned by, controlled by, or under common control with an organization operating from the CHX trading floor or generating counterbalancing CHX transaction or clearing fees would be exempt from this fee, because the affiliated organization is generating transaction or clearing fees to help offset examination costs.

Finally, the CHX proposes to institute an additional fee because it feels that it is appropriate to charge its members and member organizations its costs in providing the Rule Book, as printed by CCH, Inc., to members. Members are obligated to be familiar with the CHX rules and should bear this cost directly. Currently, the CHX bears this cost.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[9] in general and furthers the objectives of Section 6(b)(4)[10] in particular in that it provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and other persons using its facilities. The Exchange believes that the proposed examinations fee of $1,000 per month is reasonable in view of the Exchange's costs in conducting examinations of non-CHX-trading organizations, especially in terms of staff time.

The Exchange also believes that structuring the fee to exempt organizations that transact business on the Exchange represents an equitable allocation of the Exchange's examination costs among members by focusing on those member organizations that generally do not otherwise continually contribute to compensating for, and usually, in fact, increase Exchange examination costs.

Finally, the Exchange also believes that the proposed fee for providing its members and member organizations with a Rule Book is reasonable in that it will be applied equally to members and member organizations that utilize the CHX's service of providing a Rule Book to members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change imposes no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and subparagraph (e) of Rule 19b–4 thereunder.[12]

At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–96–08 and should be submitted by March 28, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–5302 Filed 3–6–96; 8:45 am]

BILLING CODE 8010–01–M

[8] The Chicago Board Options Exchange imposes a fee equal to $0.40 per $1,000 in gross revenues. Other exchanges similarly impose revenue-based examinations fees. In addition, the Philadelphia Stock Exchange recently adopted a $1,000 examination fee that is substantially the same as the one proposed here. *See* Securities Exchange Act Release No. 35091 (Dec. 12, 1994), 59 FR 65558 (approving File No. SR–Phlx–94–66).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4.

[13] 17 CFR 200.30–3(a)(12).

[Release No. 34–36911; File No. SR–CHX–96–07]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to the Posting of Sales and Transfers of Memberships

February 29, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 7, 1996, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 5(c), Rule 12, Rule 13 and interpretation and policy .01 of Rule 10 of Article I of the Exchange's Rules, all of which relate, directly or indirectly, to the time period of posting proposed sales or transfers of memberships. The Exchange also proposes to amend Rule 6 of Article I. Among other matters, Rule 6 provides a period during which an applicant for membership may file a written response to an objection to such applicant's election to membership.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, before an application for membership on the Exchange is approved, Rule 5(c) of Article I of the Exchange's Rules requires that the name of the applicant, the name of the member or member organization from which the membership is to be transferred and the sponsor's names must be posted on the bulletin board on the Floor of the Exchange for fifteen days and notice of posting mailed to all members. This fifteen day notice period, however, sometimes expires on a Saturday or Sunday. The purpose of the proposed rule change is to change this posting requirement to ten business days to ensure that the notice period expires on a day when the Exchange is open for business. Conforming changes are also being made to interpretation and policy .01 of Rule 10, and Rules 12 and 13.[2]

Similarly, Rule 6 of Article I currently provides that during the posting period any member may file an objection to the election of the applicant to membership, that the applicant shall be sent a statement of reasons for such objection, and may file a written response within fifteen days of the receipt thereof. The proposed rule change would change the response period to ten business days.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[3] in general and furthers the objectives of Section 6(b)(5)[4] of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for 30 days from February 7, 1996, the date on which it was filed, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder.[5]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of The Chicago Stock Exchange, Incorporated. All submissions should refer to File No. SR–CHX–96–07 and should be submitted by March 28, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

[FR Doc. 96–5303 Filed 3–6–96; 8:45 am]

BILLING CODE 8010–01–M

[2] Interpretation and policy .01 of Rule 10 provides that all contracts for the sale of a membership must remain in force during the fifteen day posting period. Rule 12 generally prohibits a transferring member or member organization from entering into any contract on the Exchange for settlement after the fifteen day posting period. Rule 13 generally requires all open Exchange contracts of a transferring member or member organization to mature on the full business day preceding the expiration of the fifteen day posting period. The proposed rule change would change the operative period in each of the above rules from fifteen days to ten business days.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 17 CFR 240.19b–4(e)(6) (1994).

[6] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2838]

Idaho; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on February 11, 1996, and an amendment thereto on February 13, I find that Behwah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Lewis, Nez Perce, and Shoshone Counties and the Nez Perce Indian Reservation in the State of Idaho constitute a disaster area due to damages caused by severe storms and flooding beginning on February 6, 1996 and continuing. Applications for loans for physical damages resulting from this disaster may be filed until the close of

business on April 11, 1996, and for loans for economic injury until the close of business on November 12, 1996 at the address listed below:

U.S. Small Business Administration, Disaster Area 4 Office, P. O. Box 13795, Sacramento, CA 95853–4795

or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Adams, Lemhi, and Valley Counties in Idaho; Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties in Montana; and Pend Oreille County in Washington.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.250
Homeowners Without Credit Available Elsewhere	3.625
Businesses With Credit Available Elsewhere	8.00
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.00
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.00

The number assigned to this disaster for physical damage is 283806 and for economic injury the numbers are 877900 for Idaho; 878000 for Montana; and 878100 for Washington.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 23, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–5400 Filed 3–6–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2839]

Mississippi; Declaration of Disaster Loan Area

Greene and Pearl River Counties and the contiguous counties of Forrest, George, Hancock, Harrison, Lamar, Marion, Perry, Stone, and Wayne in Mississippi; Washington and Mobile Counties in Alabama; and St. Tammany and Washington Parishes in Louisiana constitute a disaster area as a result of damages caused by tornadoes which occurred on February 19, 1996. Applications for loans for physical damage may be filed until the close of business on May 2, 1996 and for economic injury until the close of business on December 2, 1996 at the address listed below:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308

or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.250
Homeowners Without Credit Available Elsewhere	3.625
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The numbers assigned to this disaster for physical damages are 283912 for Mississippi; 284012 for Alabama; and 284112 for Louisiana. For economic injury the numbers are 878300 for Mississippi; 878400 for Alabama; and 878500 for Louisiana.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 1, 1996.

Philip Lader,

Administrator.

[FR Doc. 96–5399 Filed 3–6–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2836]

Oregon; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on February 9, 1996, and amendments thereto on February 12 and 15, I find that Benton, Clackamas, Clatsop, Columbia, Douglas, Hood River, Jefferson, Josephine, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Washington, and Yamhill Counties and the Warm Springs Indian Reservation in the State of Oregon constitute a disaster area due to damages caused by high winds, severe storms, and flooding beginning on February 4, 1996 and continuing. Applications for loans for physical damages resulting from this disaster may be filed until the close of business on April 11, 1996, and for loans for economic injury until the close of business on November 12, 1996 at the address listed below:

U.S. Small Business Administration, Disaster Area 4 Office, P. O. Box 13795, Sacramento, CA 95853–4795

or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Baker, Coos, Crook, Curry, Deschutes, Gilliam, Grant, Jackson, Klamath, Morrow, and Wheeler Counties in the State of Oregon; and Del Norte and Siskiyou Counties in the State of California.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.250
Homeowners Without Credit Available Elsewhere	3.625
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 283606 and for economic injury the numbers are 877600 for Oregon and 878200 for California.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 23, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–5401 Filed 3–6–96; 8:45 am]

BILLING CODE 8025–01–P

[Declaration of Disaster Loan Area #2837]

Washington; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on February 9, 1996, and amendments thereto on February 12, 14, and 16, I find that

Adams, Asotin, Benton, Clark, Columbia, Cowlitz, Garfield, Grays Harbor, King, Kittitas, Klickitat, Lewis, Pierce, Skamania, Snohomish, Thurston, Wahkiakum, Walla Walla, Whitman, and Yakima Counties and the Yakima Indian Reservation in the State of Washington constitute a disaster area due to damages caused by high winds, severe storms, and flooding beginning on January 26, 1996 and continuing. Applications for loans for physical damages resulting from this disaster may be filed until the close of business on April 11, 1996, and for loans for economic injury until the close of business on November 12, 1996 at the address listed below:

U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795

or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Chelan, Douglas, Franklin, Grant, Island, Jefferson, Kitsap, Lincoln, Mason, Pacific, Skagit, and Spokane in the State of Washington.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	7.250
Homeowners Without Credit Available Elsewhere	3.625
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 283700 and for economic injury the number is 877700.

Any counties contiguous to the above-named primary counties and not listed herein, have been declared under a separate declaration for the same occurrence.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 23, 1996.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 96–5402 Filed 3–6–96; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 2351]

Fine Arts Committee; Notice of Meeting

The Fine Arts Committee of the Department of State will meet on Saturday, April 20, 1996 at 10:30 a.m. in the John Quincy Adams State Drawing Room. The meeting will last until approximately 12:00 p.m. and is open to the public.

The agenda for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting in October 1995 and the announcement of gifts and loans of furnishings as well as financial contributions for calendar year 1995. The Committee will install the elected chairman at this meeting. Public access to the Department of State is strictly controlled. Members of the public wishing to take part in the meeting should telephone the Fine Arts Office by Monday, April 15, 1996, telephone (202) 647–1990 to make arrangements to enter the building. The public may take part in the discussion as long as time permits and at the discretion of the chairman.

Dated: February 15, 1996.

Gail F. Serfaty,

Vice Chairman, Fine Arts Committee.

[FR Doc. 96–5350 Filed 3–6–96; 8:45 am]

BILLING CODE 4710–38–M

[Public Notice No. 2350]

United States International Telecommunications Advisory Committee (ITAC): Study Group B;

The Department of State announces that the United States International Telecommunications Advisory Committee (ITAC), Study Group B Group will meet on Wednesday, April 10, 1996 at 9:30 a.m., Room 1912 of the Department of State.

The Agenda for Study Group B will include a review of the results of the ITU–T Study Group 11 meeting (January 29–February 16) as well as the results of the Study Group 9 meeting (March 25–29).

Consideration of contributions to upcoming meeting of ITU–T Study Group 13, April 29–May 10, 1996. Other matters within the purview of Study Group B may be raised at the meeting. Nomination of members of the U.S. Delegation to Study Group 13 will be made. Persons presenting contributions to the meeting of Study Group B should bring 35 copies to the meeting.

Members of the General Public may attend the meetings and join in the discussions, subject to the instructions of the chair. Admittance of public members will be limited to the seating available. In this regard, entrance to the Department of State is controlled. If you are not presently named on the mailing list of the Telecommunications Standardization Sector Study Group, and wish to attend please send a fax to 202–647–7407 not later than 5 days before the scheduled meetings.

Please include your name, Social Security number and date of birth. One of the following valid photo ID's will be required for admittance: U.S. driver's license with picture, U.S. passport, U.S. government ID (company ID's are no longer accepted by Diplomatic Security). Enter from the ''C'' Street Main Lobby.

Dated: February 26, 1996.

Earl S. Barbely,

Chairman, U.S. ITAC for Telecommunication Standardization.

[FR Doc. 96–5349 Filed 3–6–96; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics; Advisory Council on Transportation Statistics

AGENCY: Bureau of Transportation Statistics, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(A)(2) of the Federal Advisory Committee Act (Public Law 72–363; 5 U.S.C. App. 2), notice is hereby given of a meeting of the Bureau of Transportation Statistics (BTS) Advisory Council on Transportation Statistics (ACTS) to be held Wednesday, March 20, 1996, 10:00 to 4:00 pm. The meeting will take place at the U.S. Department of Transportation, 400 7th Street, SW., Washington, DC, in conference room 10234 of the Nassif Building.

The Advisory Council, called for under Section 6007 of Public Law 102–240, Intermodal Surface Transportation Efficiency Act of 1991, December 18, 1991, and chartered on June 19, 1995, was created to advise the Director of BTS on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau are of high quality and are based upon the best available objective information.

The agenda for this meeting will include a review of the last meeting, identification of substantive issues, review of plans and schedule, other

items of interest, discussion and agreement of date(s) for subsequent meetings, and comments from the floor.

Since access to the DOT building is controlled, all persons who plan to attend the meeting must notify Ms. Carolee Bush, Council Liaison, on (202) 366–6946 prior to March 19. Attendance is open to the interested public but limited to space available. With the approval of the Chair, members of the public may present oral statements at the meeting. Noncommittee members wishing to present oral statements, obtain information, or who plan to access the building to attend the meeting should also contact Ms. Bush.

Members of the public may present a written statement to the Council at any time.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Bush (202) 366–6946 at least seven days prior to the meeting.

Issued in Washington, DC, on March 1, 1996.

Robert A. Knisely,

Executive Director, Advisory Council on Transportation Statistics.

[FR Doc. 96–5291 Filed 3–6–96; 8:45 am]

BILLING CODE 4910–FE–P

[Order No. 96–3–7]

Order Governing the Anchorage and Movement of Vessels During a National Emergency

AGENCY: Department of Transportation.

ACTION: Notice.

SUMMARY: Under the provisions of 50 U.S.C. 191, whenever the President declares a national emergency to exist by reason of actual or threatened war, insurrection, or invasion, or disturbance of the international relations of the United States, the Secretary of Transportation may make, subject to the approval of the President, rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial sea of the United States. In Proclamation No. 6867, the President declared a national emergency to exist by reason of a threatened disturbance of the international relations of the United States and delegated authority to the Secretary of Transportation to make and approve rules and regulations pursuant to that proclamation. Rules and regulations issued pursuant to the Proclamation are effective immediately upon issuance as such rules and regulations involve a foreign affairs function of the United States and thus are not subject to the procedures in 5 U.S.C. 553.

By order, the Secretary has authorized the United States Coast Guard to regulate the anchorage and movement of any vessel, foreign or domestic, in the territorial sea of the United States. Such regulation will be accomplished according to the form and procedure in the existing regulations set forth in Executive Orders 10173, 10277, 10352, and 11249 (codified at 33 CFR part 6), and thus no amendments to the Code of Federal Regulations are necessary at this time. Additionally, the Secretary has authorized the Commandant of the United States Coast Guard to exercise all powers and authorities vested in the Secretary of Transportation by 50 U.S.C. 191 and Proclamation No. 6867, including the power to make additional rules and regulations.

EFFECTIVE DATE: Effective immediately.

FOR FURTHER INFORMATION CONTACT: Lt. Tina Cutter, Maritime and International Law Division, Washington, DC 20590, (202) 267–1527.

Dated: March 1, 1996.

Federico Peña,

Secretary of Transportation.

Order No. 96–3–7

Establishing Regulations Governing the Anchorage and Movement of Vessels During a National Emergency

By the authority vested in me as Secretary of Transportation by section 1 of title II of the Act of June 15, 1917 (the Act), as amended (50 U.S.C. § 191), and pursuant to Proclamation No. 6867, in which the President declared a national emergency and delegated certain functions, I hereby order as follows:

Section 1: In furtherance of the purposes of Proclamation No. 6867, the Commandant, District Commanders and Captains of the Ports (as defined in 33 CFR subject 6.01) of the United States Coast Guard are authorized to regulate the anchorage and movement of any vessel, foreign or domestic, in the territorial sea of the United States according to the form and procedure in the existing regulations set forth in Executive Orders 10173, 10277, 10352, and 11249 (codified at 33 CFR part 6). All actions authorized under those regulations, including, but not limited to, controlling access to vessels or waterfront facilities, taking possession and control of vessels, and establishing security zones, are authorized for carrying out the purposes of this Order.

Section 2: While the national emergency proclaimed in Proclamation No. 6867 continues to exist, the Commandant of the United States Coast Guard may exercise all powers and authorities vested in the Secretary of Transportation by the Act and Proclamation No. 6867, including the power to make additional rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial sea of the United States.

Dated: March 1, 1996.

Federico Peña,

Secretary of Transportation.

[FR Doc. 96–5460 Filed 3–4–96; 4:29 pm]

BILLING CODE 4910–62–M

Office of the Secretary

Ninoy Aquino International Airport

SUMMARY: The Secretary of Transportation has now determined that Ninoy Aquino International Airport, Manila, Philippines, maintains and carries out effective security measures.

Notice

By notice published on August 14, 1995, I announced that I had determined that Ninoy Aquino International Airport, Manila, Philippines, did not maintain and administer effective security measures and that, pursuant to 49 U.S.C. 44907(d), I was providing public notification of that determination. I now find that Ninoy Aquino International Airport maintains and carries out effective security measures. My determination is based on a recent Federal Aviation Administration (FAA) assessment which reveals that security measures used at the airport now meet or exceed the Standards and Recommended Practices established by the International Civil Aviation Organization.

I have directed that a copy of this notice be published in the Federal Register and that the news media be notified of my determination. In addition, as a result of this determination, the FAA will direct that signs posted in U.S. airports relating to my August 14, 1995, determination be removed, and U.S. and foreign air carriers will no longer be required to provide notice of that determination to passengers purchasing tickets for transportation between the United States and Manila, Philippines.

Federico Peña,

Secretary of Transportation.

[FR Doc. 96–5290 Filed 3–6–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Notice of Intent to Request Renewal From the Office of Management and Budget (OMB) of Current Public Collections of Information

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to renew two currently approved public information collection activities.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995, and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, the FAA invites public comment on two currently approved public information collections being submitted to OMB for renewal.

DATES: Comments must be received on or before May 6, 1996.

ADDRESSES: Comments on either of these collections may be mailed or delivered in duplicate to the FAA at the following address: Ms. Judith Street, Federal Aviation Administration, Corporate Information Division, ABC–100, 800 Independence Ave., SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Street, Federal Aviation Administration, Corporate Information Division, ABC–100, 800 Independence Ave., SW., Washington, DC 20591, (202) 267–9895.

Interested persons can receive copies of the justification packages by contacting Ms. Street at this same address or phone number.

SUPPLEMENTARY INFORMATION: The FAA solicits comments in order to evaluate the necessity of the collection; accuracy of the agency's estimate of the burden; the quality, utility, and clarity of the information to be collected; and possible ways to minimize the burden of the collection.

The two currently approved public information collection activities, the respondents, and the associated burden hours being submitted to OMB for renewal are as follows:

1. 2120–0024, Dealer's Aircraft Registration Certificate Application, AC Form 8050–5; the respondents are an estimated 1283 individuals or companies engaged in manufacturing, distributing or selling aircraft who want to fly those aircraft with a dealer's certificate instead of registering them permanently in his/her name; the estimated annual burden is 962 hours.

2. 2120–0063, Airport Operating Certificate, FAA Form 5280–1, the respondents are an estimated 650 state or local governments; the estimated annual burden is 173,069 hours.

Issued in Washington, DC, on February 26, 1996.

Steve Hopkins,

Acting Manager, Corporate Information Division, ABC–100.

[FR Doc. 96–5394 Filed 3–6–96; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–96–9]

Petitions for Exemption; Summary of Petitions Received, Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

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

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

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before March 28, 1996.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

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

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on March 4, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28345
Petitioner: Air Vegas
Sections of the FAR Affected: 14 CFR 135.180(a)
Description of Relief Sought: To permit Air Vegas to operate its fleet of 6 turbine-powered Beechcraft C99 (B–C99) aircraft with 15 passenger seats without Traffic Alert and Collision Avoidance System (TCAS I) installed.

Docket No.: 28454
Petitioner: Civil Air Patrol
Sections of the FAR Affected: 14 CFR subpart F, part 91
Description of Relief Sought: To permit the Civil Air Patrol (CAP) to operate a limited number of CAP flights carrying passengers and property for limited reimbursement when those flights are within the scope of and incidental to CAP's corporate purposes and Air Force auxiliary status.

Docket No.: 28456
Petitioner: Northland Community and Technical College
Sections of the FAR Affected: 14 CFR 65.17 and 65.18 (a)(3) and (a)(5)
Description of Relief Sought: To permit Mr. Verlyn J. Sluiter to have test questions read to him, and would permit him to have a longer test period for completing the mechanic's written examination because of his learning disability.

Docket No.: 28458
Petitioner: Gulfstream Aerospace Corporation
Sections of the FAR Affected: 14 CFR 25.571(e)(1)
Description of Relief Sought: To permit the Gulfstream Aerospace Corporation to demonstrate that the Gulfstream Model GV airplane is designed to be capable of continued safe flight and landing after impact with a 4-pound bird when the velocity of the airplane (relative to the bird along the airplane's flight path) is equal to Vc at sea level, or 0.85 Vc at 2,400m (7,874 ft.), whichever is more critical, in lieu of the current requirements.

Docket No.: 28463
Petitioner: Cessna Aircraft Co.
Sections of the FAR Affected: 14 CFR 25.161(d)
Description of Relief Sought: To allow the Cessna Aircraft Co., relief from the lateral trim requirements of § 25.161(d) as the aileron/spoiler trim

system is insufficient to satisfy the lateral trim requirements at the speed of 1.4 Vs1 specified in § 25.161(d) for light weight conditions with an asymmetric fuel loading.

Docket No.: 28474
Petitioner: Instone Air Services
Sections of the FAR Affected: 14 CFR 25.857(e) and 25.1447(c)(1)
Description of Relief Sought: To allow the carriage of up to sixteen livestock handlers on the main deck of a Boeing 747–100/200 freighter, and to allow portable oxygen units to be worn by livestock attendants during periods of time away from the pallet.

Dispositions of Petitions

Docket No.: 26780
Petitioner: Air Transport Association of America
Sections of the FAR Affected: 14 CFR 121.337
Description of Relief Sought/ Disposition: To extend Exemption No. 5407, as amended, which provides relief to all ATA-member airlines and other similarly situated operators from the requirement to install protective breathing equipment (PBE) in each Class A, B, and E cargo compartment in all-cargo airplanes.
GRANT, February 8, 1996, Exemption No. 5407C

Docket No.: 27104
Petitioner: Richmor Aviation, Inc.
Sections of the FAR Affected: 14 CFR 95.511(a)(2); 135.165(a)(1), (5), and (6); and 135.165(b)(5), (6), and (7)
Description of Relief Sought/ Disposition: To permit Richmor to operate its turbojet airplanes equipped with one high-frequency (HF) communication system and one single long-range navigational system (LRNS) in extended overwater operations.
GRANT, February 1, 1996, Exemption No. 6396

Docket No.: 28141
Petitioner: Rhett Micheletti
Sections of the FAR Affected: 14 CFR 103.1(b)
Description of Relief Sought/ Disposition: To permit Mr. Michelleti to operate a paraglider for the purpose of commercial advertising by flying with advertisements that are imprinted on the paraglider's wing surfaces by the paraglider manufacturer and/or by towing one banner at a time with advertisements printed on it.
DENIAL, January 23, 1996, Exemption No. 6390

Docket No.: 28169
Petitioner: Aviation Technologies, Inc.
Sections of the FAR Affected: 14 CFR 141.35(b)(3) and (d)(3)
Description of Relief Sought/ Disposition: To allow Aviation Technologies, Inc., to designate Mr. Richard A. Fischer to serve as chief flight instructor without meeting certain experience requirements for such a designation.
DENIAL, January 23, 1996, Exemption No. 6389

Docket No.: 28285
Petitioner: Petroleum Helicopters, Inc.
Sections of the FAR Affected: 14 CFR 133.45(e)(1)
Description of Relief Sought/ Disposition: To permit Petroleum Helicopters, Inc., to operate a McDonnell Douglas MD–900 helicopter, which is not type certificated under transport Category A, in Class D rotorcraft-load combination operations.
GRANT, February 13, 1996, Exemption No. 6400

Docket No.: 28338
Petitioner: Rich International Airways, Inc.
Sections of the FAR Affected: 14 CFR 121.310(m)
Description of Relief Sought/ Disposition: To permit Rich International Airways, Inc., to operate two Lockheed L–1011–383–3 aircraft, also known as L–1011–500 aircraft (Serial Nos. 1183 and 1196) that have more than 60 feet between the center and aft emergency exits.
GRANT, February 8, 1996, Exemption No. 6399

Docket No.: 28425
Petitioner: Great Lakes Aviation, Ltd.
Sections of the FAR Affected: 14 CFR 135.180(a)
Description of Relief Sought/ Disposition: To allow Great Lakes Aviation, Ltd., to continue to operate three Embraer EMB–120 airplanes until March 31, 1996, without these airplanes being equipped with an approved Traffic Alert and Collision Avoidance System (TCAS).
DENIAL, February 8, 1996, Exemption No. 6398

[FR Doc. 96–5393 Filed 3–6–96; 8:45 am]
BILLING CODE 4910–13–M

Office of the Associate Administrator for Commercial Space Transportation; Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: The Office of the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, Department of Transportation, formerly the Office of Commercial Space Transportation [60 FR 62762, December 7, 1995] will convene a public meeting to address a range of critical topics affecting the commercial space industry, focussing on impending issues which have not yet been resolved, but for which public dialogue is deemed important. Industry and government views on these topics will facilitate better understanding of a variety of issues concerning the ongoing development of the international space market. The meeting will consist of panel discussions on the following topics:

- Commercial Spaceports: Domestic and International Use.
- Orbital Debris/Satellite Constellation Conflicts.
- Certification Standards for New Launch Vehicles.
- Financial Responsibility for Joint Ventures.

Anyone interested in appearing as a panelist is encouraged to contact the Office at 202–366–2936; fax number, 202–366–9945. Panelists will have 6–7 minutes to make an oral presentation followed by 15 minutes of questions, answers and discussion between the panelists and audience. Written inputs from each panelist are due into the Office by Wednesday, April 17th.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting to address critical issues affecting the commercial space industry.

DATES: The meeting will take place on Wednesday, April 24, 1996, from 9:00 a.m. to 1:00 p.m.

ADDRESSES: The meeting will be held at the DOT Headquarters, Nassif Building, 400 7th Street, SW., Room 8236, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Scott, Jr., Office of the Associate Administrator for Commercial Space Transportation, Federal Aviation Administration, 400 7th Street, SW., Room 5408, Washington, DC 20590, telephone (202) 366–2936; fax (202) 366–9945, E-Mail dick__scott@ mail.hq.fAA.gov.

SUPPLEMENTARY INFORMATION: The Nassif Building is accessible by Metro at the L'Enfant Plaza station—proceed to 7th Street and then to the Department of Transportation.

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

Frank C. Weaver,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 96–5395 Filed 3–6–96; 8:45 am]
BILLING CODE 4901–13–P

Federal Highway Administration

Environmental Impact Statement: City of Issaquah, King County, Washington

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the Sunset Interchange modifications and the South Sammamish Plateau Access Road in the City of Issaquah, King County, Washington.

FOR FURTHER INFORMATION CONTACT: Gene Fong, Division Administrator, Federal Highway Administration, Evergreen Plaza Building, 711 South Capitol Way, Suite 501, Olympia, Washington 98501, telephone (360) 753–9413; Robert D. Aye, Acting Northwest Regional Administrator, Washington State Department of Transportation, 15700 Dayton Ave. N., PO Box 33310, Seattle, Washington 98133, telephone (206) 440–4693; Dave Crippen, Supervising Environmental Engineer, King County Department of Public Works, 400 Yesler Way, Room 400, Seattle, WA 98104–3637, telephone (206) 296–8092; or Ann DeFee, Grand Ridge Project Manager, Department of Public Works, City of Issaquah, PO Box 1307, Issaquah, Washington 98107, telephone (206) 391–1004.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Washington State Department of Transportation (WSDOT), City of Issaquah and King County will prepare an environmental Impact Statement (EIS) for an interchange revision at the existing East Sunset Way Interchange on Interstate 90 (I–90). A new north-south arterial (called the South Sammamish Plateau Access Road, or South SPAR) will connect the Sunset Interchange to an intersection with a major east-west arterial in the southwestern portion of the Grand Ridge Development area. The South Spar is not expected to be a Federal project, but because its utility is largely dependent on the interchange project, its impacts are considered indirect impacts of the interchange project and are being evaluated in the same document. The South SPAR would be located along one of several alternative alignments as defined in previous feasibility studies completed for the project. The project is sponsored by two private developers, the Grand Ridge Ltd. partnership and the Glacier Ridge Ltd. Partnership. The I–90 Sunset Interchange revision would modify the existing partial interchange, which provides only a west bound off-ramp and east bound on-ramp, to a full interchange that provides for all traffic movements to and from I–90. The South SPAR arterial is planned to be a multi-lane road that would provide through-lanes, turn-lane channelization, bicycle lanes, curb, gutter, sidewalk, stormwater management, water quality treatment, retaining walls, bridges, landscaping, signage, lighting, and signalization. Alternatives under consideration include: a No-Action Alternative and at least two roadway alignment alternatives for the South SPAR, and various ramp configurations for the interchange. Analysis will focus on identifying impacts and mitigation measures and providing information appropriate to choosing a preferred alternative from among the alternatives identified through the scoping and public involvement process. The EIS will identify direct, secondary and cumulative impacts associated with the interchange modification and the roadway alternatives under consideration.

The EIS will also discuss other cumulative impacts, taking into consideration two separate but related projects which are in the planning stage: (1) The proposed Issaquah Southeast Bypass, expected to connect I–90, in the vicinity of the modified Sunset Interchange, to Issaquah-Hobart Road; and (2) the proposed North Sammamish Plateau Access Road (North SPAR), which would provide access from the proposed South SPAR to the existing intersection of Issaquah-Pine Lake Road Southeast and Issaquah-Fall City Road Southeast. The North SPAR is a King County-sponsored project separate from the Sunset Interchange/South SPAR project with its own logical termini and independent utility. It will be addressed in a separate project-specific EIS written in accordance with the Washington State Environmental Policy Act (SEPA). Relevant information about various environmental issues related to the North SPAR will be incorporated into the Sunset Interchange/South SPAR EIS to address secondary and cumulative impacts. A project-specific EIS has not been initiated for the Issaquah Southeast Bypass; therefore, this section of the corridor will also be addressed in the Sunset Interchange/South SPAR EIS in a general way in the discussion of secondary and cumulative impacts. The overall roadway corridor will be examined in sections with logical termini and independent utility. The sections are: (1) ''Southeast Issaquah Bypass'', Issaquah-Hobart Road to I–90, approximately 2.4 km (1.5 mile); (2) ''I–90 Sunset interchange modifications and South Sammamish Plateau Access Road (South SPAR)'', I–90 to a major east-west arterial approximately 1.6 km (1 mile) north of I–90; and (3) ''North Sammamish Plateau Access Road (North SPAR)'', a proposed 1.3 km (0.8 mile) road from the major arterial approximately 1.6 km (1 mile) north of I–90 continuing north to the Issaquah-Fall City Road.

The purpose of the proposed projects is to provide improved auto, transit, bicycle, and pedestrian access to existing and future residential and commercial developments contained in the approved City of Issaquah and King County Comprehensive Plans. The project will improve existing congestion along Issaquah-Fall City Road, Issaquah-Pine Lake Road, and the Front Street interchange at I–90. Approved land use plans indicate the area will see significant increases in population within the near future.

Environmental issues of concern to be addressed in the EIS include steep slopes, wetlands, air quality, fisheries resources and water quality in local streams and Lake Sammamish. Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, appropriate Native American tribes, and to private organizations and citizens who have expressed, or are known to have, an interest in this proposal. A scoping meeting is planned to be held in March 1996. The public and all affected agencies will be invited to attend. A public notice will be given of the time and place of the meeting.

To assure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments are invited from all interested parties. Comments and suggestions concerning this proposed action and the EIS should be directed to the FHWA at the address provided.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: February 23, 1996.

Michael R. Brower,

Urban Transportation Engineer, Olympia, WA.

[FR Doc. 96–5351 Filed 3–6–96; 8:45 am]

BILLING CODE 4910–22–M

Maritime Administration

OMB No.: 2133–0005

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of Maritime Administration (MARAD) to request approval of changes to a currently approved information collection.

DATES: Comments should be submitted on or before May 6, 1996.

FOR FURTHER INFORMATION CONTACT: Richard J. McDonnell, Director, Office of Financial Approvals, Maritime Administration, MAR–580, Room 8114, 400 Seventh Street, SW., Washington, DC 20590. Telephone: 202–366–5861 or fax 202–366–7901. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Uniform Financial Reporting Requirements.

Type of Request: Approval of changes to a currently approved information collection.

OMB Control Number: 2133–0005.

Form Number: MA–172.

Expiration Date of Approval: September 30, 1999.

Summary of Collection of Information: A form MA–172 consists of a balance sheet, an income statement, schedules of debt and equipment, and listings of company officers, stockholders, and related parties. In order to reduce the burden of the current information collection, the MA–172 would be reduced in scope and number of schedules. The information in the MA–172 is integral to conventional financial records generally kept by all businesses, but is supplemental to their financial statements prepared periodically. Therefore, much of the form can be satisfied by the information found in the financial statements audited by certified public accountants and can be substituted by copies of the published data or listings from the company records. Thus, the time required to complete a MA–172 can be reduced to an efficient gathering of existing documents.

Need and Use of the Information: MARAD administers financial assistance programs promoting the U.S. merchant marine. This information collection is in compliance with those program regulations requiring financial reporting used in reviews and analyses to determine compliance with contractual requirements and to evaluate industry financial trends.

Description of Respondents: Various ship-building and ship-owning companies which choose to participate in the Maritime Administration's loan guarantee and operating support programs.

Annual Responses: Presently, 95 participants respond semiannually. The number of participants has stabilized after a long period of reduction with approximately the same number of new participants replacing withdrawing participants. This situation is expected to continue indefinitely.

Annual Burden: Presently, the total annual burden is 2,375 hours for 190 responses, 12 hours per response. The total hours should decrease when the changes covered by this request for comments are implemented. Commenters are requested to include their estimates for completing the revised MA–172 information collection.

Comments: Send all comments regarding this information collection to Richard J. McDonnell, Department of Transportation, Maritime Administration, MAR–580, Room 8114, 400 Seventh Street, SW., Washington, DC 20590. Send comments regarding whether this information collection is necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimate, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected.

By Order of the Maritime Administrator.

Dated: March 4, 1996.

Edmund T. Sommer, Jr.,

Assistant Secretary.

[FR Doc. 96–5558 Filed 3–6–96; 8:45 am]

BILLING CODE 4910–81–P

OMB NO: 2133–0525

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval of a currently approved information collection.

DATES: Comments should be submitted on or before May 6, 1996.

FOR FURTHER INFORMATION CONTACT: James E. Caponiti, Director, Office of Sealift Support, Maritime Administration, MAR–630, Room 7300, 400 Seventh Street, S.W., Washington, D.C. 20590. Telephone 202–366–2323 or fax 202–493–2180. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Applications and Amendment for Participation under Section 651, Subtitle B, Merchant Marine Act, 1936, As Amended.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0525.

Form Number: No form number is assigned to the application.

Expiration Date of Approval: May 31, 1996.

Summary of Collection of Information: The information collected includes an initial application for participation in the program as well as amendments of maritime security program operating agreements.

Need and Use of the Information: There are two maritime security bills (S.1139 and H.R.1350) under consideration in the Congress to revise Title VI of the Merchant Marine Act, 1936, as amended. Both bills will require MARAD to accept applications for enrollment in a Maritime Security Fleet no later than 30 days after the date of enactment. Receipt of an application will indicate intent on the part of the applicant to enter its vessel(s) in the Maritime Security Program. MARAD will analyze the information according to prescribed priorities and select vessels for participation in the program. Over the life of an agreement changes may be necessary for additional vessels, changes to existing vessels or status of the applicant.

Description of Respondents: It is estimated that 10 carriers would submit one-time initial applications to participate in the program and it is estimated that five amendments would be required over a ten year period (0.5 per year) of a maritime security program operating agreement.

Annual Responses: 10 one-time applications, 0.5 amendments.

Annual Burden: 80 hours for one-time applications, 1 hour for amendments.

Comments: Send all comments regarding this information collection to James E. Caponiti, Department of Transportation, Maritime Administration, MAR–630, Room 7300, 400 Seventh Street, S.W., Washington, D.C. 20590. Send comments regarding whether this information collection is

necessary for proper performance of the function of the agency and will have practical utility, accuracy of the burden estimate, ways to minimize this burden, and ways to enhance quality, utility, and clarity of the information to be collected.

By Order of the Maritime Administrator.

Dated: March 4, 1996.

Joel C. Richard,

Secretary.

[FR Doc. 96–5559 Filed 3–6–96; 8:45 am]

BILLING CODE 4910–81–P

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 4)]

Railroad Cost Recovery Procedures-Productivity Adjustment

AGENCY: Surface Transportation Board, DOT.

ACTION: Proposed adoption of a Railroad Cost Recovery Procedures productivity adjustment.

SUMMARY: The Surface Transportation Board proposes to adopt 1.059 (5.9%) as the measure of average growth in railroad productivity for the 1990–1994 (5-year) period. The same 5.9% value, developed for the 1989–1993 period, is currently in use.

DATES: Comments are due by March 22, 1996.

EFFECTIVE DATE: The proposed productivity adjustment is effective April 6, 1996.

ADDRESSES: Office of the Secretary, Case Control Branch, Surface Transportation Board, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 927–6243. TDD for the hearing impaired: (202) 927–5721.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision write to, call, or pick up in person from: DC NEWS & DATA, INC., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423, or telephone (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

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

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: February 21, 1996.

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

Vernon A. Williams,

Secretary.

[FR Doc. 96–5413 Filed 3–6–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF VETERANS AFFAIRS

Special Medical Advisory Group, Notice of Availability of Annual Report

Under Section 10(d) of Public Law 92–463, Federal Advisory Committee Act, notice is hereby given that the Annual Report of the Department of Veterans Affairs' Special Medical Advisory Group for Fiscal Year 1995 has been issued.

The report summarizes activities of the Group relative to the care and treatment of disabled veterans and other matters pertinent to the Department of Veterans Affairs' Veterans Health Administration. It is available for public inspection at two locations:

Federal Documents Section, Exchange and Gift Division, LM 632, Library of Congress, Washington, DC 20540

and

Department of Veterans Affairs, Office of the Under Secretary for Health, VA Central Office, Room 811, 810 Vermont Avenue, N.W., Washington, DC 20420.

Dated: February 27, 1996.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 96–5320 Filed 3–6–96; 8:45 am]

BILLING CODE 8320–01–M

Agency Information Collection Activities: Proposed Collection; Comment Request: Veterans Benefits, Veterans Education, Education or Training, VA Form Letter 22–315

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Veterans Benefits Administration (VBA) invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

DATES: Written comments and recommendations on the proposal for the collection of information should be received on or before May 6, 1996.

ADDRESSES: Direct all written comments to Nancy J. Kessinger, Veterans Benefits Administration (20M30), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. All comments will become a matter of public record and will be summarized in the VBA request for Office of Management and Budget (OMB) approval. In this document VBA is soliciting comments concerning the following information collection:

OMB Control Number: 2900–0118.

Title and Form Number: Veterans Benefits, Veterans Education, Education or Training, VA Form Letter 22–315.

Type of Review: Extension of a currently approved collection.

Need and Uses: The information is used to determine whether a claimant is eligible for payment for training at an institution other than the institution which will grant a degree or certificate upon completion of training. Without the information, benefits cannot be authorized for any courses pursued at other than the primary institution.

Current Actions: VA Form Letter 22–315 is sent to the student by a VA claims examiner. The letter directs the student to have the certifying official of his or her primary institution complete the bottom portion of the form. The certifying official uses the letter to list the course or courses pursued at the second institution for which the primary institution will give full credit. The completed letter is then returned to the VA regional office. A VA claims examiner determines whether education benefits can be authorized for these courses. VA uses the information from the current collection to ensure that claimants are pursuing their approved program while enrolled at a different school. Without this information, VA might underpay or overpay benefits.

Affected Public: Not-for-profit institutions, State, Local or Tribal Government.

Estimated Annual Burden: 207 hours.

Estimated Average Burden Per Respondent: 7½ minutes per application.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,244.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Jacquie McCray, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, Telephone (202) 556–8266 or FAX (202) 565–8267.

Dated: February 28, 1996.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 96–5319 Filed 3–6–96; 8:45 am]

BILLING CODE 8320–01–M

federal register

Thursday
March 7, 1996

Part II

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1901, et al.

Miscellaneous Minor and Technical Amendments; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1901, 1902, 1910, 1915, 1926, 1928, 1950 and 1951

Miscellaneous Minor and Technical Amendments

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule; corrections and technical amendments.

SUMMARY: The Occupational Safety and Health Administration (OSHA) has initiated a comprehensive line-by-line review of its standards published in the Code of Federal Regulations (CFR) as directed by President Clinton in March 1995. From this review, OSHA has identified a number of sections and provisions of these standards for correction and technical amendment. In this document, OSHA is making corrections, deleting redundant provisions, and clarifying and reorganizing various other provisions throughout OSHA's standards in the CFR. This document does not change the substantive requirements of the standards.

EFFECTIVE DATE: May 6, 1996. The incorporations by reference of the consensus standards listed in §§ 1926.1002, 1926.1003, and 1928.51 are approved by the Director of the Federal Register as of May 6, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Anne Cyr, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue, N.W., Washington, D.C. 20210; telephone: (202) 219–8615.

SUPPLEMENTARY INFORMATION:

I. Background

In March 1995, the President directed Federal agencies to undertake a line-by-line review of their regulations to determine where they could be simplified or clarified. OSHA initiated such a review, and as a result completed a document on May 31, 1995, entitled ''OSHA's Regulatory Reform Initiatives.'' That document detailed the Agency's findings as to which regulations could be deleted or revised to improve compliance by employers and, consequently, provide enhanced occupational safety and health protection to employees. This regulatory improvement process involves revocation of outdated and obsolete provisions, consolidation of repetitious provisions, and clarification of confusing language.

The Agency is beginning this process with this document, by addressing minor clarifications, corrections, and technical amendments to OSHA standards. These do not require notice and comment. A detailed discussion of these actions is provided below under ''Summary and Explanation.'' In addition, the Agency plans to undertake several more regulatory reform initiatives. OSHA is developing a proposal to make substantive changes in various standards to diminish regulatory burdens without reducing worker protections. OSHA also intends to take actions to reduce paperwork and shorten and simplify its standards that are codified in the CFR.

II. Summary and Explanation

A. Merging the 13 Carcinogen Standards Into Single Standards in 29 CFR Parts 1910, 1915, and 1926

Thirteen similar standards for carcinogenic chemicals are codified in subpart Z of OSHA's General Industry standards at 29 CFR 1910.1003 through 1016. The regulatory requirements for each are similar, with the few differences based principally on the corrosiveness of the substance, or its physical state at room temperature. Because of their similarities, OSHA has decided to combine the 13 standards into a single rule. Accordingly, OSHA is issuing a technical amendment combining the 13 carcinogenic chemical standards into a single consolidated standard at § 1910.1003, entitled ''13 Carcinogens.'' No substantive revisions have been made to any provisions of the 13 carcinogenic chemical standards. Where requirements vary for different chemicals, paragraphs are being added to § 1910.1003 to include these differing requirements.

The standards for the 13 carcinogenic chemicals found under 29 CFR Parts 1915 and 1926 are being consolidated in the same manner. They will be consolidated under single standards for each of these parts, §§ 1915.1003 and 1926.1103, titled ''13 Carcinogens.''

B. Consensus Standards and Organizations and Incorporation by Reference Statements in 29 CFR Part 1910

Among the provisions being removed from the CFR are the following 12 General Industry sections that list the addresses of consensus organizations: 29 CFR 1910.40, 1910.70, 1910.100, 1910.116, 1910.140, 1910.148, 1910.171, 1910.190, 1910.222, 1910.247, 1910.257, and 1910.275. These addresses are being consolidated into § 1910.6, titled ''Incorporation by Reference.'' The addresses have been updated and may be used to obtain copies of the original consensus standards that were incorporated into these sections. Consistent with this revision, § 1910.6 is being amended to include a list of the consensus standards incorporated by reference into the CFR, as well as references to the OSHA-related CFR sections developed from each of these incorporated consensus standards.

Copies of the original consensus standards are also available from OSHA area offices.

The following 14 sections of 29 CFR part 1910 contain only identifying information regarding the consensus standards which were originally used as sources for OSHA standards: 29 CFR 1910.31, 1910.39, 1910.69, 1910.99, 1910.115, 1910.139, 1910.150, 1910.153, 1910.170, 1910.189, 1910.221, 1910.246, 1910.256, and 1910.274. Because OSHA has revised and updated many of its standards over the past 25 years, the references to the original sources for these standards are no longer valid. Accordingly, OSHA is deleting these references. The parenthetical note entitled ''Source'' at the bottom of § 1910.68(e)(3) is being removed as well.

In this document, OSHA is also consolidating all ''incorporation by reference'' (IBR) statements into § 1910.6. These statements are currently scattered throughout part 1910. The paragraphs affected by this change are: § 1910.133(b) (1) and (2), 1910.135(b) (1) and (2), 1910.136(b) (1) and (2), and § 1910.266 (d)(3)(iv), (e)(2)(i), (f)(3) (ii) through (iv), (f)(4), and (f)(5)(i).

C. Effective Dates Codified Under 29 CFR Part 1910

Several OSHA standards published in the CFR provide information regarding the date the standard was to become effective. In general, effective dates are not included or retained as part of the CFR. In addition, the effective dates published in the CFR under these provisions have expired. OSHA therefore is revising or deleting the effective date provisions of the following standards, as appropriate: §§ 1910.17, 1910.66, 1910.114, 1910.145, 1910.157, 1910.158, 1910.182, 1910.216, 1910.217, 1910.261, 1910.265, and 1910.272.

D. Editorial Corrections to 29 CFR part 1910

The following miscellaneous editorial corrections are being made to 29 CFR part 1910:

1. Because internal units within a CFR section are to be referred to as

''paragraphs,'' the phrase ''subdivision (A) of this subdivision'' in § 1910.68(c)(7)(ii)(B) is being revised to read ''paragraph (c)(7)(ii)(A) of this section,'' while the phrase ''subparagraph (6)(ii) of this paragraph'' in § 1910.94(c)(4)(iii) is being changed to read ''paragraph (c)(6)(ii) of this section.''

2. In the first sentence of § 1910.20(c)(13)(i), the word ''least'' is being changed to ''latest.''

3. In § 1910.94, the term ''[Reserved]'' at the beginning of paragraph (c)(5)(iii) is being removed, and the succeeding designation letter ''(A)'' is being moved immediately to the right of the ''(iii)'' at the beginning of the paragraph.

4. The table titled ''OSHA Onsite Consultation Project Directory'' in Appendix G to § 1910.95 is being deleted. Since this table was first published, numerous revisions have occurred to the entries cited in the directory, making the information in this table obsolete.

5. In two places (Appendix H to § 1910.95 and Appendix D to subpart L of 29 CFR part 1910), an out-of-date telephone number for OSHA's Technical Data Center, ''523–9700,'' is being changed to the current number, ''219–7500.''

6. In § 1910.120, the comma that runs into the beginning of the word ''uncontrolled'' near the middle of paragraph (a)(1)(i) is being removed to improve clarity.

7. In paragraphs (d)(2), (d)(4), and (d)(6) of § 1910.145, the paragraph designation ''(i)'' is being removed because these paragraphs have no subsequent designations.

8. In the listing for OSHA's Publications Office under Appendix B to § 1910.177, an out-of-date telephone number, ''523–9667,'' is being changed to the current number ''219–4667.''

9. In table O–10 following § 1910.217(f)(4), the fourth entry in the first column that reads ''1½ to 5½'' is being changed to read ''3½ to 5½.''

10. In § 1910.217(g), the title ''Director of the Office of Standards Development'' is being changed to read ''Director of the Directorate of Safety Standards Programs.''

11. In § 1910.440, the phrase ''Health, Education and Welfare'' in paragraphs (b)(1) and (b)(5)(ii) is being revised to read ''Health and Human Services.''

E. Revisions to 29 CFR Part 1926 Standards Incorporated From 29 CFR Part 1910

Minor corrections and technical amendments also are being made to several 29 CFR part 1926 (Construction Industry) standards that were incorporated from 29 CFR part 1910 (General Industry) in a previous rulemaking notice (June 30, 1993, 58 FR 35076). This previous action made no substantive changes to the incorporated standards, but the publication of these standards introduced various typographical errors and omissions. In addition, some changes were made to properly reflect the legal history and their adoption under the relevant statutes.

F. Miscellaneous Technical Amendments to 29 CFR Part 1926

On April 20, 1982 (47 FR 16986), OSHA published a final rule that consolidated standards addressing ship repair, shipbuilding, and shipbreaking, located under 29 CFR parts 1915 through 1917, into 29 CFR part 1915 (''Shipyard employment''). Paragraph (b) of § 1926.30 (''Shipbuilding and ship repairing''), however, still refers to old parts 1916 and 1917. These references are being corrected.

Several changes are being made to § 1926.31 to provide current addresses and cross-references.

G. Revisions to Standards Addressing Roll-Over Protection Structures for Tractors Under 29 CFR Parts 1926 and 1928

Various provisions of OSHA standards that specify minimum test procedures and performance requirements for manufacturers who design and construct roll-over protective structures (ROPS) and overhead protection attached to tractors used in construction work and agricultural operations are being removed. OSHA is removing these detailed specifications from the CFR because they are design criteria generally not useful to employers. The Agency is replacing them with references to the source consensus standards from which they were developed. The references will be provided in footnotes to the relevant provisions of the OSHA standards. The substantive requirements are unchanged.

This rulemaking involves the following amendments:

1. Paragraphs (c) through (i), and (k) of § 1926.1002 are deleted and replaced with a reference to Society of Automotive Engineers (SAE) consensus standard J334a in paragraph (a)(1) of § 1926.1002.

2. Paragraphs (c) through (g) of § 1926.1003 are deleted and replaced with a reference to SAE J167 in paragraph (a)(1) of § 1926.1003.

3. Sections 1928.52 and 1928.53 and Appendix B to subpart C of 29 CFR part 1928 are deleted and replaced by references to SAE J168 and J334 and American Society of Agricultural Engineers consensus standards 306.3 and 336.1 in paragraph (b)(1) of § 1928.51.

H. Revisions to the Cadmium Standard Under 29 CFR Part 1928

The cadmium standard for the Agriculture Industry, § 1928.1027, duplicates the cadmium standard of 29 CFR part 1910. The Agency has determined that publishing the full text of the standard under part 1928 is unnecessary because the requirements of the standard can be found in the General Industry cadmium standard (§ 1910.1027). A cross-reference from the agriculture industry standards to § 1910.1027 is being inserted in place of the full text of the standard. OSHA also is adding paragraph (a)(6) to § 1928.21 specifying that the cadmium standard under part 1910 is applicable to the agriculture industry.

I. Agreements With and Grants to States

The primary purpose of 29 CFR part 1901 has been to interpret and apply section 18(h) of the Occupational Safety and Health Act of 1970 (the Act). Since the State agreements that were permitted under section 18(h) have been obsolete since 1972, most of part 1901 is no longer necessary. Therefore OSHA is revoking all of part 1901, with the exception of the first sentence of § 1901.2. That sentence interprets the preemption language in section 18(a) of the Act and is relied on by courts in preemption cases. That language is being moved to become the fourth sentence in paragraph (a) of 29 CFR 1902.1.

Part 1950 of title 29 CFR interprets and applies section 23 (a) and (b) of the Act, which authorizes the Secretary of Labor to make grants to the States for certain development and planning purposes with regard to occupational safety and health State plans. As the statutory authority for making these grants to the States expired in 1973, it is being revoked.

Part 1951 of title 29 CFR contains procedures for making grants to the States to assist them in administering and enforcing programs for occupational safety and health contained in State plans. Since financial grant rules and regulations can be found in 29 CFR part 97 and in Office of Management and Budget Circular A–102, part 1951 is redundant and is being revoked.

III. Exemption From Notice and Comment Procedures

OSHA has determined that this rulemaking is not subject to the

procedures for public notice-and-comment rulemaking specified under section 4 of the Administrative Procedure Act (5 U.S.C. 553) or sec. 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)) because this rulemaking does not affect the substantive requirements or coverage of the standards involved. This rulemaking does not modify or revoke existing rights and obligations, and new rights and obligations have not been established. Under this rulemaking, the Agency is merely correcting or clarifying existing regulatory requirements. OSHA therefore finds that public notice-and-comment procedures are unnecessary within the meaning of 5 U.S.C. 553(b)(3)(B) and 29 CFR 1911.5.

IV. Clearance of Information Collection Requirement

On August 29, 1995, the Office of Management and Budget (OMB) published a new 5 CFR part 1320 (60 FR 44978), implementing the information collection provisions of the Paperwork Reduction Act of 1995 (PRA 95) (Pub. L. 104–13, May 22, 1995). Part 1320, which became effective on October 1, 1995, sets forth procedures for information collection requirements. The Act changed the previous law in several significant ways. Among other things, it redefined ''collection of information'' to include third-party and public disclosures.

To be in compliance with PRA 95 by October 1995, the Department of Labor published a document in the Federal Register seeking generic clearances from OMB for a number of existing information collection requests (60 FR 35228, July 6, 1995). This was necessary as third-party disclosure paperwork burden hours were previously deleted from the Information Collection Requests as adjustments resulting from the *Dole, Secretary of Labor et al.* v. *United Steelworkers of America,* Opinion of the Court 494 U.S. 26, 33 (1990) decision. The 13 carcinogen standards' information collection requests were part of this overall generic clearance.

On September 19, 1995, OMB approved the information collection requirements contained in the 13 carcinogen standards until August 31, 1996. Each of the 13 carcinogen standards currently set out the OMB approval number at the end of the corresponding CFR section. While this final rule combines the 13 carcinogens under a single CFR section (which appears in OSHA's standards as §§ 1910.1003, 1915.1003, and 1926.1103), it does not affect or change the burden of those requirements. The OMB numbers for the 13 carcinogens standards are unchanged, and being are listed as a group at the end of the combined carcinogens section.

The 13 separate information collection requests will be combined into one information collection request when submitting the package to OMB for approval later this year. This package will be submitted under OMB number 1218–0085.

List of Subjects

29 CFR Part 1901

Intergovernmental relations, Occupational safety and health.

29 CFR Part 1902

Occupational safety and health, State and local government.

29 CFR Part 1910

Hazardous materials, Incorporation by reference, Occupational safety and health.

29 CFR Part 1915

Shipyards, Occupational safety and health, Protective equipment.

29 CFR Part 1926

Construction industry, Hazardous materials, Incorporation by reference, Occupational safety and health.

29 CFR Part 1928

Agriculture, Incorporation by reference, Occupational safety and health, Protective equipment.

29 CFR Parts 1950 and 1951

Grant programs—health, Grant programs—labor, Occupational safety and health, Reporting and recordkeeping requirements.

V. Authority

This document was prepared under the direction of Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 8th day of February, 1996.

Joseph A. Dear,

Assistant Secretary of Labor.

Accordingly, pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), sec. 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333), and Secretary of Labor's Order No. 1–90 (55 FR 9033), title 29 CFR chapter XVII is amended as set forth below.

PART 1901—[REMOVED AND RESERVED]

1. Part 1901 is removed and reserved.

PART 1902—STATE PLANS FOR THE DEVELOPMENT AND ENFORCEMENT OF STATE STANDARDS

1. The authority citation for part 1902 continues to read as follows:

Authority: Secs. 8 and 18 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 657 and 667.

2. Paragraph (a) of § 1902.1 is revised to read as follows:

§ 1902.1 Purpose and scope.

(a) This part applies the provisions of section 18 of the Williams-Steiger Occupational Safety and Health Act of 1970 (hereinafter referred to as the Act) relating to State plans for the development and enforcement of State occupational safety and health standards. The provisions of the part set forth the procedures by which the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) under a delegation of authority from the Secretary of Labor (Secretary's Order No. 12–71, 36 FR 8754, May 12, 1971) will approve or reject State plans submitted to the Secretary. In the Act, Congress declared it to be its purpose and policy ''* * * to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources'' by, among other actions and programs, ''* * * encouraging the State to assume the fullest responsibility for the administration and enforcement of their occupational safety and health laws. Section 18(a) of the Act is read as preventing any State agency or court from asserting jurisdiction under State law over any occupational safety or health issue with respect to which a Federal standard has been issued under section 6 of the Act. However, section 18(b) provides that any State that desires to assume responsibility for the development and enforcement therein of occupational safety and health standards relating to issues covered by corresponding standards promulgated under section 6 of the Act shall submit a plan for doing so to the Assistant Secretary.

* * * * *

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subpart A—General

1. The authority citation for subpart A is revised to read as follows:

Authority: Secs. 4, 6 and 8 of the Occupational Safety and Health Act of 1910 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754); 8–76 (41 FR 25059); 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911; 5 U.S.C. 553.

2. In § 1910.6, paragraph (a) is redesignated as paragraph (a)(1); paragraph (b) is redesignated as paragraph (a)(3) and revised; paragraph (c) is redesignated as paragraph (a)(2); and new paragraphs (a)(4) and (b) through (w) are added to read as follows:

§ 1910.6 Incorporation by reference.

(a) * * *

(3) The materials listed in paragraphs (b) through (w) of this section are incorporated by reference in the corresponding sections noted as they exist on the date of the approval, and a notice of any change in these materials will be published in the Federal Register. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(4) Copies of the following standards that are issued by the respective private standards organizations may be obtained from the issuing organizations. The materials are available for purchase at the corresponding addresses of the private standards organizations noted below. In addition, all are available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington DC, and through the OSHA Docket Office, room N2625, U.S. Department of Labor, 200 Constitution Ave., Washington, DC 20210, or any of its regional offices.

(b) The following material is available for purchase from the American Conference of Governmental Industrial Hygienists (ACGIH), 1014 Broadway, Cincinnati OH 45202:

(1) ACGIH Manual ''Industrial Ventilation'' (1970), incorporation by reference (IBR) approved for § 1910.94(d) (7)(iv) and (8)(i).

(2) Threshold Limit Values and Biological Exposure Indices for 1986–87 (1986), IBR approved for § 1910.120, PEL definition.

(c) The following material is available for purchase from the American Society of Agricultural Engineers (ASAE), 2950 Niles Road, Post Office Box 229, St. Joseph, MI 49085:

(1) ASAE Emblem for Identifying Slow Moving Vehicles, ASAE S276.2 (1968), IBR approved for § 1910.145(d)(10).

(2) [Reserved]

(d) The following material is available for purchase from the Agriculture Ammonia Institute-Rubber Manufacturers (AAI–RMA) Association, 1400 K St. NW, Washington DC 20005:

(1) AAI-RMA Specifications for Anhydrous Ammonia Hose, IBR approved for § 1910.111(b)(8)(i).

(2) [Reserved]

(e) The following material is available for purchase from the American National Standards Institute (ANSI), 11 West 42nd St., New York, NY 10036:

(1) ANSI A10.2–44 Safety Code for Building Construction, IBR approved for § 1910.144(a)(1)(ii).

(2) ANSI A10.3–70 Safety Requirements for Explosive-Actuated Fastening Tools, IBR approved for § 1910.243(d)(1)(i).

(3) ANSI A11.1–65 (R 70) Practice for Industrial Lighting, IBR approved for §§ 1910.219(c)(5)(iii); 1910.261 (a)(3)(i), (c)(10), and (k)(21); and 1910.265(c)(2).

(4) ANSI A11.1–65 Practice for Industrial Lighting, IBR approved for §§ 1910.262(c)(6) and 1910.265(d)(2)(i)(a).

(5) ANSI A12.1–67 Safety Requirements for Floor and Wall Openings, Railings, and Toe Boards, IBR approved for §§ 1910.66 Appendix D, (c)(4); 1910.68 (b)(4) and (b)(8)(ii); 1910.261 (a)(3)(ii), (b)(3), (c)(3)(i), (c)(15)(ii), (e)(4), (g)(13), (h)(1), (h)(3)(vi), (j)(4) (ii) and (iv), (j)(5)(i), (k)(6), (k)(13)(i), and (k)(15).

(6) ANSI A13.1–56 Scheme for the Identification of Piping Systems, IBR approved for §§ 1910.253(d)(4)(ii); 1910.261(a)(3)(iii); 1910.262(c)(7).

(7) ANSI A14.1–68 Safety Code for Portable Wood Ladders, Supplemented by ANSI A14.1a–77, IBR approved for § 1910.261 (a)(3)(iv) and (c)(3)(i).

(8) ANSI A14.2–56 Safety Code for Portable Metal Ladders, Supplemented by ANSI A14.2a–77, IBR approved for § 1910.261 (a)(3)(v) and (c)(3)(i).

(9) ANSI A14.3–56 Safety Code for Fixed Ladders, IBR approved for §§ 1910.68(b) (4) and (12); 1910.179(c)(2); and 1910.261 (a)(3)(vi) and (c)(3)(i).

(10) ANSI A17.1–65 Safety Code for Elevators, Dumbwaiters and Moving Walks, Including Supplements, A17.1a (1967); A17.1b (1968); A17.1c (1969); A17.1d (1970), IBR approved for § 1910.261 (a)(3)(vii), (g)(11)(i), and (l)(4).

(11) ANSI A17.2–60 Practice for the Inspection of Elevators, Including Supplements, A17.2a (1965), A17.2b (1967), IBR approved for § 1910.261(a)(3)(viii).

(12) ANSI A90.1–69 Safety Standard for Manlifts, IBR approved for § 1910.68(b)(3).

(13) ANSI A92.2–69 Standard for Vehicle Mounted Elevating and Rotating Work Platforms, IBR approved for § 1910.67 (b)(1), (2), (c)(3), and (4) and 1910.268(s)(1)(v).

(14) ANSI A120.1–70 Safety Code for Powered Platforms for Exterior Building Maintenance, IBR approved for § 1910.66 App. D (b) through (d).

(15) ANSI B7.1–70 Safety Code for the Use, Care and Protection of Abrasive Wheels, IBR approved for §§ 1910.94(b)(5)(i)(a); 1910.215(b)(12); and 1910.218(j)(5).

(16) ANSI B15.1–53 (R 58) Safety Code for Mechanical Power Transmission Apparatus, IBR approved for §§ 1910.68(b)(4) and 1910.261 (a)(3)(ix), (b)(1), (e)(3), (e)(9), (f)(4), (j)(5)(iv), (k)(12), and (l)(3).

(17) ANSI B20.1–57 Safety Code for Conveyors, Cableways, and Related Equipment, IBR approved for §§ 1910.218(j)(3); 1910.261 (a)(3)(x), (b)(1), (c)(15)(iv), (f)(4), and (j)(2); 1910.265(c)(18)(i).

(18) ANSI B30.2–43 (R 52) Safety Code for Cranes, Derricks, and Hoists, IBR approved for § 1910.261 (a)(3)(xi), (c)(2)(vi), and (c)(8) (i) and (iv).

(19) ANSI B30.2.0–67 Safety Code for Overhead and Gantry Cranes, IBR approved for §§ 1910.179(b)(2); 1910.261 (a)(3)(xii), (c)(2)(v), and (c)(8) (i) and (iv).

(20) ANSI B30.5–68 Safety Code for Crawler, Locomotive, and Truck Cranes, IBR approved for §§ 1910.180(b)(2) and 1910.261(a)(3)(xiii).

(21) ANSI B30.6–69 Safety Code for Derricks, IBR approved for §§ 1910.181(b)(2) and 1910.268(j)(4)(iv) (E) and (H).

(22) ANSI B31.1–55 Code for Pressure Piping, IBR approved for § 1910.261(g)(18)(iii).

(23) ANSI B31.1–67, IBR approved for § 1910.253(d)(1)(i)(A)

(24) ANSI B31.1a–63 Addenda to ANSI B31.1 (1955), IBR approved for § 1910.261(g)(18)(iii).

(25) ANSI B31.1–67 and Addenda B31.1 (1969) Code for Pressure Piping, IBR approved for §§ 1910.103(b)(1)(iii)(b); 1910.104(b)(5)(ii); 1910.218 (d)(4) and (e)(1)(iv); and 1910.261 (a)(3)(xiv) and (g)(18)(iii).

(26) ANSI B31.2–68 Fuel Gas Piping, IBR approved for § 1910.261(g)(18)(iii).

(27) ANSI B31.3–66 Petroleum Refinery Piping, IBR approved for § 1910.103(b)(3)(v)(b).

(28) ANSI B31.5–66 Addenda B31.5a (1968) Refrigeration Piping, IB approved for §§ 1910.103(b)(3)(v)(b) and 1910.111(b)(7)(iii).

(29) ANSI B56.1–69 Safety Standard for Powered Industrial Trucks, IBR approved for §§ 1910.178(a) (2) and (3) and 1910.261 (a)(3)(xv), (b)(6), (m)(2), and (m)(5)(iii).

(30) ANSI B57.1–65 Compressed Gas Cylinder Valve Outlet and Inlet Connections, IBR approved for § 1910.253(b)(1)(iii).

(31) ANSI B71.1–68 Safety Specifications for Power Lawn Mowers, IBR approved for § 1910.243(e)(1)(i).

(32) ANSI B175.1–1991, Safety Requirements for Gasoline-Powered Chain Saws 1910.266(e)(2)(i).

(33) ANSI C1–71 National Electrical Code, IBR approved for § 1910.66 Appendix D (c)(22) (i) and (vii).

(34) ANSI C33.2–56 Safety Standard for Transformer-Type Arc Welding Machines, IBR approved for § 1910.254(b)(1).

(35) ANSI D8.1–67 Practices for Railroad Highway Grade Crossing Protection, IBR approved for § 1910.265(c)(31)(i).

(36) ANSI H23.1–70 Seamless Copper Water Tube Specification, IBR approved for § 1910.110(b) (8)(ii) and (13)(ii)(b)(1).

(37) ANSI H38.7–69 Specification for Aluminum Alloy Seamless Pipe and Seamless Extruded Tube, IBR approved for § 1910.110(b)(8)(i).

(38) ANSI J6.4–71 Standard Specification for Rubber Insulating Blankets, IBR approved for § 1910.268 (f)(1) and (n)(11)(v).

(39) ANSI J6.6–71 Standard Specification for Rubber Insulating Gloves, IBR approved for § 1910.268 (f)(1) and (n)(11)(iv).

(40) ANSI K13.1–67 Identification of Gas Mask Canisters, IBR approved for § 1910.261 (a)(3)(xvi) and (h)(2)(iii).

(41) ANSI K61.1–60 Safety Requirements for the Storage and Handling of Anhydrous Ammonia, IBR approved for § 1910.111(b)(11)(i).

(42) ANSI K61.1–66 Safety Requirements for the Storage and Handling of Anhydrous Ammonia, IBR approved for § 1910.111(b)(11)(i).

(43) ANSI O1.1–54 (R 61) Safety Code for Woodworking Machinery, IBR approved for § 1910.261 (a)(3)(xvii), (e)(7), and (i)(2).

(44) ANSI S1.4–71 (R 76) Specification for Sound Level Meters, IBR approved for § 1910.95 Appendixes D and I.

(45) ANSI S1.11–71 (R 76) Specification for Octave, Half-Octave and Third-Octave Band Filter Sets, IBR approved for § 1910.95 Appendix D.

(46) ANSI S3.6–69 Specifications for Audiometers, IBR approved for § 1910.95(h)(2) and (5)(ii) and Appendix D.

(47) ANSI Z4.1–68 Requirements for Sanitation in Places of Employment, IBR approved for § 1910.261 (a)(3)(xviii) and (g)(15)(vi).

(48) ANSI Z4.2–42 Standard Specifications for Drinking Fountains, IBR approved for § 1910.142(c)(4).

(49) ANSI Z9.1–51 Safety Code for Ventilation and Operation of Open Surface Tanks, IBR approved for §§ 1910.94(c)(5)(iii)(e) and 1910.261 (a)(3)(xix), (g)(18)(v), and (h)(2)(i).

(50) ANSI Z9.2–60 Fundamentals Governing the Design and Operation of Local Exhaust Systems, IBR approved for §§ 1910.94 (a)(4)(i) introductory text, (a)(6) introductory text, (b)(3)(ix), (b)(4) (i) and (ii), (c)(3)(i) introductory text, (c)(5)(iii)(b), (c)(7)(iv)(a), (d)(1)(ii), (d)(3), (d)(7)(iv), (d)(8)(i); 1910.261 (a)(3)(xx), (g)(1) (i) and (iii), and (h)(2)(ii).

(51) ANSI Z12.12–68 Standard for the Prevention of Sulfur Fires and Explosions, IBR approved for § 1910.261 (a)(3)(xxi), (d)(1)(i), (f)(2)(iv), and (g)(1)(i).

(52) ANSI Z12.20–62 (R 69) Code for the Prevention of Dust Explosions in Woodworking and Wood Flour Manufacturing Plants, IBR approved for § 1910.265(c)(20)(i).

(53) ANSI Z21.30–64 Requirements for Gas Appliances and Gas Piping Installations, IBR approved for § 1910.265(c)(15).

(54) ANSI Z24.22–57 Method of Measurement of Real-Ear Attenuation of Ear Protectors at Threshold, IBR approved for § 1910.261(a)(3)(xxii).

(55) ANSI Z33.1–61 Installation of Blower and Exhaust Systems for Dust, Stock, and Vapor Removal or Conveying, IBR approved for §§ 1910.94(a)(4)(i); 1910.261 (a)(3)(xxiii) and (f)(5); and 1910.265(c)(20)(i).

(56) ANSI Z33.1–66 Installation of Blower and Exhaust Systems for Dust, Stock, and Vapor Removal or Conveying, IBR approved for § 1910.94(a)(2)(ii).

(57) ANSI Z35.1–68 Specifications for Accident Prevention Signs, IBR approved for § 1910.261 (a)(3)(xxiv) and (c)(16).

(58) ANSI Z41.1–67 Men's Safety Toe Footwear, IBR approved for §§ 1910.94(a)(5)(v); 1910.136(b)(2) and 1910.261(i)(4).

(59) ANSI Z41–91, Personal Protection-Protective Footwear, IBR approved for § 1910.136(b)(1).

(60) ANSI Z48.1–54 Method for Marking Portable Compressed Gas Containers to Identify the Material Contained, IBR approved for §§ 1910.103(b)(1)(i)(*c*); 1910.110(b)(5)(iii); and 1910.253(b)(1)(ii).

(61) ANSI Z48.1–54 (R 70) Method for Marking Portable Compressed Gas Containers To Identify the Material Contained, IBR approved for §§ 1910.111(e)(1) and 1910.134(d)(4).

(62) ANSI Z49.1–67 Safety in Welding and Cutting, IBR approved for § 1910.252(c)(1)(iv) (A) and (B).

(63) ANSI Z53.1–67 Safety Color Code for Marking Physical Hazards and the Identification of Certain Equipment, IBR approved for §§ 1910.97(a)(3)(ii); 1910.145(d) (2), (4), and (6).

(64) ANSI Z54.1–63 Safety Standard for Non-Medical X-Ray and Sealed Gamma Ray Sources, IBR approved for § 1910.252(d) (1)(vii) and (2)(ii).

(65) ANSI Z87.1–68 Practice of Occupational and Educational Eye and Face Protection, IBR approved for §§ 1910.133(b)(2); 1910.252(b)(2)(ii)(I); and 1910.261 (a)(3)(xxv), (d)(1)(ii), (f)(5), (g)(10), (g)(15)(v), (g)(18)(ii), and (i)(4).

(66) ANSI Z87.1–89, Practice for Occupational and Educational Eye and Face Protection, IBR approved for § 1910.133(b)(1).

(67) ANSI Z88.2–69 Practices for Respiratory Protection, IBR approved for §§ 1910.94(c)(6)(iii)(*a*); 1910.134(c); and 1910.261 (a)(3)(xxvi), (b)(2), (f)(5), (g)(15)(v), (h)(2) (iii) and (iv), and (i)(4).

(68) ANSI Z89.1–69 Safety Requirements for Industrial Head Protection, IBR approved for §§ 1910.135(b)(2); and 1910.261 (a)(3)(xxvii), (b)(2), (g)(15)(v), and (i)(4).

(69) ANSI Z89.1–86, Protective Headwear for Industrial Workers Requirements, IBR approved for § 1910.135(b)(1).

(70) ANSI Z89.2–71 Safety Requirements for Industrial Protective Helmets for Electrical Workers, Class B, IBR approved for § 1910.268(i)(1).

(f) The following material is available for purchase from the American Petroleum Institute (API), 1220 L Street NW, Washington DC 20005:

(1) API 12A (Sept. 1951) Specification for Oil Storage Tanks With Riveted Shells, 7th Ed., IBR approved for § 1910.106(b)(1)(i)(*a*)(*2*).

(2) API 12B (May 1958) Specification for Bolted Production Tanks, 11th Ed., With Supplement No. 1, Mar. 1962, IBR approved for § 1910.106(b)(1)(i)(*a*)(*3*).

(3) API 12D (Aug. 1957) Specification for Large Welded Production Tanks, 7th Ed., IBR approved for § 1910.106(b)(1)(i)(*a*)(*3*).

(4) API 12F (Mar. 1961) Specification for Small Welded Production Tanks, 5th Ed., IBR approved for § 1910.106(b)(1)(i)(*a*)(*3*).

(5) API 620, Fourth Ed. (1970) Including Appendix R, Recommended Rules for Design and Construction of Large Welded Low Pressure Storage Tanks, IBR approved for §§ 1910.103(c)(1)(i)(*a*); 1910.106(b)(1)(iv)(b)(1); and 1910.111(*d*)(*1*) (ii) and (iii).

(6) API 650 (1966) Welded Steel Tanks for Oil Storage, 3rd Ed., IBR approved for § 1910.106(b)(1)(iii)(*a*)(*2*).

(7) API 1104 (1968) Standard for Welding Pipelines and Related Facilities, IBR approved for § 1910.252(d)(1)(v).

(8) API 2000 (1968) Venting Atmospheric and Low Pressure Storage Tanks, IBR approved for § 1910.106(b)(2)(iv)(*b*)(*1*).

(9) API 2201 (1963) Welding or Hot Tapping on Equipment Containing Flammables, IBR approved for § 1910.252(d)(1)(vi).

(g) The following material is available for purchase from the American Society of Mechanical Engineers (ASME), United Engineering Center, 345 East 47th Street, New York, NY 10017:

(1) ASME Boiler and Pressure Vessel Code, Sec. VIII, 1949, 1950, 1952, 1956, 1959, and 1962 Ed., IBR approved for §§ 1910.110 (b)(10)(iii) (Table H–26), (d)(2) (Table H–31); (e)(3)(i) (Table H–32), (h)(2) (Table H–34); and 1910.111(b)(2)(vi);

(2) ASME Code for Pressure Vessels, 1968 Ed., IBR approved for §§ 1910.106(i)(3)(i); 1910.110(g)(2)(iii)(*b*)(*2*); and 1910.217(b)(12);

(3) ASME Boiler and Pressure Vessel Code, Sec. VIII, 1968, IBR approved for §§ 1910.103; 1910.104(b)(4)(ii); 1910.106 (b)(1)(iv)(*b*)(*2*) and (*i*)(3)(ii); 1910.107; 1910.110(b)(11) (i)(*b*) and (iii)(*a*)(*1*); 1910.111(b)(2) (i), (ii), and (iv); and 1910.169(a)(2) (i) and (ii);

(4) ASME Boiler and Pressure Vessel Code, Sec. VIII, Paragraph UG–84, 1968, IBR approved for § 1910.104 (b)(4)(ii) and (b)(5)(iii);

(5) ASME Boiler and Pressure Vessel Code, Sec. VIII, Unfired Pressure Vessels, Including Addenda (1969), IBR approved for §§ 1910.261; 1910.262; 1910.263(i)(24)(ii);

(6) Code for Unfired Pressure Vessels for Petroleum Liquids and Gases of the API and the ASME, 1951 Ed., IBR approved for § 1910.110(b)(3)(iii); and

(7) ASME B56.6–1992 (with addenda), Safety Standard for Rough Terrain Forklift Trucks, IBR approved for § 1910.266(f)(4).

(h) The following material is available for purchase from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103:

(1) ASTM A 47–68 Malleable Iron Castings, IBR approved for § 1910.111(b)(7)(vi).

(2) ASTM A 53–69 Welded and Seamless Steel Pipe, IBR approved for §§ 1910.110(b)(8)(i) (*a*) and (*b*) and 1910.111(b)(7)(iv).

(3) ASTM A 126–66 Gray Iron Casting for Valves, Flanges and Pipe Fitting, IBR approved for § 1910.111(b)(7)(vi).

(4) ASTM A 391–65 (ANSI G61.1–1968) Alloy Steel Chain, IBR approved for § 1910.184(e)(4).

(5) ASTM A 395–68 Ductile Iron for Use at Elevated Temperatures, IBR approved for § 1910.111(b)(7)(vi).

(6) ASTM B 88–69 Seamless Copper Water Tube, IBR approved for § 1910.110(b) (8)(i)(*a*) and (13)(ii)(*b*)(*1*).

(7) ASTM B 88–66A Seamless Copper Water Tube, IBR approved for § 1910.252(d)(1)(i)(A)(2).

(8) ASTM B 117–64 Salt Spray (Fog) Test, IBR approved for § 1910.268(g)(2)(i)(A).

(9) ASTM B 210–68 Aluminum-Alloy Drawn Seamless Tubes, IBR approved for § 1910.110(b)(8)(ii).

(10) ASTM B 241–69, IBR approved for § 1910.110(b)(8)(i) introductory text.

(11) ASTM D 5–65 Test for Penetration by Bituminous Materials, IBR approved for § 1910.106(a)(17).

(12) ASTM D 56–70 Test for Flash Point by Tag Closed Tester, IBR approved for § 1910.106(a)(14)(i).

(13) ASTM D 86–62 Test for Distillation of Petroleum Products, IBR approved for §§ 1910.106(a)(5) and 1910.119(b) ''Boiling point.''

(14) ASTM D 88–56 Test for Saybolt Viscosity, IBR approved for § 1910.106(a)(37).

(15) ASTM D 93–71 Test for Flash Point by Pensky Martens, IBR approved for § 1910.106(a)(14)(ii).

(16) ASTM D 323–68, IBR approved for § 1910.106(a)(30)

(17) ASTM D 445–65 Test for Viscosity of Transparent and Opaque Liquids, IBR approved for § 1910.106(a)(37).

(18) ASTM D 1692–68 Test for Flammability of Plastic Sheeting and Cellular Plastics, IBR approved for § 1910.103(c)(1)(v)(*d*).

(19) ASTM D 2161–66 Conversion Tables For SUS, IBR approved for § 1910.106(a)(37).

(i) The following material is available for purchase from the American Welding Society (AWS), 550 NW, LeJeune Road, P.O. Box 351040, Miami FL 33135:

(1) AWS A3.0 (1969) Terms and Definitions, IBR approved for § 1910.251(c).

(2) AWS A6.1 (1966) Recommended Safe Practices for Gas Shielded Arc Welding, IBR approved for § 1910.254(d)(1).

(3) AWS B3.0–41 Standard Qualification Procedure, IBR approved for § 1910.67(c)(5)(i).

(4) AWS D1.0–1966 Code for Welding in Building Construction, IBR approved for § 1910.27(b)(6).

(5) AWS D2.0–69 Specifications for Welding Highway and Railway Bridges, IBR approved for § 1910.67(c)(5)(iv).

(6) AWS D8.4–61 Recommended Practices for Automotive Welding Design, IBR approved for § 1910.67(c)(5)(ii).

(7) AWS D10.9–69 Standard Qualification of Welding Procedures and Welders for Piping and Tubing, IBR approved for § 1910.67(c)(5)(iii).

(j) The following material is available for purchase from the Department of Commerce:

(1) Commercial Standard, CS 202–56 (1961) ''Industrial Lifts and Hinged Loading Ramps,'' IBR approved for § 1910.30(a)(3).

(2) Publication ''Model Performance Criteria for Structural Fire Fighters' Helmets,'' IBR approved for § 1910.156(e)(5)(i).

(k) The following material is available for purchase from the Compressed Gas Association (CGA), 1235 Jefferson Davis Highway, Arlington, VA 22202:

(1) CGA C–6 (1968) Standards for Visual Inspection of Compressed Gas Cylinders, IBR approved for § 1910.101(a).

(2) CGA C–8 (1962) Standard for Requalification of ICC–3HT Cylinders, IBR approved for § 1910.101(a).

(3) CGA G–1 (1966) Acetylene, IBR approved for § 1910.102(a).

(4) CGA G–1.3 (1959) Acetylene Transmission for Chemical Synthesis, IBR approved for § 1910.102(b).

(5) CGA G–1.4 (1966) Standard for Acetylene Cylinder Charging Plants, IBR approved for § 1910.102(b).

(6) CGA G–7.1 (1966) Commodity Specification, IBR approved for § 1910.134(d)(1).

(7) CGA G–8.1 (1964) Standard for the Installation of Nitrous Oxide Systems at Consumer Sites, IBR approved for § 1910.105.

(8) CGA P–1 (1965) Safe Handling of Compressed Gases, IBR approved for § 1910.101(b).

(9) CGA P–3 (1963) Specifications, Properties, and Recommendations for Packaging, Transportation, Storage and Use of Ammonium Nitrate, IBR approved for § 1910.109(i)(1)(ii)(*b*).

(10) CGA S–1.1 (1963) and 1965 Addenda. Safety Release Device Standards—Cylinders for Compressed Gases, IBR approved for §§ 1910.101(c); 1910.103(c)(1)(iv)(*a*)(*2*).

(11) CGA S–1.2 (1963) Safety Release Device Standards, Cargo and Portable Tanks for Compressed Gases, IBR approved for §§ 1910.101(c); 1910.103(c)(1)(iv)(*a*)(*2*).

(12) CGA S–1.3 (1959) Safety Release Device Standards-Compressed Gas Storage Containers, IBR approved for §§ 1910.103(c)(1)(iv)(*a*)(*2*); 1910.104(b)(6)(iii); and 1910.111(d)(4)(ii)(*b*).

(13) CGA 1957 Standard Hose Connection Standard, IBR approved for § 1910.253(e) (4)(v) and (5)(iii).

(14) CGA and RMA (Rubber Manufacturer's Association) Specification for Rubber Welding Hose (1958), IBR approved for § 1910.253(e)(5)(i).

(15) CGA 1958 Regulator Connection Standard, IBR approved for § 1910.253(e) (4)(iv) and (6).

(l) The following material is available for purchase from the Crane Manufacturer's Association of America, Inc. (CMAA), 1 Thomas Circle NW, Washington DC 20005:

(1) CMAA Specification 1B61, Specifications for Electric Overhead Traveling Cranes, IBR approved for § 1910.179(b)(6)(i).

(2) [Reserved].

(m) The following material is available for purchase from the General Services Administration:

(1) GSA Pub. GG-B–0067b, Air Compressed for Breathing Purposes, or Interim Federal Specifications, Apr. 1965, IBR approved for § 1910.134(d)(4).

(2) [Reserved]

(n) The following material is available for purchase from the Department of Health and Human Services:

(1) Publication No. 76–120 (1975), List of Personal Hearing Protectors and Attenuation Data, IBR approved for § 1910.95 App. B.

(2) [Reserved]

(o) The following material is available for purchase from the Institute of Makers of Explosives (IME), 420 Lexington Avenue, New York, NY 10017:

(1) IME Pamphlet No. 17, 1960, Safety in the Handling and Use of Explosives, IBR approved for §§ 1910.261 (a)(4)(iii) and (c)(14)(ii).

(2) [Reserved]

(p) The following material is available for purchase from the National Electrical Manufacturer's Association (NEMA):

(1) NEMA EW–1 (1962) Requirements for Electric Arc Welding Apparatus, IBR approved for §§ 1910.254(b)(1).

(2) [Reserved]

(q) The following material is available for purchase from the National Fire Protection Association (NFPA), Batterymarch Park, Quincy, MA 02269:

(1) NFPA 30 (1969) Flammable and Combustible Liquids Code, IBR approved for § 1910.178(f)(1).

(2) NFPA 32–1970 Standard for Dry Cleaning Plants, IBR approved for § 1910.106(j)(6)(i).

(3) NFPA 33–1969 Standard for Spray Finishing Using Flammable and Combustible Material, IBR approved for §§ 1910.94(c) (1)(ii), (2), (3) (i) and (iii), and (5).

(4) NFPA 34–1966 Standard for Dip Tanks Containing Flammable or Combustible Liquids, IBR approved for § 1910.94(d)(2)(iv).

(5) NFPA 35–1970 Standard for the Manufacture of Organic Coatings, IBR approved for § 1910.106(j)(6)(ii).

(6) NFPA 36–1967 Standard for Solvent Extraction Plants, IBR approved for § 1910.106(j)(6)(iii).

(7) NFPA 37–1970 Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines, IBR approved for §§ 1910.106(j)(6)(iv) and 1910.110 (b)(20)(iv)(c) and (e)(11).

(8) NFPA 51B–1962 Standard for Fire Protection in Use of Cutting and Welding Processes, IBR approved for § 1910.252(a)(1) introductory text.

(9) NFPA 54–1969 Standard for the Installation of Gas Appliances and Gas Piping, IBR approved for § 1910.110(b)(20)(iv)(a).

(10) NFPA 54A–1969 Standard for the Installation of Gas Piping and Gas Equipment on Industrial Premises and Certain Other Premises, IBR approved for § 1910.110(b)(20)(iv)(b).

(11) NFPA 58–1969 Standard for the Storage and Handling of Liquefied Petroleum Gases (ANSI Z106.1–1970), IBR approved for §§ 1910.110 (b)(3)(iv) and (i)(3) (i) and (ii); and 1910.178(f)(2).

(12) NFPA 59–1968 Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants, IBR approved for §§ 1910.110 (b)(3)(iv) and (i)(2)(iv).

(13) NFPA 62–1967 Standard for the Prevention of Dust Explosions in the Production, Packaging, and Handling of Pulverized Sugar and Cocoa, IBR approved for § 1910.263(k)(2)(i).

(14) NFPA 68–1954 Guide for Explosion Venting, IBR approved for § 1910.94(a)(2)(iii).

(15) NFPA 70–1971 National Electrical Code, IBR approved for § 1910.66 App. D(c)(2).

(16) NFPA 78–1968 Lightning Protection Code, IBR approved for § 1910.109(i)(6)(ii).

(17) NFPA 80–1968 Standard for Fire Doors and Windows, IBR approved for § 1910.106(d)(4)(i).

(18) NFPA 80–1970 Standard for the Installation of Fire Doors and Windows, IBR approved for § 1910.253(f)(6)(i)(I).

(19) NFPA 86A–1969 Standard for Oven and Furnaces Design, Location and Equipment, IBR approved for §§ 1910.107 (j)(1) and (l)(3) and 1910.108 (b)(2) and (d)(2).

(20) NFPA 91–1961 Standard for the Installation of Blower and Exhaust Systems for Dust, Stock, and Vapor Removal or Conveying (ANSI Z33.1–61), IBR approved for § 1910.107(d)(1).

(21) NFPA 91–1969 Standards for Blower and Exhaust Systems, IBR approved for § 1910.108(b)(1).

(22) NFPA 96–1970 Standard for the Installation of Equipment for the Removal of Smoke and Grease Laden Vapors from Commercial Cooking Equipment, IBR approved for § 1910.110(b)(20)(iv)(d).

(23) NFPA 101–1970 Code for Life Safety From Fire in Buildings and Structures, IBR approved for § 1910.261(a)(4)(ii).

(24) NFPA 203M–1970 Manual on Roof Coverings, IBR approved for § 1910.109(i)(1)(iii)(c).

(25) NFPA 251–1969 Standard Methods of Fire Tests of Building Construction and Materials, IBR approved for §§ 1910.106 (d)(3)(ii) introductory text and (d)(4)(i).

(26) NFPA 302–1968 Fire Protection Standard for Motor-Craft (Pleasure and Commercial), IBR approved for § 1910.265(d)(2)(iv) introductory text.

(27) NFPA 385–1966 Recommended Regulatory Standard for Tank Vehicles for Flammable and Combustible Liquids, IBR approved for § 1910.106(g)(1)(i)(e)(1).

(28) NFPA 496–1967 Standard for Purged Enclosures for Electrical Equipment in Hazardous Locations, IBR approved for § 1910.103(c)(1)(ix)(e)(1).

(29) NFPA 505–1969 Standard for Type Designations, Areas of Use, Maintenence, and Operation of Powered Industrial Trucks, IBR approved for § 1910.110(e)(2)(iv).

(30) NFPA 566–1965 Standard for the Installation of Bulk Oxygen Systems at Consumer Sites, IBR approved for §§ 1910.253 (b)(4)(iv) and (c)(2)(v).

(31) NFPA 656–1959 Code for the Prevention of Dust Ignition in Spice Grinding Plants, IBR approved for § 1910.263(k)(2)(i).

(32) NFPA 1971–1975 Protective Clothing for Structural Fire Fighting, IBR approved for § 1910.156(e)(3)(ii) introductory text.

(r) The following material is available for purchase from the National Food Plant Institute, 1700 K St. NW., Washington, DC 20006:

(1) Definition and Test Procedures for Ammonium Nitrate Fertilizer (Nov. 1964), IBR approved for § 1910.109 Table H–22, ftn. 3.

(2) [Reserved]

(s) The following material is available for purchase from the National Institute for Occupational Safety and Health (NIOSH):

(1) Registry of Toxic Effects of Chemical Substances, 1978, IBR approved for § 1910.20(c)(13)(i) and Appendix B.

(2) Development of Criteria for Fire Fighters Gloves; Vol. II, Part II; Test

Methods, 1976, IBR approved for § 1910.156(e)(4)(i) introductory text.

(3) NIOSH Recommendations for Occupational Safety and Health Standards (Sept. 1987), IBR approved for § 1910.120 PEL definition.

(t) The following material is available for purchase from the Public Health Service:

(1) U.S. Pharmacopeia, IBR approved for § 1910.134(d)(1).

(2) Publication No. 934 (1962), Food Service Sanitation Ordinance and Code, Part V of the Food Service Sanitation Manual, IBR approved for § 1910.142(i)(1).

(u) The following material is available for purchase from the Society of Automotive Engineers (SAE), 485 Lexington Avenue, New York, NY 10017:

(1) SAE J185, June 1988, Recommended Practice for Access Systems for Off-Road Machines, IBR approved for § 1910.266(f)(5)(i).

(2) SAE J231, January 1981, Minimum Performance Criteria for Falling Object Protective Structure (FOPS), IBR approved for § 1910.266(f)(3)(ii).

(3) SAE J386, June 1985, Operator Restraint Systems for Off-Road Work Machines, IBR approved for § 1910.266(d)(3)(iv).

(4) SAE J397, April 1988, Deflection Limiting Volume-ROPS/FOPS Laboratory Evaluation, IBR approved for § 1910.266(f)(3)(iv).

(5) SAE 765 (1961) SAE Recommended Practice: Crane Loading Stability Test Code, IBR approved for § 1910.180 (c)(1)(iii) and (e)(2)(iii)(*a*).

(6) SAE J1040, April 1988, Performance Criteria for Rollover Protective Structures (ROPS) for Construction, Earthmoving, Forestry and Mining Machines, IBR approved for § 1910.266(f)(3)(ii).

(v) The following material is available for purchase from the Fertilizer Institute, 1015 18th Street NW, Washington, DC 20036:

(1) Standard M–1 (1953, 1955, 1957, 1960, 1961, 1963, 1965, 1966, 1967, 1968), Superseded by ANSI K61.1–1972, IBR approved for § 1910.111(b)(1) (i) and (iii).

(2) [Reserved]

(w) The following material is available for purchase from Underwriters Laboratories (UL), 207 East Ohio Street, Chicago, IL 60611:

(1) UL 58–61 Steel Underground Tanks for Flammable and Combustible Liquids, 5th Ed., IBR approved for § 1910.106(b)(1)(iii)(*a*)(*1*).

(2) UL 80–63 Steel Inside Tanks for Oil-Burner Fuel, IBR approved for § 1910.106(b)(1)(iii)(*a*)(*1*).

(3) UL 142–68 Steel Above Ground Tanks for Flammable and Combustible Liquids, IBR approved for § 1910.106(b)(1)(iii)(*a*)(*1*).

Subpart B—Adoption and Extension of Established Federal Standards

3. The authority citation for subpart B is revised to read as follows:

Authority: Secs. 4, 6 and 8 of the Occupational Safety and Health Act, 29 U.S.C. 653, 655, 657; Walsh-Healey Act, 41 U.S.C. 35 et seq; Service Contract Act of 1965, 41 U.S.C. 351 et seq; sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 U.S.C. 333; sec. 41, Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 941; National Foundation of Arts and Humanities Act, 20 U.S.C. 951 et seq.; Secretary of Labor's Order No. 12–71 (36 FR 8754); 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; and 29 CFR part 1911.

§ 1910.17 [Amended]

4. In § 1910.17, paragraphs (a) and (b) are removed and reserved and in paragraph (c), the phrase ''Except as provided in paragraph (b) of this section, except'' which appears at the beginning of the paragraph, is removed and the word ''Except'' is added in its place.

Subpart C—General Safety and Health Provisions

5. The authority citation for subpart C continues to read as follows:

Authority: Sec. 8 of the Occupational Safety and Health Act, 29 U.S.C. 657; Secretary of Labor's Order No. 9–83 (48 FR 35736); and 29 CFR part 1911.

§ 1910.20 [Amended]

6. In the first sentence of § 1910.20(c)(13)(i), the word ''least'' is revised to read ''latest'' and the phrase '', which is incorporated by reference as specified in § 1910.6'' is added after the words ''Substances (RTECS)''.

Subpart D—Walking-Working Surfaces

7. The authority citation for subpart D is revised to read as follows:

Authority: Secs. 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; and 29 CFR part 1911.

§ 1910.30 [Amended]

8. In § 1910.30(a)(3), the phrase '', which is incorporated by reference as specified in § 1910.6'' is added after the words ''Department of Commerce'' at the end of the paragraph.

§ 1910.31 [Removed]

9. Section 1910.31 is removed.

§ 1910.32 [Removed]

10. Section 1910.32 is removed.

Subpart E—Means of Egress

11. The authority citation for subpart E continues to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable.

§ 1910.39 [Removed]

12. Section 1910.39 is removed.

§ 1910.40 [Removed]

13. Section 1910.40 is removed.

Subpart F—Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms

14. The authority citation for subpart F is revised to read as follows:

Authority: Secs. 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; and 29 CFR part 1911.

§ 1910.66 [Amended]

15. Paragraph (k) of § 1910.66 is removed.

§ 1910.67 [Amended]

16. In the introductory text to § 1910.67(b)(1), at the end of the first sentence, after the words ''including appendix,'' the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

17. In the introductory text to § 1910.67(c)(5), after the words ''Society (AWS) Standards'' the phrase ''which are incorporated by reference as specified in § 1910.6,'' is added.

§ 1910.68 [Amended]

18. In § 1910.68(b)(3), after the designation ''A90.1–1969,'' the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

19. In § 1910.68(b)(4), the following new final sentence is added: ''The preceding ANSI standards are incorporated by reference as specified in § 1910.6.''

20. In § 1910.68(c)(7)(ii)(*b*), the phrase ''subdivision (a) of the subdivision'' is changed to read ''paragraph (c)(7)(ii)(*a*) of this section''.

21. The parenthetical note entitled ''Source'' that appears at the end of the section is removed.

§ 1910.69 [Removed]

22. Section 1910.69 is removed.

§ 1910.70 [Removed]

23. Section 1910.70 is removed.

Subpart G—Occupational Health and Environmental Controls

24. The authority citation for subpart G is revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

§ 1910.94 [Amended]

25. In § 1910.94(a)(2)(iii), following the designation ''(NFPA 91–1961)'' that appears near the end of the second sentence, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added and the words ''Guide. NFPA 68–1954'' that appear at the end of the paragraph are revised to read ''Guide, NFPA 68–1954, which is incorporated by reference as specified in § 1910.6''.

26. At the end of the introductory text to § 1910.94(a)(4)(i), following the designation ''ANSI Z33.1–1961,'' the phrase '', which are incorporated by reference as specified in § 1910.6'' is added.

27. In § 1910.94(a)(5)(v)(*a*), following the designation ''Z41.1–1967'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

28. In § 1910.94(b)(5)(i)(*a*), following the designation ''B7.1–1970'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

29. In § 1910.94(c)(1)(ii), following the designation ''NFPA No. 33–1969'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

30. In § 1910.94(c)(4)(iii), the phrase ''subparagraph (6)(ii) of this paragraph'' that appears at the end of the paragraph is changed to read ''paragraph (c)(6)(ii) of this section.''

31. In § 1910.94(c)(5)(i)(*a*), the phrase ''subdivision (iii) of this subparagraph'' is changed to read ''paragraph (c)(5)(iii) of this section.''

32. In § 1910.94(c)(5)(iii), the bracketed designation ''[Reserved]'' for the introductory text is removed.

33. In § 1910.94(c)(5)(iii)(*e*), following the designation ''Z9.1–1951'' that appears at the end of the first sentence, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

34. In the first sentence of § 1910.94(c)(6)(ii), the phrase ''subdivision (i) of this subparagraph'' is revised to read ''paragraph (c)(6)(i) of this section.''

35. In § 1910.94(c)(6)(iii)(*a*), following the designation ''Z88.2–1969'' that appears near the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6,'' is added.

36. In § 1910.94(c)(7)(iv)(*e*), the phrase ''paragraph (*f*) of this subdivision'' that appears at the end of the paragraph is revised to read ''paragraph (c)(7)(iv)(*f*) of this section.''

37. In § 1910.94(d)(2)(iv), following the words ''Fire Protection Association'' that appear at the end of the second sentence, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

38. In § 1910.94(d)(7)(iv), following the words ''Governmental Industrial Hygienists 1970'' that appear at the end of the first sentence, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

§ 1910.95 [Amended]

39. In § 1910.95(h)(2), following the designation ''S3.6–1969'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6,'' is added.

40. In Appendix G to § 1910.95, under the heading entitled ''Where Can Equipment AND Technical Advice be Obtained,'' the last sentence of the second paragraph is removed.

41. In Appendix G to § 1910.95, the table entitled ''OSHA Onsite Consultation Project Directory'' is removed.

42. In Appendix H to § 1910.95, the telephone number for OSHA's Technical Data Center that appears near the end of the last paragraph is revised to read ''(202) 219–7500''.

§ 1910.97 [Amended]

43. In § 1910.97(a)(3)(ii), following the designation ''Z53.1–1953'' that appears near the end of the first sentence, the phrase ''which is incorporated by reference as specified in § 1910.6,'' is added.

§ 1910.99 [Removed]

44. Section 1910.99 is removed.

§ 1910.100 [Removed]

45. Section 1910.100 is removed.

Subpart H—Hazardous Materials

46. The authority citation for subpart H is revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

Sections 1910.103, 1910.106–1910.111, and 1910.119 are also issued under 29 CFR part 1911.

Section 1910.119 is also issued under sec. 304, Clean Air Act Amendments of 1990 (Pub. L. 101–549, Nov. 15, 1990, reprinted at 29 U.S.C. 655 Note (Supp. 1991)).

Section 1910.120 is also issued under sec. 126, Superfund Amendments and Reauthorization Act of 1986 as amended (29 U.S.C. 655 Note), 5 U.S.C. 553, and 29 CFR part 1911.

§ 1910.101 [Amended]

47. In § 1910.101(a), following the designation ''C–8–1962'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

48. In § 1910.101(b), following the designation ''P–1–1965'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

49. In § 1910.101(c), following the designation ''S–1.2–1963'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

§ 1910.102 [Amended]

50. In § 1910.102(a), following the designation ''G–1–1966'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

51. In § 1910.102(b), following the designation ''G–1.3–1959'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

52. In § 1910.102(c), following the designation ''G–1.4–1966'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

§ 1910.103 [Amended]

53. In § 1910.103(b)(1)(i)(*a*)(*1*), following the words ''Pressure Vessels—1968'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

54. In § 1910.103(b)(1)(i)(*c*), following the designation ''Z48.1–1954'' that appears at the end of the first sentence, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

55. In § 1910.103(b)(1)(iii)(*b*), following the designation ''B31.1–1969'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

56. In § 1910.103(c)(1)(i)(*a*), following the parenthetical ''(April 1965)'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

57. In § 1910.103(c)(1)(iv)(*a*)(*1*), following the phrase ''Gas Storage Containers'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

58. In § 1910.103(c)(1)(v)(*b*), following the words ''as a guide'' that appear at the end of the paragraph, the phrase '', which are incorporated by reference as specified in § 1910.6'' is added.

59. In § 1910.103(c)(1)(v)(*d*), following the designation ''ASTM Procedures D1692–68'' that appears near the end of the second sentence, the phrase '', which is incorporated by reference as specified in § 1910.6,'' is added.

§ 1910.104 [Amended]

60. In § 1910.104(b)(4)(ii), following the words ''Pressure Vessels—1968'' that appear at the end of the first sentence, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

61. In § 1910.105(b)(5)(ii), following the designation ''B31.10a–1969'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

62. In § 1910.105(b)(6)(iii), following the designation ''S–1, Part 3'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

§ 1910.105 [Amended]

63. In § 1910.105, following the designation ''G–8.1–1964'' that appears at the end of the section, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

§ 1910.106 [Amended]

64. In § 1910.106(a)(5), following the designation ''ASTM D–86–62'' that appears near the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6,'' is added.

65. In § 1910.106(a)(14)(i), following the parenthetical designation ''(ASTM D–56–70)'' that appears near the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6,'' is added.

66. In § 1910.106(a)(14)(ii), the following new sentence is added at the end of the paragraph: ''The preceding ASTM standards are incorporated by reference as specified in § 1910.6.''

67. In § 1910.106(a)(17), following the designation ''D–5–65'' that appears at the end of the first sentence, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

68. In § 1910.106(a)(30), following the designation ''ASTM D323–68'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6,'' is added.

69. In § 1910.106(b)(1)(i)(*a*), the phrase ''(*b*) through (*e*) of this subdivision'' that appears at the end of the paragraph is changed to read ''paragraphs (b)(1)(i) (*b*) through (*e*) of this section''.

70. In § 1910.106(b)(1)(iii)(*a*), at the end of the introductory text and preceding the colon, the following phrase is added: ''the following consensus standards that are incorporated by reference as specified in § 1910.6''.

71. In § 1910.106(b)(1)(iv)(*b*), at the end of the introductory text and preceding the colon, the following phrase is added: ''the following consensus standards that are incorporated by reference as specified in § 1910.6''.

72. In § 1910.106(b)(2)(ii)(*b*), the phrase ''subdivision (c) of this subdivision'' that appears in the first sentence is changed to read ''paragraph (b)(2)(ii)(*c*) of this section''.

73. In § 1910.106(b)(2)(iv)(*b*)(*1*), following the words ''Storage Tanks'' the phrase '', which is incorporated by reference as specified in § 1910.6'' is added before the semicolon.

74. In § 1910.106(d)(3)(ii), at the end of the first sentence in the introductory text, following the designation ''NFPA 251–1969,'' the phrase '', which is incorporated by reference as specified in § 1910.6,'' is added.

75. In § 1910.106(d)(4)(i), near the end of the next-to-last sentence, the phrase ''which is incorporated by reference as specified in § 1910.6,'' is added following the designation ''NFPA 80–1968''.

76. In § 1910.106(j)(6), at the end of the introductory text, the following phrase is added immediately preceding the colon: ''that are incorporated by reference as specified in § 1910.6''.

§ 1910.107 [Amended]

77. In § 1910.107(d)(1), the phrase '', which is incorporated by reference as specified in § 1910.6'' is added following the designation ''NFPA 91–1961''.

78. In § 1910.107(e)(5), following the words ''Pressure Vessels—1968'' that appear at the end of the next-to-last sentence, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

79. In § 1910.107(j)(1), the phrase '', which is incorporated by reference as specified in § 1910.6'' is added following the designation ''NFPA 86A–1969''.

§ 1910.108 [Amended]

80. In § 1910.108(b)(1), at the end of the second sentence, following the designation ''(NFPA Pamphlet No. 91–1969),'' the phrase '', which are incorporated by reference as specified in § 1910.6'' is added.

81. In § 1910.108(b)(2), following the designation ''(NFPA No. 86A–1969)'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

§ 1910.109 [Amended]

82. In § 1910.109(i)(1)(ii)(*b*), the address ''1235 Jefferson Davis Highway, Arlington, VA 22202'' is removed and the phrase ''which is incorporated by reference as specified in § 1910.6'' is added in its place.

83. In § 1910.109(i)(2)(iii)(*c*), following the designation ''NFPA 203M–1970'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

84. In § 1910.109(i)(6)(ii), following the designation ''NFPA 78–1968'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

§ 1910.110 [Amended]

85. In § 1910.110(b)(3)(i), following the words ''Pressure Vessel code, 1968 edition'' that appear at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

86. In § 1910.110(b)(3)(iii), near the end of the first sentence, following the words ''Mechanical Engineers,'' the phrase '', which is incorporated by reference as specified in § 1910.6,'' is added.

87. In the introductory text to § 1910.110(b)(5)(i), the phrase ''subparagraph (3)(i) of this paragraph, except as provided in subparagraph (3)(iv) of this paragraph'' is revised to read ''paragraph (b)(3)(i) of this section, except as provided in paragraph (b)(3)(iv) of this section''.

88. In § 1910.110(b)(5)(iii), following the words '' the Material Contained'' that appear at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

89. In § 1910.110(b)(8)(i), following the designation ''(ASTM, B241–69)'' that appears in the middle of the second sentence of the introductory text, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

90. In § 1910.110(b)(8)(i)(*a*), following the words ''Flash Welded Pipe'' that appear near the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6,'' is added.

91. In § 1910.110(b)(8)(ii), following the designation ''(ASTM B88–69)'' that appears at the end of the second sentence, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

92. In § 1910.110(b)(8)(ii), following the designation ''ASTM B210–68'' that appears in the middle of the third sentence, the parenthetical phrase ''(which is incorporated by reference as specified in § 1910.6)'' is added.

93. In § 1910.110(b)(20)(iv), following the words ''with the following'' that appear at the end of the introductory text, the phrase ''NFPA consensus standards, which are incorporated by reference as specified in § 1910.6'' is added.

94. In § 1910.110(e)(2)(iv), following the designation ''NFPA 505–1969'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

§ 1910.111 [Amended]

95. In § 1910.111(b)(1)(i), following the words ''Anhydrous Ammonia, M–1,'' that appear near the end of the paragraph, the parenthetical phrase ''(both of which are incorporated by reference as specified in § 1910.6)'' is added.

96. In § 1910.111(b)(7)(iii), near the end of the paragraph, following the designation ''addenda B31.1a-1968'' the phrase '', which is incorporated by reference as specified in § 1910.6,'' is added.

97. In § 1910.111(b)(7)(iv), near the end of the first sentence, following the words ''Flash Welded Pipe,'' the phrase '', which is incorporated by reference as specified in § 1910.6,'' is added.

98. In § 1910.111(b)(7)(vi), at the end of the paragraph, following the words ''Class B or C,'' the phrase ''all of which are incorporated by reference as specified in § 1910.6'' are added.

99. In § 1910.111(d)(1)(ii), following the designations ''R2.2.1, or R2.3'' that appear near the end of the paragraph, the phrase ''which are incorporated by reference as specified in § 1910.6'' is added.

100. In § 1910.111(d)(4)(ii)(*b*), in the middle of the first sentence, following the words ''Storage Containers, 1959,'' the phrase ''which is incorporated by reference as specified in § 1910.6,'' is added.

101. In § 1910.111(e)(1), following the designation ''Z48.1–1954 (R1970)'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

§ 1910.114 [Removed]

102. Section 1910.114 is removed.

§ 1910.115 [Removed]

103. Section 1910.115 is removed.

§ 1910.116 [Removed]

104. Section 1910.116 is removed.

§ 1910.119 [Amended]

105. In § 1910.119(b), in the definition of ''Boiling point,'' following the designation ''ASTM D–86–62'' that appears near the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

§ 1910.120 [Amended]

106. In § 1910.120(a)(1)(i), the comma at the beginning of the word ''uncontrolled'' near the middle of the paragraph is removed.

107. In § 1910.120(a)(3), in the definition of ''published exposure level,'' the words ''dated 1986 incorporated by reference'' that appear near the beginning of the paragraph are revised to read ''dated 1986, which is incorporated by reference as specified in § 1910.6.'' In addition, the words ''dated 1987 incorporated by reference'' that appear at the end of the paragraph are revised to read ''dated 1987, which is incorporated by reference as specified in § 1910.6.''

Subpart I—Personal Protective Equipment

108. The authority citation for subpart I continues to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable.

§ 1910.133 [Amended]

109. In the first sentence of § 1910.133(b)(1), the phrase ''as specified in § 1910.6'' is added following the words ''incorporated by reference,'' and the remaining text to the paragraph after the first sentence is removed.

110. In the first sentence of § 1910.133(b)(2), the phrase '', which is incorporated by reference as specified in § 1910.6,'' is added after the designation ''Z87.1–1968,'' and the remaining text to the paragraph after the first sentence is removed.

§ 1910.135 [Amended]

111. In the first sentence of § 1910.135(b)(1), the phrase ''as specified in § 1910.6'' is added before the comma that follows the words ''incorporated by reference,'' and the remaining text to the paragraph after the first sentence is removed.

112. In the first sentence of § 1910.135(b)(2), the phrase '', which is incorporated by reference as specified in § 1910.6,'' is added after the designation ''Z89.1–1969,'' and the remaining text to the paragraph after the first sentence is removed.

§ 1910.136 [Amended]

113. In the first sentence of § 1910.136(b)(1), the phrase ''as specified in § 1910.6'' is added before the comma that follows the words ''incorporated by reference,'' and the remaining text to the paragraph after the first sentence is removed.

114. In the first sentence of § 1910.136(b)(2), the phrase ''as specified in § 1910.6,'' is added before the comma that follows the words ''incorporated by reference,'' and the remaining text to the paragraph after the first sentence is removed.

§ 1910.139 [Removed]

115. Section 1910.139 is removed.

§ 1910.140 [Removed]

116. Section 1910.140 is removed.

Subpart J—General Environmental Controls

117. The authority citation for subpart J continues to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable.

Sections 1910.141, 1910.142, and 1910.145–1910.147 also issued under 29 CFR part 1911.

§ 1910.142 [Amended]

118. In § 1910.142(c)(4), near the end of the paragraph, following the designation ''Z42–1942,'' the phrase '', which is incorporated by reference as specified in § 1910.6.'' is added.

119. In § 1910.142(i)(1), at the end of the paragraph, following the designation ''Publication 934 (1965)'' the phrase

‘‘, which is incorporated by reference as specified in § 1910.6’’ is added.

§ 1910.144 [Amended]

120. In § 1910.144(a)(1)(ii), at the end of the second sentence, following the designation ‘‘A10.2–1944,’’ the phrase ‘‘, which is incorporated by reference as specified in § 1910.6.’’ is added.

§ 1910.145 [Amended]

121. In § 1910.145(a)(2), the phrase ‘‘on and after August 31, 1971,’’ is removed.

122. In § 1910.145(d) (2)(i), (4)(i), and (6)(i), the paragraph designation (i) is removed from each paragraph.

123. In § 1910.145(d)(2), at the end of the paragraph, the phrase ‘‘, which is incorporated by reference as specified in § 1910.6.’’ is added following the designation ‘‘Z53.1–1967’’.

124. In § 1910.145(d)(10), at the end of the paragraph, the phrase ‘‘, which are incorporated by reference as specified in § 1910.6.’’ is added following the designation ‘‘(ANSI B114.1–1971)’’.

§ 1910.148 [Removed]

125. Section 1910.148 is removed.

§ 1910.149 [Removed]

126. Section 1910.149 is removed.

§ 1910.150 [Removed]

127. Section 1910.150 is removed.

Subpart K—Medical and First Aid

128. The authority citation for subpart K is revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor’s Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable.

§ 1910.153 [Removed]

129. Section 1910.153 is removed.

Subpart L—Fire Protection

130. The authority citation for subpart L continues to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor’s Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable.

§ 1910.156 [Amended]

131. In the introductory text of § 1910.156(e)(3)(ii), near the end of the paragraph, the phrase ‘‘which is incorporated by reference as specified in § 1910.6,’’ is added following the words ‘‘‘Structural Fire Fighting’’’.

132. In the second sentence of the introductory text to § 1910.156(e)(4)(i), near the end of the paragraph, the phrase ‘‘which is incorporated by reference as specified in § 1910.6,’’ is added following the words ‘‘‘Part II: Test Methods’’’.

133. In § 1910.156(e)(5)(i), following the parenthetical ‘‘(August 1977)’’ that appears near the end of the paragraph, the phrase ‘‘which is incorporated by reference as specified in § 1910.6,’’ is added.

§ 1910.157 [Amended]

134. In § 1910.157(c)(5), the phrase ‘‘The employer shall permanently remove from service by January 1, 1982,’’ that appears at the beginning of the paragraph is revised to read ‘‘The employer shall remove from service’’.

§ 1910.158 [Amended]

135. In § 1910.158(c)(3)(iii), the phrase ‘‘Beginning January 1, 1981, the’’ that appears at the beginning of the paragraph is removed and the word ‘‘The’’ is added in its place.

136. In paragraph (c)(4), the phrase ‘‘Beginning July 1, 1981, the’’ that appears at the beginning of the paragraph is removed and the word ‘‘The’’ is added in its place.

Subpart L, Appendix D—[Amended]

137. In Appendix D to Subpart L (§§ 1910.155–1910.165), in the listing for the address of OSHA’s Technical Data Center that appears almost at the end of the appendix, the telephone number ‘‘523–9700’’ is changed to ‘‘219–7500’’.

Subpart M—Compressed Gas and Compressed Air Equipment

138. The authority citation for subpart M continues to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor’s Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable.

§ 1910.169 [Amended]

139. In § 1910.169(a)(2)(i), at the end of the paragraph, the phrase ‘‘, which is incorporated by reference as specified in § 1910.6’’ is added following the designation ‘‘Code Section VIII’’.

§ 1910.170 [Removed]

140. Section 1910.170 is removed.

§ 1910.171 [Removed]

141. Section 1910.171 is removed.

Subpart N—Materials Handling and Storage

142. The authority citation for subpart N is revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor’s Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

§ 1910.177 [Amended]

143. In Appendix B to § 1910.177, in the listing for the address of OSHA’s Publications Office that appears at the end of the appendix, the telephone number ‘‘523–9667’’ is revised to ‘‘219–4667’’.

§ 1910.178 [Amended]

144. In § 1910.178(a)(2), near the end of the paragraph, the phrase ‘‘, which is incorporated by reference as specified in § 1910.6’’ is added following the designation ‘‘B56.1–1969’’.

145. In § 1910.178(f)(1), at the end of the paragraph, the phrase ‘‘, which is incorporated by reference as specified in § 1910.6’’ is added following the designation ‘‘(NFPA No. 30–1969)’’.

146. In § 1910.178(f)(2), at the end of the paragraph, the phrase ‘‘, which is incorporated by reference as specified in § 1910.6’’ is added following the designation ‘‘(NFPA No. 58–1969)’’.

§ 1910.179 [Amended]

147. In § 1910.179(b)(2), at the end of the paragraph, the phrase ‘‘, which is incorporated by reference as specified in § 1910.6’’ is added following the designation ‘‘B30.2.0–1967’’.

148. In § 1910.179(b)(6)(i), near the end of the paragraph, the phrase ‘‘, which is incorporated by reference as specified in § 1910.6’’ is added following the designation ‘‘Specification No. 61’’.

149. In § 1910.179(c)(2), at the end of the paragraph, the phrase ‘‘, which is incorporated by reference as specified in § 1910.6’’ is added following the designation ‘‘A14.3–1956’’.

§ 1910.180 [Amended]

150. In § 1910.180(b)(2), at the end of the second sentence, the phrase ‘‘, which is incorporated by reference as specified in § 1910.6’’ is added following the designation ‘‘B30.5–1968’’.

151. In § 1910.180(c)(1)(i), the phrase ‘‘subdivisions (ii) and (iii) of this subparagraph’’ that appears at the end of the paragraph is changed to read ‘‘paragraphs (c)(1) (ii) and (iii) of this section’’.

152. In § 1910.180(c)(1)(iii), near the end of the paragraph, the phrase ‘‘, which is incorporated by reference as specified in § 1910.6’’ is added following the designation ‘‘(SAE) No. J765’’.

153. In the introductory text to § 1910.180(d)(3), the phrase

''subdivision (2)(i) of this subparagraph'' that appears near the middle of the first sentence is changed to read ''paragraph (d)(2)(i) of this section''.

§ 1910.181 [Amended]

154. In § 1910.181(b)(2), at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added following the designation ''B30.6–1969''.

§ 1910.182 [Removed]

155. Section 1910.182 is removed.

§ 1910.184 [Amended]

156. In § 1910.184(e)(4), at the end of the first sentence, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added following the designation ''Specification A391–65''.

§ 1910.189 [Removed]

157. Section 1910.189 is removed.

§ 1910.190 [Removed]

158. Section 1910.190 is removed.

Subpart O—Machinery and Machine Guarding

159. The authority citation for subpart 0 is revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

§ 1910.215 [Amended]

160. In § 1910.215(b)(12), at the end of the first sentence, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added following the designation ''ANSI B7.1–1970.''

§ 1910.216 [Amended]

161. In § 1910.216, paragraphs (a) (1) and (2) are removed and reserved.

§ 1910.217 [Amended]

162. In § 1910.217(b)(12), at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added following the words ''Pressure Vessels, 1968 Edition''.

163. In § 1910.217(c)(1)(ii), the phrase ''subdivision (i) of this subparagraph'' is revised to read ''paragraph (c)(1)(i) of this section''.

164. In § 1910.217, the words ''after December 31, 1976'' that appear at the end of paragraph (c)(3)(v) are removed.

165. In § 1910.217, the words ''section. This requirement shall be complied with by November 1, 1975;'' that appear at the end of paragraph (c)(5)(i) are removed and ''section;'' is added in their place.

166. In § 1910.217, the phrase ''Effective February 1, 1975, the'' that appears at the beginning of the introductory text to paragraph (d)(1) is removed and the word ''The'' is added in its place.

167. In table O–10 following § 1910.217(f)(4), the fourth entry in the first column that reads ''1½ to 5½'' is revised to read ''3½ to 5½''.

168. In § 1910.217(g), the phrase ''Director of the Office of Standards Development'' is revised to read ''Director of the Directorate of Safety Standards Programs''.

§ 1910.218 [Amended]

169. In § 1910.218 (d)(4) and (e)(1)(iv), at the end of the paragraphs, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added following the date ''April 28, 1971''.

170. In § 1910.218(j)(3), at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added following the words ''Related Equipment.''

171. In § 1910.218(j)(5), near the end of the paragraph, the phrase ''which is incorporated by reference as specified in § 1910.6,'' is added following the words ''Abrasive Wheels.''

§ 1910.219 [Amended]

172. In § 1910.219(c)(5)(iii), following the designation ''A11.1–1965 (R–1970)'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

§ 1910.220 [Removed]

173. Section 1910.220 is removed.

§ 1910.221 [Removed]

174. Section 1910.221 is removed.

§ 1910.222 [Removed]

175. Section 1910.222 is removed.

Subpart P—Hand and Portable Powered Tools and Other Hand-Held Equipment

176. The authority citation for subpart P is revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

Section 1910.243 also issued under 29 CFR part 1910.

§ 1910.243 [Amended]

177. In § 1910.243(d)(1)(i), following the designation ''ANSI A10.3–1970'' that appears at the end of the first sentence, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

178. In § 1910.243(e)(1)(i), following the designation ''ANSI B71.1–X1968'' that appears at the end of the first sentence, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

§ 1910.245 [Removed]

179. Section 1910.245 is removed.

§ 1910.246 [Removed]

180. Section 1910.246 is removed.

§ 1910.247 [Removed]

181. Section 1910.247 is removed.

Subpart Q—Welding, Cutting and Brazing

182. The authority citation for subpart Q continues to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059); 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; 5 U.S.C. 553; 29 CFR part 1911.

§ 1910.251 [Amended]

183. In § 1910.251(c), the designation ''A3.0–969'' that appears at the end of the paragraph is revised to read ''A3.0–1969'' and the phrase '', which is incorporated by reference as specified in § 1910.6'' is added immediately following it.

§ 1910.252 [Amended]

184. In § 1910.252(a)(1), following the designation ''Standard 51B, 1962'' that appears at the end of the first sentence of the introductory text, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

185. In § 1910.252(b)(2)(ii)(I), following the words ''Face Protection'' that appear at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

186. In § 1910.252(d)(1)(v), following the designation ''API Std. 1104–1968'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

187. In § 1910.252(d)(1)(vi), following the designation ''API Std. PSD 2201–1963'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

188. In § 1910.252(d)(1)(vii), following the designation ''ANSI Z54.1–1963'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

§ 1910.253 [Amended]

189. In § 1910.253(b)(1)(ii), following the designation ''ANSI Z48.1–1954'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

190. In § 1910.253(b)(1)(iii), following the designation ''ANSI Z57.1–1965'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

191. In § 1910.253(b)(4)(iv), following the designation ''NFPA No. 566–1965'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

192. In the introductory text to § 1910.253(d)(1)(i)(A), following the designation ''ANSI B31.1–1967,'' the phrase ''which is incorporated by reference as specified in § 1910.6,'' is added.

193. In § 1910.253(d)(1)(i)(A)(*2*), following the designation ''ASTM B88–66a'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

194. In § 1910.253(d)(4)(ii), following the designation ''ANSI A13.1–1956'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

195. In § 1910.253(e)(4) (iv) and (v), following the words ''Compressed Gas Association'' that appear at the end of both paragraphs, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

196. In § 1910.253(e)(5)(i), following the words ''Rubber Manufacturers Association'' that appear at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

197. In § 1910.253(f)(6)(i)(I), following the designation ''NFPA 80–1970'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

§ 1910.254 [Amended]

198. In § 1910.254(b)(1), following the words ''Underwriters' Laboratories'' that appear at the end of the paragraph, the phrase '', both of which are incorporated by reference as specified in § 1910.6'' is added.

199. In § 1910.254(d)(1), following the words ''Welding Society'' that appear at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

§ 1910.256 [Removed]

200. Section 1910.256 is removed.

§ 1910.257 [Removed]

201. Section 1910.257 is removed.

Subpart R—Special Industries

202. The authority citation for subpart R is revised to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

Sections 1910.261, 1910.262, 1910.265 through 1910.269, 1910.274, and 1910.275 also issued under 29 CFR part 1910.

§ 1910.261 [Amended]

203. In § 1910.261(a)(3), before the colon at the end of the introductory text, the phrase '', which are incorporated by reference as specified in § 1910.6'' is added.

204. In the introductory text of § 1910.261(a)(4), the phrase '', which are incorporated by reference as specified in § 1910.6,'' is added after the words ''following standards'' that appear at the beginning of the sentence.

205. In § 1910.261, paragraph (n) is removed.

§ 1910.262 [Amended]

206. In § 1910.262(c)(6), following the designation ''A11.1–1965'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

207. In § 1910.262(c)(7), following the designation ''A13.1–1956'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

208. In § 1910.262(h)(1)(i), following the words ''Pressure Vessels, 1968'' that appear at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

§ 1910.263 [Amended]

209. In § 1910.263(i)(24)(ii), following the words ''Pressure Vessels, 1968'' that appear at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

210. In § 1910.263(k)(2)(i), the comma is removed and the word ''and'' is added in its place immediately preceding the reference ''NFPA 656–1959,'' and following the words ''Grinding Plants)'' that appear at the end of the paragraph, the phrase '', which are incorporated by reference as specified in § 1910.6'' is added.

§ 1910.265 [Amended]

211. In § 1910.265(c)(2), following the designation ''A11.1–1965'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

212. In § 1910.265(c)(15), following the designation ''Z21.30–1964'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

213. In § 1910.265(c)(18)(i), following the designation ''B20.1–1957'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

214. In § 1910.265(c)(20)(i), following the words ''Flour Manufacturing Plants)'' that appear at the end of the paragraph, the phrase '', which are incorporated by reference as specified in § 1910.6'' is added.

215. In § 1910.265(c)(30)(iv), following the designation ''B56.1–1969'' that appears at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

216. In § 1910.265(c)(31)(i), following the words ''Crossing Protection'' that appear in the parenthetical near the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added within the parenthetical.

217. In § 1910.265(d)(2)(i)(*a*), following the words ''Industrial Lighting'' that appear at the end of the paragraph, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added.

218. In the introductory text of § 1910.265(d)(2)(iv), following the designation ''NFPA No. 302–1968'' that appears at the end of the paragraph, the phrase ''which is incorporated by reference as specified in § 1910.6,'' is added.

219. Paragraph (j) of § 1910.265 is removed.

§ 1910.266 [Amended]

220. In § 1910.266(d)(3)(iv), following the words ''Work Machines'' at the end of the first sentence, the phrase '', which is incorporated by reference as specified in § 1910.6'' is added and the remaining text of the paragraph after the first sentence is removed.

221. At the end of the first sentence of § 1910.266(e)(2)(i), following the words '' 'Chain Saws','' the phrase'', which is incorporated by reference as specified in § 1910.6'' is added and the text of the paragraph after the third sentence is removed.

222. At the end of the first sentence of § 1910.266(f)(3)(ii), the phrase ‘‘, which is incorporated by reference as specified in § 1910.6’’ is added following the words ‘‘Mining Machines’’’ and the remaining text of the paragraph after the first sentence is removed.

223. In § 1910.266(f)(3)(iii), at the end of the first sentence, following the words ‘‘Protective Structures (FOPS)’’’ the phrase ‘‘, which is incorporated by reference as specified in § 1910.6’’ is added and the remaining text of the paragraph after the first sentence is removed.

224. At the end of the first sentence of § 1910.266(f)(3)(iv), following the words ‘‘Laboratory Evaluation’,’’ the phrase ‘‘, which is incorporated by reference as specified in § 1910.6’’ is added and the remaining text of the paragraph after the first sentence is removed.

225. At the end of the first sentence of § 1910.266(f)(4), following the words ‘‘Forklift Trucks’,’’ the phrase ‘‘, which is incorporated by reference as specified in § 1910.6’’ is added and the remaining text of the paragraph after the first sentence is removed.

226. At the end of the first sentence of § 1910.266(f)(5)(i), following the words ‘‘for Off-Road Machines’,’’ the phrase ‘‘which is incorporated by reference as specified in § 1910.6,’’ is added and the remaining text of the paragraph after the first sentence is removed.

§ 1910.268 [Amended]

227. In § 1910.268(f)(1), the following new sentence is added to the end of the paragraph: ‘‘(ANSI J6.6–1971 and ANSI J6.4–1971 are incorporated by reference as specified in § 1910.6.)’’

228. In § 1910.268(g)(2)(i)(A), the phrase ‘‘, which is incorporated by reference as specified in § 1910.6’’ is added following the designation ‘‘B117–64’’ that appears near the end of the first sentence.

229. In § 1910.268(h)(3), the phrase ‘‘After April 30, 1975, portable’’ that appears at the beginning of the paragraph is removed and the word ‘‘Portable’’ is added in its place.

230. In § 1910.268(i)(1), the following new sentence is added at the end of the paragraph: ‘‘ANSI Z89.2–1971 is incorporated by reference as specified in § 1910.6.’’

231. In § 1910.268(j)(4)(iv)(E), following the words ‘‘for Derricks’’’ that appear at the end of the paragraph, the phrase ‘‘, which is incorporated by reference as specified in § 1910.6’’ is added.

232. At the end of the first sentence of § 1910.268(s)(1)(v), following the designation ‘‘A92.2–1969’’ the phrase ‘‘, which is incorporated by reference as specified in § 1910.6’’ is added.

§ 1910.272 [Amended]

233. In § 1910.272(k)(1), the phrase ‘‘Not later than March 30, 1989, all’’ that appears at the beginning of the paragraph is removed and the word ‘‘All’’ is added in its place.

234. In paragraph (o)(1) introductory text, the phrase ‘‘Not later than April 1, 1991, all’’ appearing at the beginning of the paragraph is removed and the word ‘‘All’’ is added in its place.

235. In paragraph (p)(3), the phrase ‘‘Not later than April 1, 1991, all’’ that appears at the beginning of the paragraph is removed and the word ‘‘All’’ is added in its place.

236. In the introductory text to paragraphs (p) (4) and (6) and in paragraph (p)(5), the phrase ‘‘Not later than April 1, 1991, all’’ that appears at the beginning of the paragraphs is removed and the word ‘‘All’’ is added in its place.

§ 1910.274 [Removed]

237. Section § 1910.274 is removed.

§ 1910.275 [Removed]

238. Section 1910.275 is removed.

Subpart T—Commercial Diving Operations

239. The authority citation for subpart T continues to read as follows:

Authority: Sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Secretary of Labor's Order No. 12–71 (36 FR 87540); 8–76 (41 FR 25059); 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; and 29 CFR part 1911.

§ 1910.440 [Amended]

240. In § 1910.440(b) (1) and (5)(ii), the phrase ‘‘Health, Education and Welfare’’ is revised to read ‘‘Health and Human Services’’.

Subpart Z—Toxic and Hazardous Substances

241. The authority citation for subpart Z is revised to read as follows:

Authority: Sections 6 and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655 and 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; and 29 CFR part 1911.

All of subpart Z issued under sec. 6(b) of the Occupational Safety and Health Act, except those substances that have exposure limits listed in Tables Z–1, Z–2, and Z–3 of 29 CFR 1910.1000. The latter were issued under sec. 6(a) (29 U.S.C. 655(a)).

Section 1910.1000, Tables Z–1, Z–2, and Z–3 also issued under 5 U.S.C. 553. Section 1910.1000, Tables Z–1, Z–2, and Z–3 not issued under 29 CFR part 1911 except for the arsenic (organic compounds), benzene, and cotton dust listings.

Section 1910.1001 also issued under sec. 107 of Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and 5 U.S.C. 553.

Section 1910.1002 not issued under 29 U.S.C. 655 or 29 CFR part 1911; also issued under 5 U.S.C. 553.

Sections 1910.1003 through 1910.1018 also issued under 29 U.S.C. 653.

Section 1910.1025 also issued under 5 U.S.C. 553 and 29 U.S.C. 653.

Sections 1910.1028 and 1910.1030 also issued under 29 U.S.C. 653.

Section 1910.1043 also issued under 5 U.S.C. 551 *et seq.*

Sections 1910.1045, 1910.1047, and 1910.1048 also issued under 29 U.S.C. 653.

Section 1910.1200 also issued under 5 U.S.C. 553.

Section 1910.1450 is also issued under sec. 6(b), 8(c), and 8(g)(2), Pub. L. 91–596, 84 Stat. 1593, 1599, 1600 (29 U.S.C. 655 and 657).

242. Section 1910.1003 is revised to read as follows:

§ 1910.1003 13 Carcinogens.

(a) *Scope and application.* (1) This section applies to any area in which the 13 carcinogens addressed by this section are manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers, except for the labeling requirements under paragraphs (e)(2), (3) and (4) of this section. The 13 carcinogens are the following:

4-Nitrobiphenyl, Chemical Abstracts Service Register Number (CAS No.) 92933;
alpha-Naphthylamine, CAS No. 134327;
methyl chloromethyl ether, CAS No. 107302;
3,3′-Dichlorobenzidine (and its salts) CAS No. 91941;
bis-Chloromethyl ether, CAS No. 542881;
beta-Naphthylamine, CAS No. 91598;
Benzidine, CAS No. 92875;
4-Aminodiphenyl, CAS No. 92671;
Ethyleneimine, CAS No. 151564;
beta-Propiolactone, CAS No. 57578;
2-Acetylaminofluorene, CAS No. 53963;
4-Dimethylaminoazo-benezene, CAS No. 60117; and
N-Nitrosodimethylamine, CAS No. 62759.

(2) This section shall not apply to the following:

(i) Solid or liquid mixtures containing less than 0.1 percent by weight or volume of 4–Nitrobiphenyl; methyl chloromethyl ether; bis-chloromethyl ether; beta-Naphthylamine; benzidine or 4–Aminodiphenyl; and

(ii) Solid or liquid mixtures containing less than 1.0 percent by

weight or volume of alpha-Naphthylamine; 3,3′-Dichlorobenzidine (and its salts); Ethyleneimine; beta-Propiolactone; 2-Acetylaminofluorene; 4-Dimethylaminoazobenzene, or N-Nitrosodimethylamine.

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

Absolute filter is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 μm particles.

Authorized employee means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

Clean change room means a room where employees put on clean clothing and/or protective equipment in an environment free of the 13 carcinogens addressed by this section. The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

Closed system means an operation involving a carcinogen addressed by this section where containment prevents the release of the material into regulated areas, non-regulated areas, or the external environment.

Decontamination means the inactivation of a carcinogen addressed by this section or its safe disposal.

Director means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health and Human Services to act for the Director.

Disposal means the safe removal of the carcinogens addressed by this section from the work environment.

Emergency means an unforeseen circumstance or set of circumstances resulting in the release of a carcinogen addressed by this section that may result in exposure to or contact with the material.

External environment means any environment external to regulated and nonregulated areas.

Isolated system means a fully enclosed structure other than the vessel of containment of a carcinogen addressed by this section that is impervious to the passage of the material and would prevent the entry of the carcinogen addressed by this section into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

Laboratory-type hood is a device enclosed on the three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving a carcinogen addressed by this section within the hood does not require the insertion of any portion of any employee's body other than his hands and arms.

Nonregulated area means any area under the control of the employer where entry and exit is neither restricted nor controlled.

Open-vessel system means an operation involving a carcinogen addressed by this section in an open vessel that is not in an isolated system, a laboratory-type hood, nor in any other system affording equivalent protection against the entry of the material into regulated areas, non-regulated areas, or the external environment.

Protective clothing means clothing designed to protect an employee against contact with or exposure to a carcinogen addressed by this section.

Regulated area means an area where entry and exit is restricted and controlled.

(c) *Requirements for areas containing a carcinogen addressed by this section.* A regulated area shall be established by an employer where a carcinogen addressed by this section is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved:

(1) *Isolated systems.* Employees working with a carcinogen addressed by this section within an isolated system such as a ''glove box'' shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* (i) Within regulated areas where the carcinogens addressed by this section are stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while the carcinogens addressed by this section are contained within, access shall be restricted to authorized employees only.

(ii) Employees exposed to 4–Nitrobiphenyl; alpha-Naphthylamine; 3,3′-Dichlorobenzidine (and its salts); beta-Naphthylamine; benzidine; 4–Aminodiphenyl; 2–Acetylaminofluorene; 4–Dimethylaminoazo-benzene; and N-Nitrosodimethylamine shall be required to wash hands, forearms, face, and neck upon each exit from the regulated areas, close to the point of exit, and before engaging in other activities.

(3) *Open-vessel system operations.* Open-vessel system operations as defined in paragraph (b)(13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving ''laboratory-type hoods,'' or in locations where the carcinogens addressed by this section are contained in an otherwise ''closed system,'' but is transferred, charged, or discharged into other normally closed containers, the provisions of this paragraph shall apply.

(i) Access shall be restricted to authorized employees only.

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers and gloves prior to entering the regulated area.

(iv) Employees engaged in handling operations involving the carcinogens addressed by this section shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with § 1910.134. A respirator affording higher levels of protection may be substituted.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e) (2), (3), and (4) of this section.

(vi) Drinking fountains are prohibited in the regulated area.

(vii) Employees shall be required to wash hands, forearms, face, and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities and employees exposed to 4–Nitrobiphenyl; alpha-Naphthylamine; 3,3′-Dichlorobenzidine (and its salts); beta-Naphthylamine; Benzidine; 4–Aminodiphenyl; 2–Acetylaminofluorene; 4–Dimethylaminoazo-benzene; and N-Nitrosodimethylamine shall be required to shower after the last exit of the day.

(5) *Maintenance and decontamination activities.* In cleanup of leaks of spills, maintenance, or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with a carcinogen addressed by this section could result, each authorized employee entering that area shall:

(i) Be provided with and required to wear clean, impervious garments, including gloves, boots, and continuous-air supplied hood in accordance with § 1910.134;

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(d) *General regulated area requirements*—(1) [Reserved]

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of paragraphs (d)(2) (i) through (v) of this section shall be implemented.

(i) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f)(2) of this section.

(iv) Where an employee has a known contact with a carcinogen addressed by this section, such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f)(2) of this section.

(vi) Emergency deluge showers and eyewash fountains supplied with running potable water shall be located near, within sight of, and on the same level with locations where a direct exposure to Ethyleneimine or beta-Propiolactone only would be most likely as a result of equipment failure or improper work practice.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products are prohibited in regulated areas.

(ii) Where employees are required by this section to wash, washing facilities shall be provided in accordance with § 1910.141(d) (1) and (2) (ii) through (vii).

(iii) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1910.141(d)(3).

(iv) Where employees wear protective clothing and equipment, clean change rooms shall be provided for the number of such employees required to change clothes, in accordance with § 1910.141(e).

(v) Where toilets are in regulated areas, such toilets shall be in a separate room.

(4) *Contamination control.* (i) Except for outdoor systems, regulated areas shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean makeup air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove carcinogens addressed by this section from the surfaces of materials, equipment, and the decontamination facility.

(iv) Dry sweeping and dry mopping are prohibited for 4–Nitrobiphenyl; alpha-Naphthylamine; 3,3′-Dichlorobenzidine (and its salts); beta-Naphthylamine; Benzidine; 4–Aminodiphenyl; 2–Acetylaminofluorene; 4–Dimethylaminoazo-benzene and N-Nitrosodimethylamine.

(e) *Signs, information and training*—(1) *Signs*—(i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT

AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (c)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA

IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES

AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contents identification.* (i) Containers of a carcinogen addressed by this section and containers required under paragraphs (c)(4)(v) and (c)(6) (vii)(B) and (viii)(B) of this section that are accessible only to and handled only by authorized employees, or by other employees trained in accordance with paragraph (e)(5) of this section, may have contents identification limited to a generic or proprietary name or other proprietary identification of the carcinogen and percent.

(ii) Containers of a carcinogen addressed by this section and containers required under paragraphs (c)(4)(v) and (c)(6) (vii)(B) and (viii)(B) of this section that are accessible to or handled by employees other than authorized employees or employees trained in accordance with paragraph (e)(5) of this section shall have contents identification that includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the warning words ''CANCER-SUSPECT AGENT'' displayed immediately under or adjacent to the contents identification.

(iv) Containers whose contents are carcinogens addressed by this section with corrosive or irritating properties shall have label statements warning of such hazards noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by paragraph (e)(1) shall be a minimum letter height of 2 inches (5 cm). Labels on containers required under this section shall not be less than one-half the size of the largest lettering on the package, and not less than 8-point type in any instance. *Provided,* That no such required lettering need be more than 1 inch (2.5 cm) in height.

(4) *Prohibited statements.* No statement shall appear on or near any required sign, label, or instruction that contradicts or detracts from the effect of any required warning, information, or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized

to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to:

(A) The nature of the carcinogenic hazards of a carcinogen addressed by this section, including local and systemic toxicity;

(B) The specific nature of the operation involving a carcinogen addressed by this section that could result in exposure;

(C) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(D) The purpose for and application of decontamination practices and purposes;

(E) The purpose for and significance of emergency practices and procedures;

(F) The employee's specific role in emergency procedures;

(G) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of a carcinogen addressed by this section;

(H) The purpose for and application of specific first aid procedures and practices;

(I) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports*—(1) *Operations.* The information required in paragraphs (f)(1)(i) through (iv) of this section shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change:

(i) A brief description and in-plant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of a carcinogen addressed by this section in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities; and

(iv) The manner in which carcinogens addressed by this section are present in each regulated area; for example, whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents that result in the release of a carcinogen addressed by this section into any area where employees may be potentially exposed shall be reported in accordance with this paragraph.

(i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include:

(A) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(B) A description of the area involved, and the extent of known and possible employee exposure and area contamination;

(C) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(D) An analysis of the circumstances of the incident and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(g) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees.

(1) *Examinations.* (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids or cytotoxic agents, pregnancy, and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a) through (e) and (g) through (i). These records shall also be provided upon request to the Director.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

§§ 1910.1004–1910.1016 [Amended]

243. In §§ 1910.1004, 1910.1006, 1910.1007, 1910.1008, 1910.1009, 1910.1010, 1910.1011, 1910.1012, 1910.1013, 1910.1014, 1910.1015, and 1910.1016, the text is removed in its entirety and replaced with the following text (below the section heading) in each section: ''See § 1910.1003, *13 carcinogens.''*.

§ 1910.1018 [Amended]

244. In § 1910.1018(o)(1)(ii), the phrase ''and shall be repeated at least quarterly for employees who have optional use of respirators'' is removed.

§ 1910.1200 [Amended]

245. In § 1910.1200, Appendix C—Information Sources (Advisory) is removed.

§ 1910.1499 [Removed]

246. Section § 1910.1499 is removed.

§ 1910.1500 [Removed]

247. Section § 1910.1500 is removed.

PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT

1. The authority citation for part 1915 continues to read as follows:

Authority: Sec. 41, Longshore and Harbor Workers Compensation Act (33 U.S.C. 941); secs. 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, and 657); sec. 4 of the Administrative Procedure Act (5 U.S.C. 553); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

Subpart Z—Toxic and Hazardous Substances

2. Section 1915.1003 is revised to read as follows:

§ 1915.1003 13 Carcinogens.

(a) Scope and application. (1) This section applies to any area in which the 13 carcinogens addressed by this section are manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers, except for the labeling requirements under paragraphs (e) (2), (3) and (4) of this section. The 13 carcinogens are the following:

4-Nitrobiphenyl, Chemical Abstracts Service Register Number (CAS No.) 92933;
alpha-Naphthylamine, CAS No. 134327;
methyl chloromethyl ether, CAS No. 107302;
3,3′-Dichlorobenzidine (and its salts) CAS No. 91941;
bis-Chloromethyl ether, CAS No. 542881;
beta-Naphthylamine, CAS No. 91598;
Benzidine, CAS No. 92875;
4-Aminodiphenyl, CAS No. 92671;
Ethyleneimine, CAS No. 151564;
beta-Propiolactone, CAS No. 57578;
2-Acetylaminofluorene, CAS No. 53963;
4-Dimethylaminoazo-benezene, CAS No. 60117; and
N-Nitrosodimethylamine, CAS No. 62759.

(2) This section shall not apply to the following:

(i) Solid or liquid mixtures containing less than 0.1 percent by weight or volume of 4-Nitrobiphenyl; methyl chloromethyl ether; bis-chloromethyl ether; beta-Naphthylamine; benzidine or 4–Aminodiphenyl; and

(ii) Solid or liquid mixtures containing less than 1.0 percent by weight or volume of alpha-Naphthylamine; 3,3′-Dichlorobenzidine (and its salts); Ethyleneimine; beta-Propiolactone; 2-Acetylaminofluorene; 4-Dimethylaminoazobenzene, or N-Nitrosodimethylamine.

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

Absolute filter is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 µm particles.

Authorized employee means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

Clean change room means a room where employees put on clean clothing and/or protective equipment in an environment free of the 13 carcinogens addressed by this section. The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

Closed system means an operation involving a carcinogen addressed by this section where containment prevents the release of the material into regulated areas, non-regulated areas, or the external environment.

Decontamination means the inactivation of a carcinogen addressed by this section or its safe disposal.

Director means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health and Human Services to act for the Director.

Disposal means the safe removal of the carcinogens addressed by this section from the work environment.

Emergency means an unforeseen circumstance or set of circumstances resulting in the release of a carcinogen addressed by this section that may result in exposure to or contact with the material.

External environment means any environment external to regulated and nonregulated areas.

Isolated system means a fully enclosed structure other than the vessel of containment of a carcinogen addressed by this section that is impervious to the passage of the material and would prevent the entry of the carcinogen addressed by this section into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

Laboratory-type hood is a device enclosed on the three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving a carcinogen addressed by this section within the hood does not require the insertion of any portion of any employee's body other than his hands and arms.

Nonregulated area means any area under the control of the employer where entry and exit is neither restricted nor controlled.

Open-vessel system means an operation involving a carcinogen addressed by this section in an open vessel that is not in an isolated system, a laboratory-type hood, nor in any other system affording equivalent protection against the entry of the material into regulated areas, non-regulated areas, or the external environment.

Protective clothing means clothing designed to protect an employee against contact with or exposure to a carcinogen addressed by this section.

Regulated area means an area where entry and exit is restricted and controlled.

(c) *Requirements for areas containing a carcinogen addressed by this section.* A regulated area shall be established by an employer where a carcinogen addressed by this section is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved:

(1) *Isolated systems.* Employees working with a carcinogen addressed by this section within an isolated system such as a ''glove box'' shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* (i) Within regulated areas where the carcinogens addressed by this section are stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while the carcinogens addressed by this section are contained within, access shall be restricted to authorized employees only.

(ii) Employees exposed to 4-Nitrobiphenyl; alpha-Naphthylamine; 3,3′-Dichlorobenzidine (and its salts); beta-Naphthylamine; benzidine; 4-Aminodiphenyl; 2-Acetyleminofluorene; 4-Dimethylaminoazo-benzene; and N-Nitrosodimethylamine shall be required to wash hands, forearms, face, and neck upon each exit from the regulated areas, close to the point of exit, and before engaging in other activities.

(3) *Open-vessel system operations.* Open-vessel system operations as defined in paragraph (b)(13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving ''laboratory-type hoods,'' or in locations where the carcinogens addressed by this section are contained in an otherwise ''closed system'', but is transferred, charged, or discharged into other normally closed containers, the provisions of this paragraph shall apply.

(i) Access shall be restricted to authorized employees only.

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and

pants), shoe covers and gloves prior to entering the regulated area.

(iv) Employees engaged in handling operations involving the carcinogens addressed by this section shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with § 1910.134. A respirator affording higher levels of protection may be substituted.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e) (2), (3), and (4) of this section.

(vi) Drinking fountains are prohibited in the regulated area.

(vii) Employees shall be required to wash hands, forearms, face, and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities and employees exposed to 4-Nitrobiphenyl; alpha-Naphthylamine; 3,3'-Dichlorobenzidine (and its salts); beta-Naphthylamine; Benzidine; 4-Aminodiphenyl; 2-Acetylaminofluorene; 4-Dimethylaminoazo-benzene; and N-Nitrosodimethylamine shall be required to shower after the last exit of the day.

(5) *Maintenance and decontamination activities.* In cleanup of leaks of spills, maintenance, or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with a carcinogen addressed by this section could result, each authorized employee entering that area shall:

(i) Be provided with and required to wear clean, impervious garments, including gloves, boots, and continuous-air supplied hood in accordance with § 1910.134;

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(d) *General regulated area requirements*—(1) [Reserved]

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of paragraphs (d)(2) (i) through (v) of this section shall be implemented.

(i) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f)(2) of this section.

(iv) Where an employee has a known contact with a carcinogen addressed by this section, such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f)(2) of this section.

(vi) Emergency deluge showers and eyewash fountains supplied with running potable water shall be located near, within sight of, and on the same level with locations where a direct exposure to Ethyleneimine or beta-Propiolactone only would be most likely as a result of equipment failure or improper work practice.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products are prohibited in regulated areas.

(ii) Where employees are required by this section to wash, washing facilities shall be provided in accordance with § 1910.141(d) (1) and (2) (ii) through (vii).

(iii) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1910.141(d)(3).

(iv) Where employees wear protective clothing and equipment, clean change rooms shall be provided for the number of such employees required to change clothes, in accordance with § 1910.141(e).

(v) Where toilets are in regulated areas, such toilets shall be in a separate room.

(4) *Contamination control.* (i) Except for outdoor systems, regulated areas shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean makeup air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove carcinogens addressed by this section from the surfaces of materials, equipment, and the decontamination facility.

(iv) Dry sweeping and dry mopping are prohibited for 4-Nitrobiphenyl; alpha-Naphthylamine; 3,3'-Dichlorobenzidine (and its salts); beta-Naphthylamine; Benzidine; 4-Aminodiphenyl; 2-Acetylaminofluorene; 4-Dimethylaminoazo-benzene and N-Nitrosodimethylamine.

(e) *Signs, information and training*—(1) *Signs*—(i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT

AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (c)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA

IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES

AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contents identification.* (i) Containers of a carcinogen addressed by this section and containers required under paragraphs (c)(4)(v) and (c)(6) (vii)(B) and (viii)(B) of this section that are accessible only to and handled only by authorized employees, or by other employees trained in accordance with paragraph (e)(5) of this section, may have contents identification limited to a generic or proprietary name or other proprietary identification of the carcinogen and percent.

(ii) Containers of a carcinogen addressed by this section and containers required under paragraphs (c)(4)(v) and (c)(6) (vii)(B), and (viii)(B) of this section that are accessible to or handled by employees other than authorized employees or employees trained in accordance with paragraph (e)(5) of this section shall have contents identification that includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the warning words ''CANCER-SUSPECT AGENT'' displayed immediately under or adjacent to the contents identification.

(iv) Containers whose contents are carcinogens addressed by this section with corrosive or irritating properties shall have label statements warning of such hazards noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by paragraph (e)(1) shall be a minimum letter height of 2 inches (5 cm). Labels on containers required under this section shall not be less than one half the size of the largest lettering on the package, and not less than 8-point type in any instance. *Provided,* That no such required lettering need be more than 1 inch (2.5 cm) in height.

(4) *Prohibited statements.* No statement shall appear on or near any required sign, label, or instruction that contradicts or detracts from the effect of any required warning, information, or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to:

(A) The nature of the carcinogenic hazards of a carcinogen addressed by this section, including local and systemic toxicity;

(B) The specific nature of the operation involving a carcinogen addressed by this section that could result in exposure;

(C) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(D) The purpose for and application of decontamination practices and purposes;

(E) The purpose for and significance of emergency practices and procedures;

(F) The employee's specific role in emergency procedures;

(G) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of a carcinogen addressed by this section;

(H) The purpose for and application of specific first aid procedures and practices;

(I) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports*—(1) *Operations.* The information required in paragraphs (f)(1)(i) through (iv) of this section shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change:

(i) A brief description and in-plant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of a carcinogen addressed by this section in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities; and

(iv) The manner in which carcinogens addressed by this section are present in each regulated area; for example, whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents that result in the release of a carcinogen addressed by this section into any area where employees may be potentially exposed shall be reported in accordance with this paragraph.

(i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include:

(A) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(B) A description of the area involved, and the extent of known and possible employee exposure and area contamination;

(C) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(D) An analysis of the circumstances of the incident and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(g) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees.

(1) *Examinations.* (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids or cytotoxic agents, pregnancy, and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1915.1120 (a) through (e) and (g) through (i). These records shall also be provided upon request to the Director.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

§§ 1915.1004–1915.1016 [Amended]

3. In §§ 1915.1004, 1915.1006, 1915.1007, 1915.1008, 1915.1009, 1915.1010, 1915.1011, 1915.1012, 1915.1013, 1915.1014, 1915.1015, and 1915.1016, the text is removed in its entirety and replaced with the following text (below the section heading) in each section: ''See § 1915.1003, *13 carcinogens*.''.

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

Subpart C—General Safety and Health Standards

1. The authority citation for subpart C continues to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (40 U.S.C. 333); secs. 4, 6, and 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736) as applicable.

2. In § 1926.30, paragraph (b) is revised to read as follows:

§ 1926.30 Shipbuilding and ship repairing.

* * * * *

(b) *Applicable safety and health standards.* For the purpose of work carried out under this section, the safety and health regulations in part 1915 of this title, Shipyard Employment, shall apply.

§ 1926.31 [Amended]

3. In § 1926.31(a)(1), the words ''Railway Labor Building'' are amended to read ''Frances Perkins Building.''

4. In § 1926.31(a)(2), a comma is inserted following the words ''Health Administration'' and the words ''1973–74, at page 323'' that appear at the end of the paragraph are removed.

§ 1926.33 [Amended]

5. In the first sentence of § 1926.33(c)(13)(i), the word ''least'' is revised to read ''latest.''

Subpart D—Occupational Health and Environmental Controls

6. The authority citation for subpart D continues to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (40 U.S.C. 333); secs. 4, 6, and 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable.

§ 1926.55 [Amended]

7. In Appendix A to § 1926.55, entitled ''1970 American Conference of Governmental Industrial Hygienists' Threshold Limit Values of Airborne Contaminants,'' the following amendments are made to the table of airborne contaminants for construction:

a. Remove the following substances in their entirety: Aluminum (as Al) metal; barium sulfate; benomyl; bismuth telluride, undoped; calcium hydroxide; calcium silicate; 2-chloro-6-(trichloromethyl) pyridine; clopidol; dicyclopentadienyl iron; mineral wool; perlite; picloram; piperazine dihydrochloride; propionic acid; silicon; 4,4′-thiobis (6-tert, butyl-m-cresol); and zinc stearate.

b. For the following substances, remove the entry in the fourth column (titled mg/m^3 [b]) in its entirety: Alpha-Alumina; calcium carbonate; cellulose; crag herbicide (Sesone); emery; fibrous glass; glycerin (mist); graphite, synthetic; gypsum; kaolin; limestone; magnesite; marble; pentaerythritol; plaster of Paris; Portland cement; rouge; silicon carbide; starch; sucrose; temephos; tin oxide (as Sn); titanium dioxide; and vegetable oil mist.

c. Entries for chlorine dioxide, methylenedianiline, and propane and cross-references for DDT and DDVP are added (in alphabetical order) to read as follows:

Substance	CAS No.[d]	ppm[a]	mg/m^3 [b]	Designation
* * * *	*	*		*
Chlorine dioxide	10049–04–4	0.1	0.3	
* * * *	*	*		*
DDT, see Dichlorodiphenyltrichloroethane				
DDVP, see Dichlorvos				
* * * *	*	*		*
Methylenedianiline (MDA)	101–77–9			
* * * *	*	*		*
Propane	74–98–6	E		
* * * *	*	*		*

d. In the entry for butadiene (1,3-butadiene), in the first column (''Substance''), the superscript letter (footnote identifier) ''h'' is removed.

e. In the entry for cadmium dust fume (as Cd), in the first column (''Substance''), the words ''dust fume'' are removed, and in the last three columns (for ppm, mg/m^3, and skin designation) the dashes are removed and the entries are left blank.

f. In the entry for chloroform (Trichloromethane), ''(C)'' is added to the beginning of the entries for the third and fourth columns (for ppm and mg/m^3).

g. In the entry for coal tar pitch volatiles * * *, the entry for the second column, CAS No., is amended to read ''65996–93–2''.

h. Under the substance coke oven emissions, all the entries in the second through fifth columns are removed and left blank.

i. In the entry for cyanides (as CN), the dash in the last column (for skin designation) is removed and a capital letter ''X'' is inserted in its place.

j. In the entry for 1,2-Dibromo-3-chloropropane (CBCP), the parenthetical substance name in the first column is corrected to read ''(DBCP)''; the dash entry in the fourth column (for mg/m^3) is removed and left blank; and in the last column (for skin designation), a dash is added.

k. In the entry for 2-Diethylaminoethanol, the dash in the last column (for skin designation) is removed and a capital letter ''X'' is inserted in its place.

l. In the entry for hydrogen selenide (as Se), ''0.2'' is added under the fourth column (for mg/m^3), and a dash is added in the last column (for skin designation).

m. For the entry ''lead, inorganic (as Pb),'' in the first column for that substance, a semi-colon followed by the words ''see 1926.62'' is added, and the entries in the third through fifth columns (for ppm, mg/m^3, and skin designation) are removed and left blank.

n. In the subentry row ''Total particulate'' for magnesium oxide fume, the entry ''15'' from the fourth column headed ''(mg/m^3)'' is transposed with the dash entry in the third column headed ''(ppm).''

o. In the entry methylene chloride, in the first column, the words ''[h]; see 56 FR 57036'' are removed.

p. In the entry for methyl methacrylate, the entry ''100'' in the last column (for skin designation) is removed and a dash is inserted in its place.

q. In the entry for methyl silicate, ''(C)'' is added to the beginning of the entries for the third and fourth columns (for ppm and mg/m^3).

r. In the entries for parathion and picric acid, the dash in the last column (for skin designation) is removed and a capital letter ''X'' is inserted in its place.

s. In the subentry row ''Total dust'' for Portland cement, the entry ''15'' from the third column headed ''(ppm)'' is

transposed with the dash entry in the fourth column headed ''(mg/m^3)'', and the entry ''10'' in the last column (for skin designation) is removed and a dash is inserted in its place.

t. In the entry for rouge, the dash entry in the third column (for ppm) is removed and left blank.

u. Under the entry for silicates (less than 1% crystalline silica), the dash entries in the second column for the subentries ''soapstone, total dust'' and ''soapstone, respirable dust'' for CAS No. are removed and left blank.

v. Under the entry for silicates (less than 1% crystalline silica), for the subentry ''talc (containing asbestos),'' in the first column for that substance, a semi-colon followed by the words ''use asbestos limit; see 1926.58'' is added; in addition, the entries in the second through fifth columns are removed and left blank.

w. Under the entry for silicates (less than 1% crystalline silica), for the subentry ''tremolite,'' in the first column for that substance, a comma followed by the words ''asbestiform; see 1926.58'' is added to the entry; in addition, the entries in the third through fifth columns are removed and left blank.

x. In the entry for styrene, ''(C)'' is added to the beginning of the entries for the third and fourth columns (for ppm and mg/m^3), and the entry ''50'' in the last column (for skin designation) is removed and a dash is inserted in its place.

y. In the entry for toluene, the entry ''100'' in the last column (for skin designation) is removed and a dash is inserted in its place.

z. In the entry for trimethyl benzene, a dash is inserted in the last column (for skin designation).

aa. In the entry for 2,4,6–Trinitrophenyl, the substance name in the first column is corrected to read ''2,4,6–Trinitrophenol''.

bb. In the list entitled ''Mineral Dusts'' that appears at the end of the table (immediately preceding the footnotes to the table), the following parenthetical is added in brackets at the end of the entry for the substance ''Inert or Nuisance Particulates: ([m])'': ''[* Inert or Nuisance Dusts includes all mineral, inorganic, and organic dusts as indicated by examples in TLV's Appendix D]''.

cc. Footnote h, which appears at the end of the table, is removed.

§ 1926.57 [Amended]

8. In § 1926.57(f)(8), the designation ''(i)'' that appears at the beginning of the first sentence is removed.

9. In § 1926.57(g)(5)(vii), the words ''figure D–57.1'' at the end of the first sentence are revised to read ''Figure D–57.6''.

10. In § 1926.57(g)(5)(viii), the words ''figure D–57.2'' at the end of the first sentence are revised to read ''Figure D 57.7''.

11. In § 1926.57(g)(5)(x), the words ''figure D–57.3'' at the end of the last sentence are revised to read ''Figure D–57.8''.

12. In § 1926.57(g)(5), the illustrations are amended as follows:

a. The caption ''Figure D–57.1—Vertical Spindle Disc Grinder Exhaust Hood and Branch Pipe Connections'' is added below the illustration that immediately follows § 1926.57(g)(5)(x).

b. The caption ''Figure D–57.2—Standard Grinder Hood'' is added below the second illustration following § 1926.57(g)(5)(x) (preceding the table on wheel dimensions).

c. The caption ''Figure D–57.3—A Method of Applying an Exhaust Enclosure to Swing-Frame Grinders'' and the words ''Note: Baffle to reduce front opening as much as possible'' are added below the third illustration.

d. The caption ''Figure D–57.4'' is added below the fourth illustration (preceding the table on Standard Buffing and Polishing Hood).

e. Below the fifth illustration that precedes Table D–57.12, the caption ''Figure D–57.5—Cradle Polishing or Grinding Enclosure'' and the words ''Entry loss = 0.45 velocity pressure for tapered takeoff'' are added.

f. Table D–57.12, entitled ''Maximum Allowable Size of Containers and Portable Tanks'' is removed.

g. Immediately below the sixth illustration, preceding the table, the caption ''Figure D–57.6—Horizontal Single-Spindle Disc Grinder Exhaust Hood and Branch Pipe Connections'' is added.

h. Below the illustration that follows newly designated Figure D–57.6 and precedes the table, the caption ''Figure D–57.7—Horizontal Double-Spindle Disc Grinder Exhaust Hood and Branch Pipe Connections'' is added.

i. In the caption for the illustration that appears before the table on Belt width, number ''Figure D–57.3'' is revised to read ''Figure D–57.8'' and the words ''Entry loss = 0.45 velocity pressure for tapered takeoff'' are added immediately below that caption.

13. In § 1926.57(i)(2)(i), the reference ''D–57.4'' is revised to read ''D–4''.

14. In Table D–57.12, which appears following § 1926.57(i)(4)(iii)(A)(*2*), footnote 2 is amended by revising ''he'' to read ''the''.

Subpart E—Personal Protective and Life Saving Equipment

15. The authority citation for subpart E is revised to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); Secs. 4, 6 and 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; and 29 CFR part 1911.

§ 1926.103 [Amended]

16. In § 1926.103(a)(2), the phrase ''approved by the U.S. Bureau of Mines'' is revised to read ''approved by the Mine Safety and Health Administration and the National Institute for Occupational Safety and Health''.

Subpart I—Tools—Hand and Power

17. The authority citation for subpart I continues to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); Secs. 4, 6 and 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; and 29 CFR part 1911.

18. In § 1926.300(b)(7), the two references that read ''paragraphs (b) (3) and (4) of this section'' are revised to read ''paragraphs (b) (8) and (9) of this section.''; the parenthetical at the end of paragraph (b)(7) is revised to read ''(See Figures I–1 through I–6.)''; Figures I–1 through I–6 are added at the end of paragraph (b)(7); and paragraphs (b) (8) and (9) are added to read as follows:

§ 1926.300 General requirements.

* * * * *

(b) * * *

(7) * * *

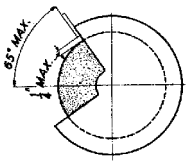

Figure I–1

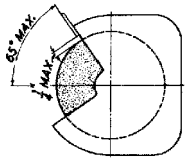

Figure I–2

Correct

Showing adjustable tongue giving required angle protection for all sizes of wheel used.

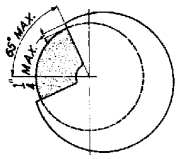

Figure I–3

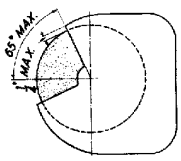

Figure I–4

Correct

Showing movable guard with opening small enough to give required protection for the smallest size wheel used.

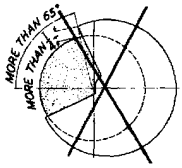

Figure I–5

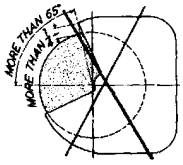

Figure I–6

Incorrect

Showing movable guard with size of opening correct for full size wheel but too large for smaller wheel.

(8) *Bench and floor stands.* The angular exposure of the grinding wheel periphery and sides for safety guards used on machines known as bench and floor stands should not exceed 90° or one-fourth of the periphery. This exposure shall begin at a point not more than 65° above the horizontal plane of the wheel spindle. (See Figures I–7 and I–8 and paragraph (b)(7) of this section.)

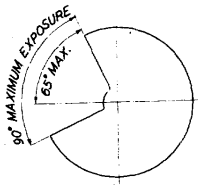

Figure I–7

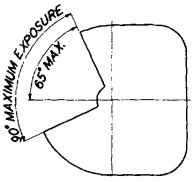

Figure I–8

Wherever the nature of the work requires contact with the wheel below the horizontal plane of the spindle, the exposure shall not exceed 125° (See Figures I–9 and I–10.)

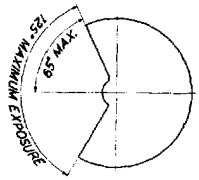

Figure I–9

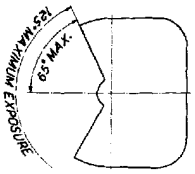

Figure I–10

(9) *Cylindrical grinders.* The maximum angular exposure of the grinding wheel periphery and sides for safety guards used on cylindrical grinding machines shall not exceed 180°. This exposure shall begin at a point not more than 65° above the horizontal plane of the wheel spindle. (See Figures I–11 and I–12 and paragraph (b)(7) of this section.)

Figure I–11

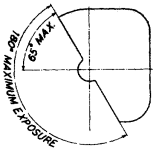

Figure I–12

§ 1926.304 [Amended]

19. In § 1926.304(h)(1), the reference to ''paragraph (c)(1) of this section'' is revised to read ''paragraph (i)(1) of this section''.

Subpart K—Electrical

20. The authority citation for subpart K is revised to read as follows:

Authority: Sections 6 and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655 and 657); sec. 107, Contract Work Hours and Safety Standards Act (40 U.S.C. 333); Secretary of Labor's Order No. 9–83 (48 FR 35736) or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

§ 1926.416 [Amended]

21. In the first sentence of § 1926.416(f)(6), the phrase ''circuit protective device, the circuit protective device'' is revised to read ''circuit protective device.''

22. In § 1926.416(g)(2)(iii)(B), ''ground)'' is revised to read ''ground''.

23. In § 1926.416(g)(7), the words ''such a'' that appear at the beginning of the parenthetical phrase in the first sentence are revised to read ''such as''.

§ 1926.417 [Amended]

24. In the note that appears under § 1926.417(d)(1), the words ''paragraph (b) of this section'' are revised to read ''paragraph (d) of this section''.

Subpart W—Rollover Protective Structures; Overhead Protection

25. The authority citation for subpart W is revised to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 U.S.C. 333; secs. 4, 6, and 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable.

26. In § 1926.1002, the section heading is revised; paragraphs (c) through (i) are removed and reserved; paragraphs (j)(3) and (k) are removed; and the following new second and third sentences are added after the first sentence in paragraph (a)(1) to read as follows:

§ 1926.1002 Protective frames (roll-over protective structures, known as ROPS) for wheel-type agricultural and industrial tractors used in construction.

(a) * * *

(1) * * * These frames shall meet the test and performance requirements of the Society of Automotive Engineers Standard J334a–1970, Protective Frame Test Procedures and Performance Requirements, which is incorporated by reference. The 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 the Society of Automotive Engineers, 485 Lexington Avenue, New York, NY 10017. Copies may be inspected at the OSHA Docket Office, U.S. Department of Labor, 200 Constitution Ave., NW., Room N2634, or at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, D.C. The standard also appears in the 1971 SAE Handbook, which may be examined in each of OSHA's Regional Offices. * * *

* * * * *

27. In § 1926.1003, paragraphs (c) through (g) are removed, the first sentence in paragraph (a)(1) is revised, and four new sentences are added after the first sentence to read as follows:

§ 1926.1003 Overhead protection for operators of agricultural and industrial tractors.

(a) *General*—(1) *Purpose.* When overhead protection is provided on wheel-type agricultural and industrial tractors, the overhead protection shall be designed and installed according to the requirements contained in the test and performance requirements of Society of Automotive Engineers Standard J167–1970, Protective Frame with Overhead Protection-Test Procedures and Performance Requirements, which pertains to overhead protection requirements and is incorporated by reference. The 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 the Society of Automotive Engineers, 485 Lexington Avenue, New York, NY 10017. Copies may be inspected at the OSHA Docket Office, U.S. Department of Labor, 200 Constitution Ave., NW., Room N2634, or at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, D.C. The standard also appears in the 1971 SAE Handbook, which may be examined in each of OSHA's Regional Offices. * * *

* * * * *

Subpart Y—Diving

28. An authority citation for subpart Y is added to read as follows:

Authority: Sections 4, 6, and 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); sec. 107, Contract Work Hours and Safety Standards Act (the Construction Safety Act) (40 U.S.C. 333); sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

Subpart Z—Toxic and Hazardous Substances

29. The authority citation for subpart Z of part 1926 is revised to read as follows:

Authority: Sections 6 and 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 655 and 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 1–90 (55 FR 9033), as applicable.

Section 1926.1102 not issued under 29 U.S.C. 655 or 29 CFR part 1911; also issued under 5 U.S.C. 553.

Section 1926.1103 through 1926.1118, 1926.1128, 1926.1145, 1926.1147, and 1926.1148 are also issued under 29 U.S.C. 653.

30. Section 1926.1103 is revised to read as follows:

§ 1926.1103 13 Carcinogens.

(a) *Scope and application.* (1) This section applies to any area in which the 13 carcinogens addressed by this section are manufactured, processed, repackaged, released, handled, or stored, but shall not apply to transshipment in sealed containers, except for the labeling requirements under paragraphs (e) (2), (3) and (4) of this section. The 13 carcinogens are the following:

4–Nitrobiphenyl, Chemical Abstracts Service Register Number (CAS No.) 92933;
alpha-Naphthylamine, CAS No. 134327;
methyl chloromethyl ether, CAS No. 107302;
3,3'-Dichlorobenzidine (and its salts) CAS No. 91941;
bis-Chloromethyl ether, CAS No. 542881;
beta-Naphthylamine, CAS No. 91598;
Benzidine, CAS No. 92875;
4–Aminodiphenyl, CAS No. 92671;
Ethyleneimine, CAS No. 151564;
beta-Propiolactone, CAS No. 57578;
2–Acetylaminofluorene, CAS No. 53963;
4–Dimethylaminoazo-benezene, CAS No. 60117; and
N-Nitrosodimethylamine, CAS No. 62759.

(2) This section shall not apply to the following:

(i) Solid or liquid mixtures containing less than 0.1 percent by weight or volume of 4–Nitrobiphenyl; methyl chloromethyl ether; bis-chloromethyl ether; beta-Naphthylamine; benzidine or 4–Aminodiphenyl; and

(ii) Solid or liquid mixtures containing less than 1.0 percent by weight or volume of alpha-Naphthylamine; 3,3′-Dichlorobenzidine (and its salts); Ethyleneimine; beta-Propiolactone; 2–Acetylaminofluorene; 4–Dimethylaminoazobenzene, or N-Nitrosodimethylamine.

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

Absolute filter is one capable of retaining 99.97 percent of a mono disperse aerosol of 0.3 µm particles.

Authorized employee means an employee whose duties require him to be in the regulated area and who has been specifically assigned by the employer.

Clean change room means a room where employees put on clean clothing and/or protective equipment in an environment free of the 13 carcinogens addressed by this section. The clean change room shall be contiguous to and have an entry from a shower room, when the shower room facilities are otherwise required in this section.

Closed system means an operation involving a carcinogen addressed by this section where containment prevents the release of the material into regulated areas, non-regulated areas, or the external environment.

Decontamination means the inactivation of a carcinogen addressed by this section or its safe disposal.

Director means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health and Human Services to act for the Director.

Disposal means the safe removal of the carcinogens addressed by this section from the work environment.

Emergency means an unforeseen circumstance or set of circumstances resulting in the release of a carcinogen addressed by this section that may result in exposure to or contact with the material.

External environment means any environment external to regulated and nonregulated areas.

Isolated system means a fully enclosed structure other than the vessel of containment of a carcinogen addressed by this section that is impervious to the passage of the material and would prevent the entry of the carcinogen addressed by this section into regulated areas, nonregulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

Laboratory-type hood is a device enclosed on the three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving a carcinogen addressed by this section within the hood does not require the insertion of any portion of any employee's body other than his hands and arms.

Nonregulated area means any area under the control of the employer where entry and exit is neither restricted nor controlled.

Open-vessel system means an operation involving a carcinogen addressed by this section in an open vessel that is not in an isolated system, a laboratory-type hood, nor in any other system affording equivalent protection against the entry of the material into regulated areas, non-regulated areas, or the external environment.

Protective clothing means clothing designed to protect an employee against contact with or exposure to a carcinogen addressed by this section.

Regulated area means an area where entry and exit is restricted and controlled.

(c) *Requirements for areas containing a carcinogen addressed by this section.* A regulated area shall be established by an employer where a carcinogen addressed by this section is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be controlled in accordance with the requirements for the following category or categories describing the operation involved:

(1) *Isolated systems.* Employees working with a carcinogen addressed by this section within an isolated system such as a ''glove box'' shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(2) *Closed system operation.* (i) Within regulated areas where the carcinogens addressed by this section are stored in sealed containers, or contained in a closed system, including piping systems, with any sample ports or openings closed while the carcinogens addressed by this section are contained within, access shall be restricted to authorized employees only.

(ii) Employees exposed to 4-Nitrobiphenyl; alpha-Naphthylamine; 3,3′-Dichlorobenzidine (and its salts); beta-Naphthylamine; benzidine; 4-Aminodiphenyl; 2-Acetyleminofluorene; 4-Dimethylaminoazo-benzene; and N-Nitrosodimethylamine shall be required to wash hands, forearms, face, and neck upon each exit from the regulated areas,

close to the point of exit, and before engaging in other activities.

(3) *Open-vessel system operations.* Open-vessel system operations as defined in paragraph (b)(13) of this section are prohibited.

(4) *Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system.* In operations involving ''laboratory-type hoods,'' or in locations where the carcinogens addressed by this section are contained in an otherwise ''closed system,'' but is transferred, charged, or discharged into other normally closed containers, the provisions of this paragraph shall apply.

(i) Access shall be restricted to authorized employees only.

(ii) Each operation shall be provided with continuous local exhaust ventilation so that air movement is always from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless decontaminated. Clean makeup air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.

(iii) Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers and gloves prior to entering the regulated area.

(iv) Employees engaged in handling operations involving the carcinogens addressed by this section shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with § 1926.103. A respirator affording higher levels of protection may be substituted.

(v) Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for purposes of decontamination or disposal. The contents of such impervious containers shall be identified, as required under paragraphs (e) (2), (3), and (4) of this section.

(vi) Drinking fountains are prohibited in the regulated area.

(vii) Employees shall be required to wash hands, forearms, face, and neck on each exit from the regulated area, close to the point of exit, and before engaging in other activities and employees exposed to 4-Nitrobiphenyl; alpha-Naphthylamine; 3,3′-Dichlorobenzidine (and its salts); beta-Naphthylamine; Benzidine; 4-Aminodiphenyl; 2-Acetylaminofluorene; 4-imethylaminoazo-benzene; and N-Nitrosodimethylamine shall be required to shower after the last exit of the day.

(5) *Maintenance and decontamination activities.* In cleanup of leaks of spills, maintenance, or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with a carcinogen addressed by this section could result, each authorized employee entering that area shall:

(i) Be provided with and required to wear clean, impervious garments, including gloves, boots, and continuous-air supplied hood in accordance with § 1926.103;

(ii) Be decontaminated before removing the protective garments and hood;

(iii) Be required to shower upon removing the protective garments and hood.

(d) *General regulated area requirements*—(1) [Reserved]

(2) *Emergencies.* In an emergency, immediate measures including, but not limited to, the requirements of paragraphs (d)(2) (i) through (v) of this section shall be implemented.

(i) The potentially affected area shall be evacuated as soon as the emergency has been determined.

(ii) Hazardous conditions created by the emergency shall be eliminated and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

(iii) Special medical surveillance by a physician shall be instituted within 24 hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with paragraph (f)(2) of this section.

(iv) Where an employee has a known contact with a carcinogen addressed by this section, such employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

(v) An incident report on the emergency shall be reported as provided in paragraph (f)(2) of this section.

(vi) Emergency deluge showers and eyewash fountains supplied with running potable water shall be located near, within sight of, and on the same level with locations where a direct exposure to Ethyleneimine or beta-Propiolactone only would be most likely as a result of equipment failure or improper work practice.

(3) *Hygiene facilities and practices.* (i) Storage or consumption of food, storage or use of containers of beverages, storage or application of cosmetics, smoking, storage of smoking materials, tobacco products or other products for chewing, or the chewing of such products are prohibited in regulated areas.

(ii) Where employees are required by this section to wash, washing facilities shall be provided in accordance with § 1926.51(f) (2) and (3).

(iii) Where employees are required by this section to shower, shower facilities shall be provided in accordance with § 1926.51(f)(4).

(iv) Where employees wear protective clothing and equipment, clean change rooms shall be provided for the number of such employees required to change clothes, in accordance with § 1926.51(i).

(v) Where toilets are in regulated areas, such toilets shall be in a separate room.

(4) *Contamination control.* (i) Except for outdoor systems, regulated areas shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean makeup air in equal volume shall replace air removed.

(ii) Any equipment, material, or other item taken into or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

(iii) Decontamination procedures shall be established and implemented to remove carcinogens addressed by this section from the surfaces of materials, equipment, and the decontamination facility.

(iv) Dry sweeping and dry mopping are prohibited for 4-Nitrobiphenyl; alpha-Naphthylamine; 3,3'-Dichlorobenzidine (and its salts); beta-Naphthylamine; Benzidine; 4-Aminodiphenyl; 2-Acetylaminofluorene; 4-Dimethylaminoazo-benzene and N-Nitrosodimethylamine.

(e) *Signs, information and training*—(1) *Signs*—(i) Entrances to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT

AUTHORIZED PERSONNEL ONLY

(ii) Entrances to regulated areas containing operations covered in paragraph (c)(5) of this section shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT EXPOSED IN THIS AREA

IMPERVIOUS SUIT INCLUDING GLOVES, BOOTS, AND AIR-SUPPLIED HOOD REQUIRED AT ALL TIMES

AUTHORIZED PERSONNEL ONLY

(iii) Appropriate signs and instructions shall be posted at the entrance to, and exit from, regulated areas, informing employees of the procedures that must be followed in entering and leaving a regulated area.

(2) *Container contents identification.* (i) Containers of a carcinogen addressed by this section and containers required under paragraphs (c)(4)(v) and (c)(6)(vii)(B) and (viii)(B) of this section that are accessible only to and handled only by authorized employees, or by other employees trained in accordance with paragraph (e)(5) of this section, may have contents identification limited to a generic or proprietary name or other proprietary identification of the carcinogen and percent.

(ii) Containers of a carcinogen addressed by this section and containers required under paragraphs (c)(4)(v) and (c)(6) (vii)(B), and (viii)(B) of this section that are accessible to or handled by employees other than authorized employees or employees trained in accordance with paragraph (e)(5) of this section shall have contents identification that includes the full chemical name and Chemical Abstracts Service Registry number as listed in paragraph (a)(1) of this section.

(iii) Containers shall have the warning words ''CANCER-SUSPECT AGENT'' displayed immediately under or adjacent to the contents identification.

(iv) Containers whose contents are carcinogens addressed by this section with corrosive or irritating properties shall have label statements warning of such hazards noting, if appropriate, particularly sensitive or affected portions of the body.

(3) *Lettering.* Lettering on signs and instructions required by paragraph (e)(1) of this section shall be a minimum letter height of 2 inches (5 cm). Labels on containers required under this section shall not be less than one half the size of the largest lettering on the package, and not less than 8-point type in any instance. *Provided,* That no such required lettering need be more than 1 inch (2.5 cm) in height.

(4) *Prohibited statements.* No statement shall appear on or near any required sign, label, or instruction that contradicts or detracts from the effect of any required warning, information, or instruction.

(5) *Training and indoctrination.* (i) Each employee prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including, but not necessarily limited to:

(A) The nature of the carcinogenic hazards of a carcinogen addressed by this section, including local and systemic toxicity;

(B) The specific nature of the operation involving a carcinogen addressed by this section that could result in exposure;

(C) The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;

(D) The purpose for and application of decontamination practices and purposes;

(E) The purpose for and significance of emergency practices and procedures;

(F) The employee's specific role in emergency procedures;

(G) Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of a carcinogen addressed by this section;

(H) The purpose for and application of specific first aid procedures and practices;

(I) A review of this section at the employee's first training and indoctrination program and annually thereafter.

(ii) Specific emergency procedures shall be prescribed, and posted, and employees shall be familiarized with their terms, and rehearsed in their application.

(iii) All materials relating to the program shall be provided upon request to authorized representatives of the Assistant Secretary and the Director.

(f) *Reports*—(1) *Operations.* The information required in paragraphs (f)(1)(i) through (iv) of this section shall be reported in writing to the nearest OSHA Area Director. Any changes in such information shall be similarly reported in writing within 15 calendar days of such change:

(i) A brief description and in-plant location of the area(s) regulated and the address of each regulated area;

(ii) The name(s) and other identifying information as to the presence of a carcinogen addressed by this section in each regulated area;

(iii) The number of employees in each regulated area, during normal operations including maintenance activities; and

(iv) The manner in which carcinogens addressed by this section are present in each regulated area; for example, whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

(2) *Incidents.* Incidents that result in the release of a carcinogen addressed by this section into any area where employees may be potentially exposed shall be reported in accordance with this paragraph.

(i) A report of the occurrence of the incident and the facts obtainable at that time including a report on any medical treatment of affected employees shall be made within 24 hours to the nearest OSHA Area Director.

(ii) A written report shall be filed with the nearest OSHA Area Director within 15 calendar days thereafter and shall include:

(A) A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;

(B) A description of the area involved, and the extent of known and possible employee exposure and area contamination;

(C) A report of any medical treatment of affected employees, and any medical surveillance program implemented; and

(D) An analysis of the circumstances of the incident and measures taken or to be taken, with specific completion dates, to avoid further similar releases.

(g) *Medical surveillance.* At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees.

(1) *Examinations.* (i) Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

(ii) Authorized employees shall be provided periodic physical examinations, not less often than annually, following the preassignment examination.

(iii) In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, those undergoing treatment with steroids or cytotoxic agents, pregnancy, and cigarette smoking.

(2) *Records.* (i) Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be maintained for the duration of the employee's employment. Upon termination of the employee's employment, including retirement or

death, or in the event that the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the Director.

(ii) Records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1926.33 (a) through (e) and (g) through (i). These records shall also be provided upon request to the Director.

(iii) Any physician who conducts a medical examination required by this paragraph shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

§§ 1926.1104–1926.1116 [Amended]

31. In §§ 1926.1104, 1926.1106, 1926.1107, 1926.1108, 1926.1109, 1926.1110, 1926.1111, 1926.1112, 1926.1113, 1926.1114, 1926.1115, and 1926.1116, the text is removed in its entirety and replaced with the following text (below the section heading) in each section: ''See § 1926.1103, *13 carcinogens*.''

Appendix A to Part 1926—[Amended]

32. In Appendix A to part 1926, the entry in the first column for new ''§ 1926.250(d)'' is revised to read ''§ 1926.250(d) (1)–(4)'' and the corresponding entry in the second column opposite that entry is revised to read ''§ 1910.30(a) (1), (2), (4), and (5)''.

33. In Appendix A to part 1926, the entry ''[Do.] (8) and (9)'' is added to the first column underneath the entries for § 1926.300(b) and a corresponding entry, ''[Do.] (b) (3) and (4)'' is added to the second column opposite that entry.

34. In appendix A to part 1926, the entry in the first column for new § 1926.416(f) that reads ''[Do.] (7)–(10)'' is revised to read ''[Do.] (7)–(9)'' and a new entry in the first column for § 1926.416(f) that reads ''[Do.] (10)'' is added along with a corresponding entry in the second column opposite that entry that reads ''[Do.] (d)''.

PART 1928–OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

1. The authority citation for part 1928 continues to read as follows:

Authority: Sections 4, 6, and 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), or 1–90 (55 FR 9033), as applicable.

Subpart B—Applicability of standards

2. In § 1928.21, a new paragraph (a)(6) is added to read as follows:

§ 1928.21 Applicable standards in 29 CFR part 1910.

(a) * * *

* * * * *

(6) Cadmium—§ 1910.1027.

* * * * *

Subpart C—Rollover Protective Structures

3. In § 1928.51, footnote 1 in paragraph (b)(2)(ii) introductory text is redesignated as footnote 2, and paragraph (b)(1) is revised to read as follows:

§ 1928.51 Roll-over protective structures (ROPS) for tractors used in agricultural operations.

* * * * *

(b) * * *

(1) *Roll-over protective structures (ROPS).* A roll-over protective structures (ROPS) shall be provided by the employer for each tractor operated by an employee. Except as provided in paragraph (b)(5) of this section, ROPS used on wheel-type tractors shall meet the test and performance requirements of the American Society of Agricultural Engineers Standard (ASAE) Standard S306.3–1974 entitled ''Protective Frame for Agricultural Tractors—Test Procedures and Performance Requirements'' and Society of Automotive Engineers (SAE) Standard J334–1970, entitled ''Protective Frame Test Procedures and Performance Requirements'' (formerly codified in 29 CFR 1928.52); or ASAE Standard S336.1–1974, entitled ''Protective Enclosures for Agricultural Tractors—Test Procedures and Performance Requirements'' and SAE J168–1970, entitled ''Protective Enclosures—Test Procedures and Performance Requirements'' (formerly codified in 29 CFR 1928.53) [1]; or § 1926.1002 of OSHA's construction standards. These ASAE and SAE standards are incorporated by reference and have been 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 either the American Society of Agricultural Engineers Standard, 2950 Niles Road, Post Office Box 229, St. Joseph, MI 49085, or the Society of Automotive Engineers, 485 Lexington Avenue, New York, NY 10017. Copies may be inspected at the OSHA Docket Office, U.S. Department of Labor, 200 Constitution Ave., NW., Room N2634, or at the Office of the Federal Register, 800 North Capitol St., NW., Suite 700, Washington, D.C. ROPS used on track-type tractors shall meet the test and performance requirements of § 1926.1001 of this title.

* * * * *

§§ 1928.52–1928.53 [Removed]

4. Sections 1928.52 and 1928.53 are removed.

Appendix B to Subpart C of Part 1928

5. Appendix B to subpart C of part 1928 is removed.

Subpart M—Occupational Health

6. Section 1928.1027 is revised to read as follows:

§ 1928.1027 Cadmium.

See § 1910.1027, *Cadmium*.

PART 1950—[REMOVED]

1. Part 1950 is removed.

PART 1951—[REMOVED]

1. Part 1951 is removed.

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BILLING CODE 4510–26–P

[1] In March 1977, the American Society of Agricultural Engineers merged S306 and S336, along with Standard 305, entitled ''Operator Protection for Wheel Type Agricultural Tractors,'' into ASAE S383, which addresses ROPS for wheeled agricultural tractors.

federal register

Thursday
March 7, 1996

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Historically Black Colleges and Universities Program; Expanding HUD Partnerships for Neighborhood Revitalization; Notice of FY 1996 Funding Availability

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. FR–4014–N–01]

Notice of Funding Availability for FY 1996, Historically Black Colleges and Universities Program; Expanding HUD Partnerships for Neighborhood Revitalization

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability (NOFA) for fiscal year (FY) 1996.

SUMMARY: This NOFA announces the expected availability of up to $6.5 million (depending on final appropriations for FY 1996) of FY 1996 funding for the Historically Black Colleges and Universities (HBCU) Program, including any recaptured funds from prior appropriations. This document contains the following information:

a. The purpose of the NOFA and information regarding available amounts, objectives, eligibility, and selection criteria; and

b. Application processing, including how, where, and when to apply and how selections will be made.

The Congress has not yet enacted an FY 1996 appropriation for HUD. However, HUD is publishing this notice in order to give potential applicants adequate time to prepare applications. The amount of funds announced in this NOFA is an estimate of the amount that may be enacted in 1996. HUD is not bound by the estimate set forth in this notice.

DATES: Application kits may be requested immediately. HUD will distribute application kits as soon as they become available. Completed applications are due before midnight Eastern Time, on May 23, 1996. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, HUD 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. Applications may not be submitted by facsimile (FAX).

ADDRESSES: For a copy of the application package and supplemental information, including an instructional video, please call Community Connections at 1–800–998–9999. Hearing- and speech-impaired persons may call the toll-free TDD number 1–800–877–8339. These materials, except the video, are also available on the Internet at gopher://amcom.aspensys.com:75/11/funding. When requesting an application kit, please refer to document FR–4014, and provide your name, address (including zip code), and telephone number (including area code). Requests for HBCU application packages should be made immediately. HUD will distribute application packages as soon as they become available.

Application Submission: An original and three copies of the completed application should be submitted to the following address: Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street, SW., Room 7251, Washington, DC 20410–3500; ATTN: HBCU Program. HUD will accept only *one* application per HBCU. Applications may be submitted on 3.25″ diskette, clearly indicating the software program used and the computer environment in which it was created (Macintosh or IBM compatible).

FOR FURTHER INFORMATION CONTACT: Ms. Yvette Aidara (x140) or Ms. Delores Pruden (x139), Historically Black Colleges and Universities Program, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th St., SW., Washington, DC 20410; telephone (202) 401–8821 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number via TDD by calling the Federal Information Relay Service toll-free at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned control number 2506–0122. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

I. Purpose and Substantive Description

Purpose. The Historically Black Colleges and Universities (HBCU) Program is designed to assist HBCUs to expand their role and effectiveness in addressing community development in their localities. For the purposes of this program, the term ''locality'' includes any city, county, town, township, parish, village, or other general political subdivision of a State or the U.S. Virgin Islands within which an HBCU is located. An HBCU located in a metropolitan statistical area (MSA), as established by the Office of Management and Budget, may consider its locality to be one or more of these entities within the entire MSA. The nature of the locality for each HBCU may, therefore, differ depending on its location.

This program is further designed to help HBCUs address the needs of their locality(ies) while furthering the following HUD values:

- A Commitment to Community;
- A Commitment to Support Families;
- A Commitment to Economic Lift;
- A Commitment to Reciprocity and to Balancing Individual Rights and Responsibilities; and
- A Commitment to Reducing the Separations by Race and Income in American Life.

Objectives: The objectives of this program are:

1. To help HBCUs expand their role and effectiveness in addressing community development needs in their localities, including neighborhood revitalization, housing, and economic development, consistent with the purposes of title I of the Housing and Community Development Act of 1974; and

2. To encourage greater citizen participation in the local/neighborhood planning process and, ultimately, in development of their localities' and States' Consolidated Plan for submission to HUD.

Applicants must address the objectives by successfully demonstrating how the proposed activities will expand the role of the HBCU in meeting local community economic development and/or housing needs while furthering HUD's values identified in the purpose, above.

A. Authority

This program is authorized under section 107(b)(3) of the Housing and Community Development Act of 1974 (the 1974 Act), which was added by section 105 of the HUD Reform Act of 1989. The program is governed by regulations contained in 24 CFR 570.400, 570.404 and 24 CFR part 570, subparts A, C, J, K and O.

B. Allocation Amounts and Form

This NOFA announces the availability of approximately $6.5 million of FY 1996 funding for the Historically Black Colleges and Universities (HBCU) Program, including any recaptured funds from prior appropriations. The actual amount that will be available is dependent upon final appropriations because Congress has not yet enacted a FY 1996 appropriation for HUD. However, HUD is publishing this notice in order to give potential applicants adequate time to prepare applications. The amount of funds announced in this NOFA is an estimate of the amount that may be enacted in 1996. HUD is not bound by the estimate set forth in this notice. The estimated amount may be adjusted further based on the enacted 1996 appropriation.

The maximum amount awarded to any applicant will be $500,000. HUD reserves the right to award funds for less than the maximum amount. The awards will be made in the form of grants.

C. Eligibility

1. *Eligible Applicants.* Only HBCUs as determined by the Department of Education in 34 CFR 608.2 in accordance with that Department's responsibilities under Executive Order 12677, dated April 28, 1989, are eligible to submit applications.

2. *Eligible Activities.* Activities that may be funded under this NOFA are those activities eligible for Community Development Block Grant (CDBG) funding. They are listed in 24 CFR 570, subpart C. Generally, activities that can be carried out with these funds include, but are not limited to:

a. Acquisition of real property, relocation and demolition, rehabilitation of residential and nonresidential structures, water and sewer facilities, streets;

b. Promoting opportunities for training and employment of low-income residents in connection with HUD projects such as the ''Campus of Learners'' initiative and other Federally-assisted projects and activities;

c. Forming partnerships with units of general local government to address the physical, social, and economic needs of the community in a comprehensive manner and in accordance with a HUD-approved Consolidated Plan;

d. Developing programs that provide a continuum of care for the homeless;

e. Neighborhood or community services facilities that provide activities such as adult basic education classes; GED preparation and testing; job and career counseling and assessment; citizen participation academics; public access telecommunications centers, neighborhood cultural and recreational activities that include dancing lessons, art classes and other support activities for youth, senior citizens and other low- and moderate-income residents; and social and medical services;

f. Promoting opportunities for the creation and expansion of small businesses and minority enterprises; and

g. Identifying specific needs for affordable housing and increasing housing opportunities for low- and moderate-income persons in the locality to be served.

In annoucing the availability of Fiscal Year 1995 funding for this program, HUD published two separate NOFAs on September 29, 1995. One (60 FR 50694), announced the availability of funds to assist HBCUs in forming partnerships with units of general local government to conduct joint projects to establish multiple use community services facilities on HBCU campuses that would benefit low-income and subsidized housing residents, senior citizens, and the HBCUs. The second NOFA (60 FR 50700) announced the availability of additional funds to assist HBCUs to form community development corporations (CDCs) to undertake eligible activities. While there will not be separate competitions for these two types of projects this fiscal year, both types of activities remain eligible for (and applicants are encouraged to seek) assistance under this competition.

Applicants are encouraged to propose the use of grant funds, at reasonable levels, for the acquisition of computer hardware and software compatible with Internet access and HUD's Consolidated Planning and Community Connections software, if they do not currently have such capability.

Those applicants planning to use funds for the provision of public services are generally bound by the statutory requirement that no more than 15 percent of the total grant amount be used for public service activities.

3. *Environmental Review.* If the applicant proposes activities involving rehabilitation of structures or construction of buildings, an environmental review by HUD is required in accordance with 24 CFR part 50, including the authorities in § 50.4. If the requirements of part 50 are not met, HUD reserves the right to terminate all or portions of the award. The grantee is not authorized to proceed with any activity requiring such approval until written approval is received from the HUD State environmental office in its area certifying that the project has been approved.

D. Selection Criteria/Rating Factors

An applicant must demonstrate that it meets the objectives of this HBCU program by scoring at least 12 of the possible 20 points on rating factor 1 (addressing the objectives) in order to qualify for funding. Applicants must also receive a minimum score of 70 out of the total of 105 points to be considered eligible for funding. Activities that are not eligible for funding under this program (see 24 CFR 570.204 and 570.207) will not be funded. If more than 50 percent of the amount requested in the application is for ineligible activities, the application will not be funded.

Applications for funding under this NOFA will be evaluated competitively, and awarded points based on the factors identified below. HUD will rank the applications in descending order according to score. Applications meeting the minimum threshold requirements will be funded in rank order, until all available funds have been obligated, or until there are no acceptable applications. HUD reserves the right to select lower rated projects if necessary to achieve geographic diversity.

Negotiations. After all applications have been rated and ranked and a determination of successful applicants has been made, HUD requires that all successful applicants participate in negotiations to determine the specific terms of the Statement of Work and grant budget. In cases in which HUD cannot successfully conclude negotiations, awards will not be made. In such instances, HUD may elect to offer an award (in an amount not to exceed the amount of remaining funds available for the competition) to the next highest ranking applicant and proceed with negotiations as described above.

Optional Match. Although matching funds are not required to qualify for funding, HUD wishes to stress that applicants that evidence a commitment of matching funds are eligible for more rating points than those not having a match. The maximum number of rating points an applicant can receive for matching funds is 7 points of the 25 points possible for Factor 4. To be eligible for match points, the applicant must provide evidence of a commitment of additional funds and/or resources from other Federal, State, local and/or private sources (including the applicant's own resources). The match may be in the form of cash and/or in-kind goods or services. Applicants having a cash match will receive a higher number of points than those only

providing in-kind services. Applicants without a match will receive zero points out of the possible 7 points available for match.

Rating Factors. The factors set forth below will be used by HUD to evaluate applications. Each application must contain sufficient information to be reviewed for its merits. The score of each factor will be based on the qualitative and quantitative aspects demonstrated for each factor in an application. The factors, and the maximum number of points for each factor (out of a total of 105 points), are as follows:

1. *Addressing the Objectives* (maximum points: 20).

The extent to which the applicant addresses the objectives of this program is examined by this factor. Applicants must address objective 1, above, by successfully demonstrating how the proposed activities will expand the role of the HBCU in meeting local community economic development and/or housing needs while furthering HUD's values as identified in the Purpose section of this NOFA, above.

2. *Substantial Impact in Achieving Objectives* (maximum points: 25).

The extent to which the applicant demonstrates an innovative, creative, and holistic approach to addressing these objectives is examined by this factor.

3. *Special Needs (Distress) Applicant or Locality.* (maximum points: 10).

The extent to which the applicant demonstrates the level of distress in the immediate community to be served by the project is examined by this factor. While the poverty rate is a strong indicator of distress levels, the applicant may demonstrate the level of distress with other factors indicative of distress such as income, unemployment, drug use, homelessness, and other generally accepted indicators of socio-economic distress and/or disinvestment.

4. *Technical and Financial Feasibility and Match.* (maximum points: 25).

The extent to which the applicant demonstrates the technical and financial feasibility of achieving the objectives, including local support for the activities proposed to be carried out in the locality and any matching funds proposed to be provided from sources other than the applicant, is examined by this factor.

5. *Capacity.* (maximum points: 20).

The extent to which the applicant demonstrates the capacity to carry out satisfactorily the proposed activities in a timely fashion, including satisfactory performance in carrying out any prior HUD-assisted projects or activities, is examined by this factor.

6. *Bonus Points.* Applicants that propose implementing activities in a Federally-designated Urban or Rural Empowerment Zone, Urban Supplemental Empowerment Zone, Urban or Rural Enterprise Community, or Urban Enhanced Enterprise Community (EZ or EC) will receive a maximum of 5 bonus points. To receive these points, applicants must submit with the application package a certification from the authorized representative of the unit of local government that proposed activities will be carried out within the EZ or EC. An applicant may only receive bonus points under this factor if it receives a minimum score of 70 out of the total of 105 points available under actors 1 through 5, above.

II. Application Submission Requirements

Applicants must complete and submit applications for HBCU grants in accordance with instructions contained in the FY 1996 Historically Black Colleges and Universities Program application kit. The application kit will request information in sufficient detail for HUD to determine whether the proposed activities are feasible and meet all the requirements of applicable statutes and regulations. The application package requires a Statement of Work that clearly identifies the proposed activities; a narrative response to the Rating Factors identified above; a schedule for the program; budgets; and a description of any other public or private resources proposed to be used in the program. The application package also contains certifications that the applicant will comply with fair housing and civil rights requirements, program regulations, regulations in 24 CFR part 135 with regard to economic opportunities for low-income persons and business concerns, and other Federal requirements. Applicants should refer to the HBCU application kit for further instructions.

III. Corrections to Deficient Applications

Immediately after the deadline for submission of applications, applications will be screened to determine whether all items were submitted. If the applicant fails to submit certain technical items, or the application contains a technical mistake, such as an incorrect signatory, HUD shall notify the applicant in writing that the applicant has 14 calendar days from the date of the written notification to submit the missing item, or correct the technical mistake. If the applicant does not submit the missing item within the required time period, the application will be ineligible for further processing.

The 14-day cure period pertains only to nonsubstantive technical deficiencies or errors. Technical deficiencies relate to items that:

1. Are not necessary for HUD review under selection criteria/rating factors; and

2. Would not improve the substantive quality of the proposal.

IV. Other Matters

(a) *Environmetnal Impact.* A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD's regulations at 24 CFR Part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

(b) *Federalism, Executive Order 12612.* The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that the policies contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Specifically, the NOFA solicits HBCU applicants to expand their role in addressing community development needs in their localities, and does not impinge upon the relationships between the Federal government, and State and local governments.

(c) *Family, Executive Order 12606.* The General Counsel, as the Designated Official under Executive Order 12606, *The Family,* has determined that this document does not have potential for significant impact on family formation, maintenance, and general well-being. The NOFA solicits HBCUs to apply for funding to address community development needs in their locality. Any impact on the family will be indirect and beneficial in that better planning of community development needs should result.

(d) *Prohibition Against Lobbying Activities.* The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (The ''Byrd

Amendment'') and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

(e) *Section 102 of the HUD Reform Act; Documentation and Public Access Requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its Federal Register notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these requirements.)

(f) *Section 103 HUD Reform Act.* HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)): 24 CFR 570.404.

Dated: February 28, 1996.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 96–5299 Filed 3–6–96; 8:45 am]

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federal register

Thursday
March 7, 1996

Part IV

Department of Transportation

Coast Guard

33 CFR Part 4, et al.

Financial Responsibility for Water Pollution (Vessels); Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 4, 130, 131, 132, 137, and 138

[CGD 91–005]

RIN 2115–AD76

Financial Responsibility for Water Pollution (Vessels)

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is finalizing its interim regulations implementing the provisions concerning financial responsibility for vessels under the Oil Pollution Act of 1990 and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (Acts). These provisions require owners and operators of vessels (with certain exceptions) to establish and maintain evidence of insurance or other evidence of financial responsibility sufficient to meet their potential liability under the Acts for discharges or threatened discharges of oil or hazardous substances. The regulations are administrative in nature and concern procedures for evidencing financial responsibility. In addition, the Coast Guard is removing obsolete provisions, which duplicate provisions in the rule.

EFFECTIVE DATE: March 7, 1996.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: Mr. Richard A. Catellano, (703) 235–4810, Chief, Vessel Certification, National Pollution Funds Center.

SUPPLEMENTARY INFORMATION:

Regulatory Information

This final rule is being made effective on the date of publication because the requirements contained herein were made effective by an interim rule published July 1, 1994. This final rule makes minor technical amendments and clarifications to the interim rule. No new requirements are being imposed, and the technical amendments and clarifications result in a reduced regulatory burden. Therefore, the Coast Guard for good cause finds, under 5 U.S.C. 553(d)(3), that this rule should be made effective in less than 30 days after publication.

Regulatory History

On September 26, 1991, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Financial Responsibility for Water Pollution (Vessels)'' in the Federal Register (56 FR 49006). The Coast Guard received over 300 letters commenting on this proposal. On July 21, 1993, the Coast Guard published a notice of availability of a Preliminary Regulatory Impact Analysis (PRIA) in the Federal Register (58 FR 38994). Over 60 comments were received. On July 1, 1994, the Coast Guard published in the Federal Register (59 FR 34210) an interim rule with request for comments and a notice of availability of the Final Regulatory Impact Analysis (FRIA). Seventy-eight comments were received on the interim rule. One commenter requested a public hearing on the interim rule, but it was determined that a public hearing would not further illuminate the comments provided to the docket or otherwise facilitate development of the final rule. On July 21, 1994, a congressional subcommittee, however, held a hearing on the interim rule. *Vessel Certificates of Financial Responsibility: Hearing Before the Subcommittee on Coast Guard and Navigation of the House Committee on Merchant Marine and Fisheries,* 103d Cong., 2d Sess. (1994). Accordingly, a public hearing was not held by the Coast Guard.

Background and Purpose

This rulemaking implements the vessel financial responsibility provisions of the Oil Pollution Act of 1990 (Pub. L. 101–380; 33 U.S.C. 2701 *et seq.*) (OPA 90) and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601 *et seq.*) (CERCLA or Superfund). The history of vessel financial responsibility in the United States and the reasons for this rulemaking are documented in detail in the NPRM, the interim rule, the PRIA, and the FRIA and, therefore, are not repeated in this preamble.

Discussion of Comments and Changes

General Issues

The preamble to the interim rule (59 FR 34210) requested that commenters not resubmit or restate comments already filed to the docket in this rulemaking. Rather, commenters were asked to focus on the changes made to the NPRM. It is the comments on these changes that are discussed in this preamble. Comments concerning the fundamental issues raised during the NPRM and PRIA stages of this proceeding already have been addressed in the preamble to the interim rule and in the FRIA. They will not be repeated in this preamble, except to note that one of the international shipping community's primary concerns with OPA 90 (i.e., potential liability under some circumstances for total costs and damages) is unrelated to Certificates of Financial Responsibility. Moreover, that concern goes to a statutory rather than administrative issue and is, therefore, beyond the scope of this rulemaking. Other comments are discussed below. Some corrections of a typographical or grammatical nature have been made and are not discussed in this preamble.

Shipyards

Some commenter stated that shipyards should remain subject to 33 CFR part 130, with its attendant lesser financial responsibility regime, because the potential pollution in shipyards is far less than at sea. Title 33 CFR part 138 does not apply to shipyards unless they are responsible for vessels. In setting liability limits and financial responsibility levels, Congress did not distinguish between vessels at sea and vessels in shipyards. Accordingly, the Coast Guard has no discretion to exempt shipyards from the requirements of the law.

The Coast Guard's financial responsibility regulations have always recognized the special circumstances associated with vessels in shipyards and will continue to do so. For example, the Coast Guard does not require a shipyard to obtain separate Certificates of Financial Responsibility (COFR's) for vessels being built, repaired, or scrapped. Nor are separate COFR's required for vessels held for sale or lease. This approach constitutes a substantial relaxation from the burden and cost of obtaining and maintaining separate COFR's, records, reports, and insurance or other coverage each time a vessel is added to or removed from the builder's, repairer's, scrapper's, seller's, or lessor's responsibility.

In this connection, it should be noted that, in practice, the Coast Guard's COFR regulations always have considered persons who hold vessels for sale to be the same as persons who hold vessels for lease in that both are eligible for the blanket coverage provided by a Master Certificate. This is because neither physically operates the vessels in the traditional sense and because, after these persons sell or lease a vessel, the new operator must obtain a new COFR. To give a more official status to

this Coast Guard interpretation and practice, § 138.110 (a) and (c), the appendices to part 138, and the definition of ''operator'' in § 138.20(b) have been amended to include the word ''lessor'' or ''lease,'' as appropriate.

One commenter recommended that a shipyard constructing a vessel under contract to the U.S. Navy or Coast Guard not be required to demonstrate financial responsibility for that vessel while it is under construction. This already is the case, because only a ''vessel'' is required to hold a COFR. Until a vessel under construction actually becomes a ''vessel,'' (i.e., an artificial contrivance used or capable of being used as a means of transportation on water) no COFR is required. When a vessel under construction reaches the stage of taking on the attributes of a ''vessel,'' a COFR is not required if the vessel is a public vessel. Thus, a shipyard would not have to cover a vessel being built for the Navy or Coast Guard if the vessel is a public vessel. This is necessarily a fact-based determination, dependent upon who has title to and responsibility for the vessel. If title has not passed and if the shipyard is responsible for the vessel (until delivery), then the shipyard is required to cover the vessel under its Master Certificate (or obtain a separate, individual COFR). On the other hand, if under the contract the Government holds title to the vessel before delivery, which is a common situation for Navy and Coast Guard vessels, then no COFR is required for this public vessel.

This commenter also recommended that the shipyard not be required to maintain the COFR for the Navy or Coast Guard vessel under repair in the shipyard. Again,this already is the case so long as the vessel is a public vessel—a vessel owned or operated by the United States and not engaged in commercial service. A shipyard/repair yard would not have to cover the vessel with a COFR in that circumstance.

Some commenters asserted that shipyards should not have to demonstrate CERCLA financial responsibility when no hazardous substances are present on vessels under the shipyard's control. As noted in the preambles to the NPRM and the interim rule, Congress declared that all self-propelled vessels over 300 gross tons, whether or not carrying hazardous substances, must demonstrate financial responsibility under CERCLA. Therefore, the Coast Guard has no discretion to adopt this suggestion.

Mobile Offshore Drilling Units (MODU's)

Some commenters sought clarification of the rule's implementation date applicable to a non-self-propelled MODU (most MODU's are non-self-propelled). When actually operating on site as an offshore facility, a MODU is exposed to tank vessel liability with respect to discharges of oil on or above the surface of the water (see the discussion at 59 FR 34213–34214). Accordingly, a non-self-propelled MODU is considered by the Coast Guard to be a non-self-propelled tank vessel when operating as an offshore facility. The financial responsibility implementation date under 33 CFR part 138 with respect to non-self-propelled tank vessels was July 1, 1995. If a MODU is tied up at a shoreside dock or otherwise not operating as an offshore facility, the Coast Guard does not require that MODU to demonstrate tank-vessel financial responsibility during that period. However, on and after July 1, 1995, before that MODU may operate as an offshore facility, it must demonstrate financial responsibility under 33 CFR part 138 because it is subject to tank-vessel limits. If a MODU remains out of work and it holds an unexpired pre-OPA 90/CERCLA COFR, the MODU would not be required to comply with this final rule until December 28, 1997, or at the time its pre-OPA 90/CERCLA COFR expires, whichever is earlier. See 33 CFR 138.15(b).

Some commenters suggested that MODU's be covered by a leaseholder because a leaseholder is required to demonstrate financial responsibility for all offshore facilities operating on its lease. Nothing in this final rule precludes a leaseholder from becoming a financial guarantor to a MODU owner/operator. In that case, the leaseholder would have to qualify as a financial guarantor under § 138.80(b)(4) of this final rule. But, a leaseholder's satisfaction of the financial responsibility requirements for leaseholders under the Department of Interior's forthcoming regulations for offshore facilities, alone, would not fulfill a MODU operator's vessel-related obligations under 33 CFR part 138. The ability to grant this suggested change lies with Congress. However, MODU operators are remind that OPA 90 does not preclude indemnification agreements between parties. Therefore, a MODU owner/operator could seek to have the leaseholder indemnify the MODU owner/operator for its tank vessel liabilities.

Two commenters who were concerned primarily with MODU's commented that, during the transition period to new part 138, a vessel owner/operator demonstrating financial responsibility under part 138 should be deemed to have satisfied the financial responsibility requirements of part 132. The thrust of this comment is not clear because the interim and final rules provide that a vessel operator demonstrating financial responsibility under part 138 no longer is required to maintain financial responsibility under part 132. This is specified in paragraphs (a)(1) and (a)(4) of § 138.15. In any event, as explained later in this preamble, part 132 is being removed from the Code of Federal Regulations.

Some commenters asserted that the Coast Guard should delay implementation of the rule for MODU's until the Minerals Management Service (MMS) of the Department of the Interior completes its contemplated rulemaking under 33 U.S.C. 2716, concerning establishment of financial responsibility for offshore leaseholders. These commenters assert that, since a MODU has potential tank-vessel liability when operating as an ''offshore facility'', MMS's interpretation of ''offshore facility'' will be pertinent when deciding under what circumstance the MODU is operating as an ''offshore facility.'' Although MMS's rulemaking may be pertinent to deciding when a MODU is operating as a offshore facility, that rulemaking has no bearing on the MODU operator's obligation to obtain a COFR under 33 CFR part 138. Under 33 U.S.C. 2701(18), a MODU in the navigable waters of the United States or using a place subject to the jurisdiction of the United States is a vessel, whether or not it is operating as an offshore facility, and, therefore, must have a COFR. The Coast Guard issues a ''one-size-fits-all'' COFR. A commercial guarantor executes a one-size-fits-all guaranty that covers the vessel under the law or laws (OPA 90 and CERCLA) that may apply at any time, and for whatever removal cost and damage liability (up to statutory limits) the vessel incurs under OPA 90 and CERCLA. Accordingly, the necessity for a vessel COFR is not dependent upon the promulgation by MMS of its regulation governing financial responsibility for offshore leaseholders. The Coast Guard, therefore, has not adopted this suggestion.

Some commenters believe that MODU's should not have to demonstrate financial responsibility at tank vessel limits, even under the limited circumstances required by OPA 90. This matter is fixed by statute (33 U.S.C. 2704(b)), and, accordingly, beyond the scope of this rulemaking.

Finally these commenters recommended that all MODU's (both self-propelled and non-self-propelled) have the same compliance date, with

that date being July 1, 1995, the non-self-propelled tank vessel compliance date. Given the date of this final rule, this issue is moot. The compliance dates for self-propelled MODU's and non-self-propelled MODU's operating as offshore facilities have passed.

Parts 130, 131, 132, and 137

Title 33 CFR parts 131, 132, and 137 are being removed since they no longer govern vessel financial responsibility. Section 131.0 provides that Trans-Alaska Pipeline COFR's will not be issued on or after July 1, 1995. Similarly, § 137.300 provides that Deepwater Port certifications of coverage of vessels will not be accepted on or after July 1, 1995. Accordingly, on and after July 1, 1995, by their terms, parts 131 and 137 are not operative and are being removed by this final rule.

Section 132.0 provides that Outer-Continental Shelf Lands Act COFR's for vessels will not be issued on or after December 28, 1997. At the time of publication of the interim rule, the Coast Guard was uncertain as to the number of non-tank vessels that carry Outer Continental Shelf-produced oil and, therefore, are required to hold part 132 COFR's. The Coast Guard has since determined that on or after July 1, 1995, no vessel operator will, in fact, be required or eligible to obtain or continue to hold a COFR under part 132. Accordingly, part 132 is also being removed.

Part 130, the remaining preexisting vessel financial responsibility part, is being phased out and will be removed after December 27, 1997, at the close of the transition schedule established by § 138.15(b) of the interim rule and, now, this final rule.

Section-by-Section Discussion

Section 138.12 Applicability

Paragraph (a)(2): Some commenters asked whether a vessel operating between the 3 and 12 mile limits and not engaged in transshipping or lightering oil is required to possess a COFR under 33 CFR part 138. Apparently, the confusion arises from the use of the phrase, ''navigable waters of the United States or any port or place subject to the jurisdiction of the United States,'' in 33 CFR 138.12(a)(2). The navigable waters of the United States, with respect to waters seaward of the coastline, are the territorial sea. OPA 90 defines ''territorial seas'' as extending to the three mile limit. Hence, the waters between the 3 and 12 mile limits are not part of the navigable waters of the United States.

''Port or place subject to the jurisdiction of the United States'' also is used in the Ports and Waterways Safety Act (33 U.S.C. 1223) and in 46 U.S.C. 2101(39) (definition of ''tank vessel''). The Coast Guard has interpreted this phrase to mean a port or place in the navigable waters of the United States, a deepwater port licensed by the United States, and an Outer Continental Shelf structure permitted under the Outer Continental Shelf Lands Act. It does not include, by itself, the waters between the 3 and 12 mile limits.

Accordingly, a vessel operating between the 3 and 12 mile limits and not engaged in lightering or transshipping oil to a place subject to the jurisdiction of the United States is neither operating in ''navigable waters of the United States'' nor in or at a ''port or place subject to the jurisdiction of the United States.'' That vessel would not require a COFR but would incur liability for an incident under OPA 90 and for a release or threatened release under CERCLA. Likewise, a MODU that arrives from foreign waters to a location on the U.S. Outer Continental Shelf, but that is not yet operating as an offshore facility, would not have to demonstrate financial responsibility under part 138. When the MODU is operating as an offshore facility, a COFR under part 138 would be required, since the offshore facility on the Outer Continental Shelf is a place subject to the jurisdiction of the United States.

Paragraph (a)(2)(ii): This paragraph states that a non-self-propelled barge that does not carry oil as cargo or fuel and does not carry hazardous substances as cargo is excepted from 33 CFR part 138. A commenter inquired as to whether a barge that carries only liquefied petroleum gas (LPG) (primarily butane or propane) and carries no oil as fuel or cargo and no hazardous substances as cargo is entitled to this exception. The Coast Guard confirms that this barge is not required to obtain a COFR under part 138, since propane and butane are not oil, and not CERCLA hazardous substances (42 U.S.C. 9601(14)). Similarly, liquefied natural gas (LNG) is neither a hazardous substance nor an oil. However, condensate from natural gas is a naturally occurring oil.

One commenter, on behalf of the inland and coastal barge and towing industry, referred to a situation involving dry cargo barges that from time to time use small, portable pumps to pump water out of void compartments or cargo boxes. These pumps carry not more than five gallons of fuel and are neither integral to nor stored aboard the barges in question. These small pumps are maintained aboard the towing vessels (which, if over 300 gross tons, must carry COFR's) and are hand-carried aboard certain dry cargo barges by deckhands for temporary operation while the barges are either underway or in fleeting areas.

The Coast Guard agrees that it is unnecessary to require dry cargo barges, that do not otherwise carry oil or hazardous substances, to obtain COFR's solely because hand-carried pumps are temporarily aboard. Requiring COFR's in this circumstance would constitute an overly narrow interpretation of OPA 90. Accordingly, the final rule makes it clear that the temporary use of small, portable, non-integral pumps aboard non-self-propelled vessels, which vessels do not otherwise require COFR's, should not be regarded as triggering a COFR requirement. The definition of ''fuel'' in § 138.20(b) has been amended to exclude from the term ''equipment'' the pumps discussed here, thereby clarifying the exception in paragraph (a)(2)(ii).

Section 138.15 Implementation Schedule

Some dry-cargo vessel representatives requested that there be a uniform implementation date of December 28, 1997, for all non-tank vessels. They argue that the phased implementation period places some vessels at a competitive disadvantage to others. The Coast Guard would have preferred a uniform implementation date for all non-tank vessels, but that date would have been one closer to July 1, 1995. Recognizing the impracticalities of replacing all non-tank vessel COFR's (about 14,000) by one date, the Coast Guard opted for the least disruptive approach (to the Coast Guard and to vessel owners and operators) of replacement—the expiration date of the old COFR. Of course, an operator, if it so chooses, may replace an old COFR at an earlier time.

There are other circumstances not germane to this discussion (such as a change of operator) in which a new OPA 90/CERCLA COFR may have to be obtained at an earlier date. In addition, compared to tank vessels, the cost of obtaining a non-tank vessel COFR guaranty from a commercial source is not likely to place one vessel operator at a significant competitive disadvantage over another. At this time, to change the implementation schedule would disadvantage those owners and operators that already have complied with the new COFR regime and those that have made business decisions respecting compliance. The Coast Guard believes that this final rule already has

been delayed too long. Accordingly, it has been decided that the implementation schedule in the interim rule is reasonable and should not be amended.

Some non-tank vessel representatives also recommended that, when an operator holding pre-OPA 90/CERCLA COFR's for vessels in its fleet decides to add a new vessel to the fleet, that operator should be allowed to obtain a pre-OPA 90/CERCLA COFR bearing the same expiration date as the COFR's for the other vessels in the fleet. Under the interim rule, the operator must obtain a new OPA 90/CERCLA COFR for that vessel.

The Coast Guard is not adopting this suggestion. OPA 90 was enacted five years ago, and it is desirable that all vessels be covered by new OPA 90/CERCLA COFR's as soon as possible. Accordingly, any vessel for which there is a new operator or that enters service after December 28, 1994, must be covered by a new OPA 90/CERCLA COFR. This process ensures that the greatest number of vessels are covered by new COFR's at the earliest possible time, without disturbing the principle that a vessel lawfully operating with a pre-OPA 90/CERCLA COFR may continue to do so until the conditions for obtaining a new COFR exist.

Section 138.20 Definitions

Exclusive Economic Zone (EEZ): Although this term is defined in section 1001(8) of OPA 90, there apparently is some confusion as to where the waters of the EEZ begin. For COFR purposes, the waters of the EEZ begin immediately after the three-mile territorial sea, i.e., waters seaward of the three-mile territorial sea are waters of the EEZ.

Fuel: As discussed earlier, this definition has been amended to exclude from the meaning of ''equipment'', portable water pumps holding not more than five gallons of fuel, provided these pumps are not permanently or continuously stored aboard the non-self-propelled vessels in question. This amendment will have the effect of narrowing the meaning of ''fuel'' and thus will preclude unintended and unnecessarily burdensome interpretations of OPA 90's CFR requirements.

Hazardous substance: One commenter recommended that the distinction between a ''hazardous substance'' and a ''hazardous material'' be clarified. Each of these terms is defined either in CERCLA or in the interim rule. The most important distinction is that ''hazardous material'' is relevant only to the determination of whether a vessel is a ''tank vessel'' under the rule. ''Hazardous substance'' is defined by section 101 of CERCLA (42 U.S.C. 9601) and relates to the substances for which CERCLA liability may attach with respect to a release or threatened release. Not all hazardous materials are hazardous substances. Butane and propane (liquefied petroleum gas (LPG)), for example, are hazardous materials, but not hazardous substances. Thus, under OPA 90, a self-propelled vessel carrying butane or propane is a tank vessel and must demonstrate financial responsibility in accordance with this rule. However, the escape of butane or propane alone (that is, not also triggering, for example, a substantial threat of a discharge of oil) would not result in either OPA 90 or CERCLA liability. (Non-self-propelled vessels carrying only LPG are exempt from these COFR requirements.) The Coast Guard has not further defined these two terms because they already are defined in § 138.20 and in CERCLA.

Hazardous material: Some commenters are still concerned that a vessel carrying non-liquid hazardous materials might be considered a tank vessel. Inasmuch as the definition of ''hazardous material'' contained in the interim rule and this final rule uses the modifier, ''liquid,'' the definition need not be further amended (see 59 FR 34217–34218). The meaning of this modifier is that a vessel that carries, or is constructed or adapted to carry, bulk liquid hazardous materials would be a tank vessel, provided it met at least one of the other criteria in 33 U.S.C. 2701(34). It also means that a vessel carrying non-liquid hazardous materials or liquid hazardous substances that are not hazardous materials, or both (and not constructed or adapted to carry bulk liquid hazardous materials or oil) is not a tank vessel.

Operator: One commenter observed that this definition should be reworded to define more clearly the intended meaning. The primary reason for this definition is to identify the operator entity who should apply for a COFR. The definition is not intended to address the issue of what other entities, because of their specific relationship to a vessel, Congress may have intended to be considered responsible parties under OPA 90 or CERCLA. The Coast Guard also designed this definition of a COFR applicant (1) to provide flexibility to those associated with the operation of vessels when deciding what constitutes a fleet; (2) to encompass persons who have custody of or are responsible for vessels held solely for building, repairing, sale, lease, or scrapping and; (3) to exclude certain so-called ''operators'' such as traditional time or voyage charterers (see 59 FR 34217).

During the tank vessel implementation phase of the interim rule, this definition accommodated persons who wished to become responsible parties for a fleet of consolidated, subsidiary/affiliated company vessels. These persons wished to become ''operators'' of fleets for purposes of determining the amount of net worth required to satisfy the self-insurance/financial guarantor criteria. This consolidation of subsidiary/affiliated company vessels into one fleet also benefits potential claimants in that the parent or other ''operator'' is clearly the responsible party for all the vessels, thereby bypassing any arguments associated with limiting the available assets to those of a single vessel-owning and operating company.

The Coast Guard is not aware of a general problem with the current definition, which seems to have struck a balance between the objectives of the law and the far broader meaning of ''operator'' sometimes used in the maritime industry. Therefore, this suggestion was not adopted.

Tank vessel: A few commenters continue to assert that liquefied natural gas (LNG) and LPG carriers are not tank vessels. The Coast Guard has reviewed this issue once more and concludes that its interpretation, as stated in the interim rule preamble (59 FR 34218), is correct. A vessel carrying LNG or LPG clearly meets one criterion in 33 U.S.C. 2701(34) (the definition of ''tank vessel'') as these materials meet at least the combustibility criterion in the definition of ''hazardous material.''

Alternatively, one commenter recommends that LNG be exempted from the definition of ''hazardous material,'' citing as precedent another Coast Guard rule published at 58 FR 67988 (December 22, 1993). This regulation amended 33 CFR part 155, which concerns discharge removal equipment for vessels carrying oil. The reason that the preamble to part 155 states that LNG is not defined as oil or a hazardous material is because the applicable definition of ''hazardous material'' for purposes of 33 CFR part 155 is contained at 33 CFR 154.105, which provides that *Harzardous material* means a liquid material or substance, other than oil or liquefied gases, listed under 46 CFR 153.40 (a), (b), (c), or (e).'' The statutory basis for this is 33 U.S.C. 1231, not OPA 90. Accordingly, part 155, having a different purpose and statutory basis, does not serve as any precedent for 33 CFR part 138. Since Congress has clearly expressed its intent in OPA 90 that bulk

liquid hazardous material carriers meeting the criteria in 33 U.S.C. 2701(34) be considered tank vessels, the Coast Guard does not have the discretion to adopt this recommendation. It is worthy of mention again, however, that LNG and LPG barges (that do not otherwise carry oil or hazardous substances) are not required by OPA 90 or CERCLA to obtain COFR's, not because LNG and LPG are not hazardous materials, but because they are not hazardous substances as defined in CERCLA.

One commenter suggested that the types of fishing vessels that are considered tank vessels should be clarified. If there is ambiguity in this regard, it stems from the language of section 5209 of Public Law 102–587, which provides that a fishing or fish tender vessel of 750 gross tons or less, that transfers fuel without charge to a fishing vessel owned by the same person, is not a tank vessel. Nevertheless, it is clear that any other fish tender or fishing vessel that transfers fuel to another vessel and that otherwise meets the criteria of the definition must be considered a tank vessel. A fish tender or fishing vessel that is also a tank vessel, as defined in this rule, must demonstrate financial responsibility in accordance with this rule. Part 138 needs no further clarification on this point.

Section 138.30 General

Paragraphs (c), (d), and (e) (gross tons): One commenter asserted that the sentence specifying use of gross tons as measured under the International Convention on Tonnage Measurement of Ships, 1969, for purposes of determining the limit of liability under section 1004(a) of OPA 90 and under section 107(a) of CERCLA was not properly adopted under 46 U.S.C. 14302. The Coast Guard disagrees. Title 46 U.S.C. 14302 clearly authorizes the Secretary (the Secretary delegated this authority to the Commandant of the Coast Guard) to specify the statutes for which tonnage as measured under the Tonnage Convention is to be used to determine the application and effect of those statutes. The Coast Guard has properly exercised this authority, and the authority citation to 33 CFR part 138 identifies 46 U.S.C. 14302 as the authority for paragraphs (c) through (e).

Section 138.80 Financial Responsibility, How Established

A commenter recommended that the Coast Guard adopt a particular State's method of financial responsibility in fulfillment of OPA 90's requirements, if the State scheme is at least as stringent as the Federal scheme. One State suggested that the Coast Guard not implement the Federal law because the resulting regulations would conflict with and cause disruption to the implementation of that State's own regulations, which did not require direct action and which allowed an unlimited number of defenses and exclusions.

OPA 90 does not preempt State law, and therefore, each State may design its own version of a financial responsibility regime. On the other hand, the Coast Guard believes that a uniform financial responsibility regime in the United States is desirable and, rather than adopt a particular State regime, the Coast Guard believes that its regime should serve as the model. In any event, State financial responsibility regimes may address issues not covered by the Federal system or may lack some of the elements in the Federal system. The Coast Guard, therefore, has not adopted this recommendation.

One commenter stated that the Coast Guard should promulgate acceptability standards for guarantors, including insurance guarantors. This issue was discussed in the preamble to the interim rule at 59 FR 34219, wherein the Coast Guard indicated it was evaluating the possibility of a future rulemaking on this subject. No rulemaking on this matter is mandated by statute or other principle of law. Rather, this would be a purely discretionary regulation. In the time period since publication of the interim rule, there has been much debate about regulations in general, with the primary focus being to eliminate all but the most necessary rules. Consequently, the Coast Guard has decided not to proceed with a discretionary rulemaking on this subject, but rather to continue to make its 25-year old acceptability policy available to any interested person upon request.

Also, this section has been amended in response to the passage of the Edible Oil Regulatory Reform Act (Pub. L. 104–55), which was signed by the President on November 20, 1995. This law requires that, in issuing a regulation, the head of any Federal agency shall differentiate between fats, oils, and greases of animal, marine, or vegetable origin and other oils and greases. It also lowers the liability limit of certain tank vessels carrying fats, oils, and greases of animal, marine, or vegetable origin.

Paragraph (b)(1) (Insurance): Two commenters stated that the Coast Guard has failed to address ''bad faith'' issues respecting an insurance guarantor. The concern is that if an insurer is found by a court to have acted in bad faith with respect to the insured party or a third party claimant, a court might hold a guarantor liable in excess of the amount of the part 138 insurance guaranty. ''Bad faith'' is an insurance concept that has existed for many years. In some situations, an insurer against whom a bad faith claim has been successfully prosecuted (by an insured) may have to pay a penalty which results in a total payment exceeding policy limits. This is because the bad faith action often may be pursued as a tort, which is an action separate from enforcement of the insurance contract.

The chance of success of a bad faith claim asserted by a claimant other than the insured against a COFR guarantor, for some act or omission by the guarantor, is unknown. COFR guaranties have been required in this country since 1971 and in other countries since the mid seventies. The Coast Guard is unaware of any case in which bad faith has been asserted successfully by a third party claimant against an insurer in the capacity of a COFR guarantor, i.e., financial responsibility provider.

The Coast Guard nevertheless reads the law to mean that the costs and damages for which a person, as a guarantor, may be liable under OPA 90 or CERCLA are strictly limited to the amount of the guaranty. If a bad faith action were to be pursued successfully in court by a third party claimant against an insurance guarantor, any awarded amount exceeding the guaranty amount would not be considered as compensation under OPA 90 or CERCLA. Such a court award would be considered liability for an amount outside the scope of OPA 90 or CERCLA. Even CERCLA section 108(d)(2) (42 U.S.C. 9608(d)(2)), referenced by one of the commenters, acknowledges the possibility of bad faith actions under laws other than CERCLA. CERCLA, however, does not generally provide third parties with a cause of action for damages. The well known concept of bad faith pertaining to the insurance industry is beyond the scope of this rule, and the Coast Guard has no intent or authority to expand or restrict causes of action related to bad faith.

The Coast Guard does not intend anything in this discussion of bad faith to detract from the central, underlying principle of guarantorship under OPA 90/CERCLA and this rule (as well as predecessor laws and rules). This principle is that, in return for the statutorily guarantied right to limit liability and right to the defenses specified in a guaranty form, a guarantor agrees to waive all other defenses, including nonpayment of premium, non-United States venue, and lack of

personal jurisdiction by United States courts.

Paragraph (b)(2) (Surety bond): A few commenters objected to the reinstatement provision of the surety bond guaranty form, which provides that for any monies paid by a surety guarantor, the amount of the surety bond guaranty automatically is reinstated to an applicable amount not exceeding its original penal amount, until the bond is cancelled. These commenters asserted that no surety company would undertake this obligation. In fact, over 140 vessels are covered by surety bond guaranties that contain the reinstatement clause, and the surety bond guaranty form published in 33 CFR part 130 for many years has contained a clause of similar impact. Accordingly, the Coast Guard does not see a reason to delete this clause from the surety bond guaranty form.

In the interim rule, the Coast Guard limited joint participation by co-guarantors to a system in which up to four signatory guarantors could appoint a lead guarantor and execute a guaranty form. One commenter involved in arranging surety bond guaranties recommended that up to 10 guarantors be allowed to participate in a surety bond guaranty. This would expand the availability of high-dollar limit surety bond guaranties, due to the United States Treasury-imposed underwriting limits on individual surety companies. The Coast Guard will accede to this request and has increased to 10 the number of co-guarantors allowed on a single surety bond guaranty. The Coast Guard has not adopted this number for the other types of guaranties, as no commenter requested an increase in the number of guarantors for other forms of guaranty, and no independent justification was apparent.

Although the Coast Guard will allow up to 10 sureties to sign a single surety bond guaranty, co-guarantors are reminded that § 138.80(c) provides that, if one or more guarantors do not specify percentages of participation, then, as between or among them, they share joint and several liability for the total of the unspecified portion. Those guarantors specifying percentages will be liable only up to their respective specified limits.

Minor technical improvements to the surety bond guaranty form were suggested. These are: changing the signature page to provide only one, generic signature area for a principal without unnecessarily distinguishing the type of principal signing; requiring that the State of incorporation be shown with the principal's name (rather than elsewhere on the bond); and allowing notice of termination to be sent by means other than only certified mail. The latter suggestion is being adopted, and an amendment is being made to the prescribed surety bond guaranty form itself. The other suggested minor changes are not objectionable, but will not be made to the prescribed form. Rather, these other minor changes regarding the signature page will be acceptable to the Coast Guard if individual sureties choose to make the changes themselves on particular forms filed with the Coast Guard.

Paragraph (b)(3) (Self-insurance): One commenter stated that the amount of net worth required by the interim rule is insufficient in that there may not be sufficient funds available should more than one vessel within a self-insured fleet suffer incidents. This commenter also recommended that quarterly reports be filed and that only equity assets be counted in the net worth and working capital computations. The Coast Guard sympathizes with this comment and has stated before that self-insurance is far from an ideal method of demonstrating financial responsibility. Nevertheless, self-insurance has been allowed for the past 25 years because it has been a method specifically intended by Congress.

Until December 27, 1994, self-insurance and financial guaranties (the latter being based on self-insurance criteria) had formed a very small component of the body of ''evidence of financial responsibility'' related to vessels operating in U.S. waters. Since December 27, 1994, however, a far greater number of vessels have obtained COFR's based on these two methods. While this tends to support the commenter's point, rather than escalating the self-insurance criteria at this time, the Coast Guard intends to watch very carefully the performance of self-insurers and financial guarantors. Should one or the other of these methods prove to be inadequate, the Coast Guard will initiate a rulemaking to revise the criteria underlying these methods.

One commenter asked that the rule allow for a waiver of the U.S.-based asset requirement. The interim rule and the FRIA explain the principle underlying the use of only U.S. assets. A waiver of the U.S. asset test would be inconsistent with this principle. Accordingly, this suggestion has not been adopted.

A commenter on behalf of the American Institute of Certified Public Accountants recommended minor technical amendments to accord with standard accounting terminology and practice. Most of these recommendations have been adopted and incorporated in § 138.80(b)(3)(i). These changes are not substantive.

Paragraph (b)(4) (Financial Guaranty): One commenter asserted that no acceptability criteria were specified for financial guarantors. In fact, financial guarantors must meet the self-insurance requirements specified in § 138.80(b)(3), which provide very specific acceptability criteria.

Some commenters recommended that, when a parent company serves as financial guarantor for one or more subsidiary companies, the subsidiaries should be treated as one, collective ''fleet'' for purposes of determining the required amount of net worth and working capital. Section 138.80(b)(4) of the interim rule provides that ''* * * a person that is a financial guarantor for more than one applicant or certificant shall have working capital and net worth no less than the aggregate total applicable amounts of financial responsibility provided as a guarantor for each applicant or certificant * * *.'' Title 33 CFR 130.80(b)(4) contained a similar restriction. Since each subsidiary is considered a separate applicant, the aggregation requirement pertains. On the other hand, if the parent company bareboat charters all of the subsidiary companies' vessels, or organizes itself so that it meets the rule's definition of ''operator'' and serves as the responsible party (operator) of all of those vessels (that is, all of the subsidiaries' vessels are ''operated'' by the ''responsible party'' parent), then the parent may self-insure and thus avoid the aggregation requirement.

The commenters assert that in some situations, labor relations or other considerations may preclude a parent from serving as ''operator'' (and thus as a self-insurer) for all the subsidiaries' vessels. These commenters argue that the aggregation requirement is unfair in not recognizing that the source of funds is the same, the collective company. These commenters assert, therefore, that there is no rational basis for requiring the parent to demonstrate aggregate amounts of net worth where the parent wishes to be a financial guarantor for all the vessels in the subsidiaries' fleets, rather than a self-insurer with responsible party status for those vessels. A specific amendment was proposed, namely, that the rule allow the parent to serve as financial guarantor without the aggregation requirement in cases where the subsidiaries are wholly owned by the parent, or where the parent owns at least 80 percent of the total combined voting power of all classes of stock

entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the subsidiary corporations.

The Coast Guard has decided not to adopt this recommendation. From claimants' and taxpayers' standpoints, the Coast Guard does not consider self-insurance and financial guaranties to be ironclad methods of evidencing financial responsibility. Assets can be dissipated without the Coast Guard's knowledge, and continuous monitoring of a self-insured entity's asset base is not feasible. Despite the fact that most of the companies that self-insure or use financial guaranties are large, solvent companies that are not expected to ''walk away'' from a spill, insurance and surety bond guaranty methods (as well as the ''other evidence'' method) provide per vessel, per incident protection backed by reserves and independent reinsurance. The larger the insured or bonded fleet, the larger the amounts of applicable reserves and reinsurance. This generally is not true in the case of self-insurance and financial guaranty.

Accordingly, the Coast Guard believes that any amendment to the financial guarantor provision that reduces the protections afforded by that provision is inconsistent with the concept of financial responsibility. Although there may be a perceived anomaly in the rule, the Coast Guard believes the benefits of the aggregation principle far outweigh any possible anomalies or inequities. For these reasons, the Coast Guard has not adopted this suggestion.

Paragraph (b)(5) (Other evidence): Some commenters felt that before an ''other evidence'' method is accepted by the Coast Guard, public notice of the proposed method should be published in the Federal Register, so that interested organizations might comment on the proposal. The concern is that by accepting an innocent looking ''other evidence'' method, the Coast Guard might allow a guarantor to avoid direct action or other provisions designed to ensure the availability of funds for claimants.

The Coast Guard has repeatedly stated its position that any ''other evidence'' provider is a statutory ''guarantor'' subject to all the rights and obligations of a guarantor. The interim rule at 33 CFR 138.80(b)(5) explicitly requires an ''other evidence'' provider to include in the guaranty form all the elements described in paragraphs (c) and (d) of § 138.80. These are the paragraphs that preclude loss of the protections afforded claimants, no matter what novel approach a new ''other evidence'' method may take. Because of these built-in constraints, the Coast Guard does not believe the concerns expressed are warranted or justify the delays necessarily inherent in affording the public an opportunity to comment on proposed ''other evidence'' schemes. Also, the public already has commented, twice, on the parameters and substance of the ''other evidence'' method.

Paragraph (c): This paragraph is being amended to specify that not more than 10 guarantors, rather than four as contained in the interim rule, may execute a surety bond guaranty. The reasons for this change are explained under paragraph (b)(2) of this section.

Paragraph (d) (Direct action): One commenter recommended that fraud or intentional misdeclaration be allowed as an insurance guarantor's defense to a direct action. The Coast Guard is not adopting this recommendation because to do so would be inconsistent with the purpose of the guaranty—to ensure that the polluter pays for removal costs and damages resulting from an incident or a release or threatened release. The key here is that the Coast Guard cannot accept insurance policies alone in the financial responsibility program because only insurance guarantors are able to provide the assurance mandated by OPA 90 and CERCLA. Not even the international COFR regime, prescribed by international treaty, accepts a standard insurance policy as evidence of financial responsibility—direct action without policy defenses is required by the international regime, and no standard marine liability insurance policy of which the Coast Guard is aware meets that requirement.

One commenter observed that the third enumerated defense does not provide for concursus of claims. ''Concursus'' is a procedure associated with a limitation action under the 1851 Limitation of Liability Act (1851 Act). Concursus technically is a ''procedure'' rather than a ''defense,'' and was not provided for under OPA 90 or CERCLA. The third defense was not intended to serve as a concursus mechanism, but, in view of the unavailability of the 1851 Act in court actions under OPA 90 or CERCLA, was intended to reinforce OPA 90 and CERCLA's limitation of a guarantor's liability with respect to an incident, release, or threatened release. In addition, its purpose was to ensure that, by becoming a guarantor under this regulation, the guarantor has not thereby also agreed to be a guarantor under State or local law, or other Federal law, solely by virtue of being an OPA 90/CERCLA guarantor. As stated at 59 FR 34223, ''Right or defense number three confirms that a guarantor shall have the right to limit its OPA 90/CERCLA liability under its guaranty to the amount of that guaranty, despite the number of claimants and venues in which claims are brought against the guarantor for the same incident, release or threatened release.'' The Coast Guard has no authority by regulation to create, or to impose on claimants and the courts, a concursus mechanism.

Paragraph (f) (Total applicable amount): Some commenters pointed out that an oil carrying barge that does not carry hazardous substances as cargo is exempt from CERCLA's COFR requirements and, therefore, should not be required to demonstrate evidence of financial responsibility for CERCLA liabilities. The Coast Guard agrees. It appears that the discussion in the preamble to the interim rule on a closely related point may have created confusion, but the fact remains that the interim rule does not require the above described barge to demonstrate evidence of financial responsibility under CERCLA. Indeed, the rule cannot contain such a requirement since section 108(a) of CERCLA (42 U.S.C. 9608(a)) excepts from the CERCLA financial responsibility requirement a non-self-propelled barge that does not carry hazardous substances as cargo.

The preamble to the interim rule (in particular, the discussion at 59 FR 34215) did not discuss every possible fact situation involving the requirement to comply with CERCLA's financial responsibility requirements. It focussed instead on self-propelled vessels (which always must comply) and on barges that sometimes must comply with the CERCLA requirement, that is, that sometimes carry oil and sometimes carry hazardous substances, but not both at the same time. The preamble discussion did not discuss the oil barge operator that intends never to carry hazardous substances as cargo, which is the type of barge referred to by this commenter.

The interim rule, 33 CFR 138.12(a)(2)(ii), exempts from part 138 only a barge that does not carry oil as cargo or fuel and does not carry hazardous substances as cargo. If a barge, otherwise subject to part 138, carries either of these commodities, the barge is subject to the COFR requirements. Since an oil-carrying barge that is not carrying hazardous substances as cargo is not subject to CERCLA's financial responsibility requirement, and probably unable to incur liability under CERCLA, its operator has been in the past able to obtain a premium savings, all else being equal, when purchasing a commercial

COFR guaranty for its OPA 90 (and part 138) financial responsibility obligation.

The Coast Guard did not under 33 CFR part 130 and does not now provide COFR's or guaranty forms for the carriage of oil only or hazardous substances only. This is because of the benefits, to both the Coast Guard and the regulated community, of having a one-size-fits-all COFR and guaranty. The paperwork, delays, personnel resources, increased user fees and enforcement burden on industry simply could not be justified. (As noted in the preamble to the interim rule (59 FR 34211), Congress intended that COFR's be one-size-fits-all.) Under this one-size-fits-all scheme, in the event that a barge operator illegally or otherwise carried a hazardous substance as cargo and experienced a release, the commercial COFR guarantor ultimately might be responsible under its guaranty for the costs and damages associated with the release. However, so long as the barge does not carry hazardous substances as cargo, the CERCLA reference on the COFR and in the guaranty have no operative effect, and both the industry and Government benefit. (See 59 FR 34215.)

An accidental but welcome benefit of the Coast Guard's one-size-fits-all COFR policy is that operators who innocently carry hazardous substances without realizing it are protected not only with respect to OPA 90/CERCLA removal and damage liability, but from the rather stringent penalty and vessel seizure sanctions as well. Instances of mistaken identity of cargo are not unknown.

A self-insurer of a barge that carries only oil (as ''oil'' is defined in OPA 90) also receives a one-size-fits-all COFR, but that fact does not mean that the self-insurer in this case had to demonstrate evidence of financial responsibility for CERCLA purposes. Rather, this self-insurer, in order to qualify as such under the rule, shows net worth in the flat amount of $5 million, plus the applicable amount under part I of the applicable amount table. This is meant to require all self-insurers to demonstrate that, even in the event of some economic misfortune, they still may be able to satisfy a statutory limit of liability. This $5 million minimum ''buffer'' in the self-insurance standard is imposed by a simple cross reference (33 CFR 138.80(b)(3), introductory paragraph) to the CERCLA $5 million minimum in the applicable amount table for a vessel carrying hazardous substances as cargo. The Coast Guard could have chosen to fashion additional regulatory formulae by which to compute a larger amount of net worth. Instead, it settled on $5 million as a balance between its (and at least one commenter's) desire for larger amounts of net worth and the desires of those who advocate no minimum. The use of the cross-reference to the CERCLA minimum in the applicable amount table is an easily understood, no-calculation-required, convenient method of determining a self-insurance net worth requirement. It is a method that covers all types of cargo for all types of vessels. There is no need for more complicated formulae.

This ''$5 million plus'' net worth requirement follows precedent established for self-insurers demonstrating OPA 90-like evidence of financial responsibility under the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653) (TAPAA) (see 33 CFR part 131). TAPAA, which required evidence of financial responsibility for vessels, established a limit of liability, per vessel per incident, of $14 million. A self-insurer of one vessel under part 131 had to demonstrate a U.S.-based net worth of at least $19 million. Thus, to increase the chance that adequate funds would be available in the event of an oil spill, for many years the Coast Guard required (with respect to self-insurance) for these vessels a minimum of $5 million more in net worth than the liability limit set by statute. This requirement was imposed on the basis of the rulemaking authority granted by Congress to assure that there would be sufficient resources available to meet the liability imposed by the statute and is the approach retained in 33 CFR 138.80(b)(3) for all self-insurers, including a self-insurer of a barge carrying only oil.

This $5 million buffer in the part 138 self-insurance standard is far less stringent than in the part 131 self-insurance standard. For example, a self-insured operator of two TAPAA oil barges under part 131 was required to demonstrate $24 million, which is a $10 million buffer. Part 138 does not require multiple buffer amounts in the case of self-insurance.

A financial guarantor under part 138 also must show net worth of at least $5 million since a financial guarantor must satisfy the self-insurance formula. The financial guarantor would also be required to execute the one-size-fits-all financial guaranty, but, so long as a barge was not carrying hazardous substances as cargo, the reference in the financial guaranty to CERCLA would have no operative effect—the same as for commercial guarantors.

If all that was required of a self-insurer or financial guarantor was a single incident dollar limit, self-insurance and financial guaranty could not be justified as a method of demonstrating financial responsibility under OPA 90 or CERCLA. Accordingly, the Coast Guard is not amending this paragraph.

Paragraphs (f)(1)(i) and (f)(1)(ii): These paragraphs are being changed to conform this final rulemaking to the Edible Oil Regulatory Reform Act (Pub. L. 104–55), which amends section 1016(a) of OPA 90 (33 U.S.C. 2716(a)) on financial responsibility. These changes in the final rule reflect Congress's intent that tank vessels on which (1) no liquid hazardous material in bulk is being carried as cargo or cargo residue and (2) the only oil carried as cargo or cargo residue is oil defined in section 2 of Public Law 104–55 have the same limits of liability as non-tank vessels.

Section 138.90 Individual and Fleet Certificates

One commenter asserted that the Coast Guard's concept of a fleet certificate is much too narrow. This commenter believes the Coast Guard should allow for a fleet certificate in the form this commenter believes is provided for in OPA 90 (33 U.S.C. 2716(a)), namely, one Certificate (COFR) to cover any and all vessels in a fleet. The commenter misconstrues this provision of the law to the extent the commenter believes it creates a ''fleet certificate.'' What this provision of law does is to allow a fleet operator to avoid having to aggregate the gross tons of all the vessels of a fleet in order to determine the amount of financial responsibility to be demonstrated. The provision does not mean that only one COFR is required for the entire fleet. Therefore even though an operator of a fleet is permitted to demonstrate financial responsibility without regard to the aggregated tonnage of the fleet, the operator generally must obtain a COFR for each vessel in the fleet. As used in 33 CFR 138.90, ''fleet certificate'' is an unrelated regulatory creation of the interim (and final) rule for the benefit of a limited class of barges, that is, non-tank barges that normally do not require COFR's. The commenter's recommendation has not been adopted.

It appears, however, that there is some confusion as to exactly what type of non-tank barges are eligible for coverage under this new fleet certificate concept. In the preamble to the interim rule at 59 FR 34221, one example was a fleet of deck barges over 300 gross tons, most of which might never carry oil or hazardous substances, but, one or two of which possibly might have to carry a barrel of oil, or a hazardous substance, or both on short notice in the future.

The fleet certificate concept has no applicability to barges that normally require COFR's because of the routine carriage of oil as cargo or fuel, or hazardous substances as cargo. A construction company's barge, over 300 gross tons, that is used as a more or less permanent platform for a gasoline or oil-powered crane, requires an individual COFR that names the barge. If, however, that same barge had no crane or other oil or gas-powered equipment on board, and carried no oil or hazardous substances as cargo, that barge and its sister barges would be candidates for a fleet certificate (i.e., sooner or later one or more of the barges would be needed immediately to move a crane or other equipment down river, a few barrels of gasoline from one place to another, etc.). In the final analysis, except in the case of a self-insurer, the eligible types of non-tank barges will be determined by the guarantor willing to issue a guaranty for a fleet certificate. If the reader notices in the fleet certificate concept a high degree of flexibility, that is in fact that the Coast Guard has in mind for these low risk, non-tank barges that might one day suddenly discover a need to comply with OPA 90/CERCLA financial responsibility, but have no time to accomplish the paperwork process attendant to individual COFR's.

Appendices B Through F

These appendices are, respectively, the insurance guaranty form, the master insurance guaranty form, the surety bond guaranty form, the financial guaranty form and the master financial guaranty form.

Several commenters recommended that each of the guaranty forms be amended to reflect the Coast Guard's policy and intent under 33 CFR part 138 that all payments for costs and damages made by or on behalf of a responsible party under OPA 90 with respect to an incident or under CERCLA with respect to a release or threatened release, reduce the guarantor's obligation with respect to that incident or release or threatened release by a corresponding amount. For example, assume that a vessel operator has obtained an insurance guaranty containing OPA 90 coverage of $40 million (the amount of that operator's particular statutory limit of liability under OPA 90) and that an oil spill occurs resulting in OPA 90 removal costs and damages of $45 million. Assume further that the operator's Protection and Indemnity Club (P&I Club) (which is not the insurance guarantor) agrees to pay, under its indemnity policy, only $40 million on behalf of its assured. In this case, the guarantor has no further liability under its guaranty, with respect to that incident, because the responsible party's limits under OPA 90 have been paid—which under this rule is all any guarantor is required to ensure. Had the Club paid only $39 million, the guarantor's liability under its guaranty would have been reduced by $39 million.

The purpose of financial responsibility is to assure that the responsible party can pay removal costs and damages up to its statutory limit of liability. In the above hypothetical case, that purpose has been served to the extent of the Club's payment.

Assume further in this example that there is a basis for breaking the vessel operator's statutory limits and that the Club still decides to pay, but still only $40 million. The $5 million balance would not be owed by the guarantor solely based on the guaranty, but must be sought from some other source, for example, the responsible party directly, the Oil Spill Liability Trust Fund, or any party (including the guarantor) based on a separate contractual obligation other than the guaranty. This principle of a dollar for dollar reduction of a guarantor's liability is an important one. It not only fulfills the statutory pronouncement in 33 U.S.C. 2716(g) (i.e., the guarantor's liability is limited to the amount of the guaranty), but it also permits the Coast Guard to carry out another purpose of the rule—to provide a continuing market for guarantors, which is an underpinning of the law's ''polluter-pays'' philosophy. Once the guaranty obligation is satisfied, the guarantor has no further liability, on the basis of the guaranty, with respect to that incident. The Coast Guard agrees that this is a necessary element of the guaranty obligation and that it should be stated explicitly in the guaranty forms to avoid any potential for ambiguity. Accordingly, each guaranty form has been amended to clearly reflect this principle.

A few commenters were concerned about the inflexibility of the termination clause in each of the forms. Each provides for a 30-day notice of termination before a guarantor is relieved of responsibility under the guaranty for incidents, releases, or threatened releases occurring after the 30-day period elapses. One commenter felt the 30-day period should be shortened to 10 days. Others felt that, to facilitate the provision of guaranties by United States oil companies to vessels engaged in the spot charter market, there should be a mechanism for terminating the guaranty in less than 30 days.

Under the international regime, the termination period in most cases is 90 days. Under the Coast Guard's predecessor rules, the termination period in many cases was 60 days. The Coast Guard, in the interim rule, shortened this to 30 days. This 30-day period balances the guarantors' desire to have a shorter period with the Coast Guard's need to allow sufficient time to determine that a vessel for which a termination notice has been issued is not operating in United States waters without a financial responsibility guaranty.

At the time the issue of a 30-day notice for spot charters was raised, prospective new insurance guarantors were still negotiating with the P&I Clubs and had not been firmly established. Many cargo owners, therefore, were contemplating either surety bond guaranties or contingency plans under which they might serve as financial guarantors for ships carrying their cargoes. These potential financial guarantors naturally wanted to terminate their obligations as soon as possible after delivery of their cargoes, thereby reducing the chance their guaranties would apply to the vessels while working for new charterers. That is, they did not want to take a chance that, for a few days, they might serve as financial guarantors for vessels that would then be carrying other cargo owners' cargoes. While the likelihood of that happening is extremely remote, theoretically it could happen.

The emergence of the commercial insurance guarantors (and existence of surety bond guarantors) has, for the most part, eliminated the concern underlying this suggestion because vessel operators now can purchase their own guaranties. Adoption of the suggestion also would impose undue administrative burdens on the Coast Guard. Since the original underlying concern (lack of commercial insurance guarantors) does not exist, the Coast Guard has decided to leave the already shortened 30-day termination notice intact.

One commentor expressed concern that the Coast Guard's definition of an owner or operator, as expressed in the interim rule's guaranty forms (e.g., ''vessel owners, operators, and demise charterers'' in the insurance guaranty), conflicts with the statutory definition in 33 U.S.C. 2701(26) which refers to any person owning, operating, or chartering by demise. The commenter requests that the Coast Guard amend its rule by changing ''and'' to ''or'' in order to reduce the number of separate operators covered by a guaranty.

The Coast Guard has not adopted this suggestion. First, routinely, there are at most only two persons responsible for a vessel: an owner and an operator. Often the operator is a demise charterer, but it can be some other type of contractor who is responsible for a vessel. Second, and more importantly, even if three or more persons (e.g., an owner and two or more operators) could be liable for a discharge or substantial threat of a discharge of oil from a vessel, the guarantor of that vessel would not a reliable for more than one limit of liability. *See* 59 FR 34218. Third, the Coast Guard used the word ''and'' to implement Congress' imposition of joint and several liability on the constituent elements of a responsible party. *See* 34218. The Coast Guard's use of the word ''and'' should not be considered an attempt to define the identity of those constituent elements with respect to any particular guaranty. That identity necessarily is dependent on the facts of a specific case.

The Applicable Amount Table in Appendices B, C, D, E, and F are being amended to conform with the Edible Oil Regulatory Reform Act (Pub. L. 104–55).

Appendix D—Surety Bond Guaranty Form

The surety bond guaranty form has been amended to allow up to 10 guarantors to participate in a single surety bond guaranty. The reason for this change is explained in the discussion under § 138.80(b)(2).

One non-guarantor commenter stated that a surety's actual dollar limit of liability should be required to be stated on each executed surety bond guaranty form so that the maximum aggregate amount of liability for which a guarantor may be liable under each form is clearly stated on the face of each form. That request might have relevance to a traditional ''finite pot of money'' bond, but not to the regulatory creation of a ''surety bond guaranty.'' That request, moreover, cannot be granted with respect to the prescribed surety bond guaranty for two reasons: First, the potential (but unlikely) effect of the prescribed form's reinstatement clause and, second, the form's clause that, if necessary, automatically changes a stated penal sum calculated on the basis of a vessel not carrying hazardous substances as cargo to the correct higher penal sum calculated on the basis of a vessel that is carrying hazardous substances as cargo. Nevertheless, if a surety bond guarantor wished to execute a surety bond guaranty for a single tank vessel, with a penal sum calculated on the basis of the vessel also carrying hazardous substances as cargo, and if the guarantor intended to provide 30-days notice of termination as soon as an incident, release, or threatened release occurred, the guarantor could be more than reasonably assured that the panel sum of the surety bond guaranty would reflect the guarantor's maximum, theoretical aggregate amount of liability. Even then, since the vessel likely would be entered in a P&I Club, the guarantor would enjoy the probable shield provided by the P&I Club coverage.

This commenter also recommended that the surety bond guaranty terminate automatically upon a covered vessel's departure from United States' waters, or that the termination period be reduced to 10 days. This suggestion also has been made with respect to other guaranty forms, and the reasons this recommendation has been rejected are stated in the introductory paragraphs to the appendices.

Another non-guarantor commenter recommended that an ''interpleader'' provision be adopted whereby a surety bond guarantor could deposit, with the National Pollution Funds Center (NPFC) or with a court, the amount of the guaranty, so that the surety does not become involved in multiple disputes. This is similar to the suggestion that the regulation provide for ''concursus.'' Each guaranty appended to this rule was designed to allow claimants to seek compensation directly from the responsible party or guarantor, not the courts or the Coast Guard. The intent is to remove the Government from the process as much as possible. Accordingly, the Coast Guard has not adopted this suggestion.

Another commenter suggested technical improvements to the surety bond guaranty form and signature page options, which already have been discussed and, on the whole, adopted.

Assessment

This rule is a significant regulatory action under section 3(f) of Executive Order 12866 and has been reviewed by the Office of Management and Budget under that order. It requires an assessment of potential costs and benefits under section 6(a)(3) of that order. It is significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979). A final regulatory impact analysis (discussed in 59 FR 34224; July 1, 1994) is available from the National Pollution Funds Center or may be copied where indicated under ''ADDRESSES.''

The changes to the interim rule are technical in nature and impose no new requirements. This rule is promulgated under OPA 90 and CERCLA, which require the ''establishment and maintenance'' of evidence of financial responsibility for vessels. This rulemaking is intended to implement that joint statutory mandate and, therefore, primarily is limited to matters relating to ''establishment and maintenance'' of financial responsibility, such as how to apply for a COFR and how to establish evidence of financial responsibility.

This rule imposes no new paperwork burdens on vessel operators. The methods for applying for a COFR and establishing evidence are similar to those in the preexisting regulations under the Federal Water Pollution Control Act (33 U.S.C. 1321) (FWPCA), the Trans-Alaska Pipeline Authorization Act (42 U.S.C. 1653) (TAPAA), title III of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1814) (OCSLAA), and the Deepwater Port Act of 1974 (33 U.S.C. 1517) (DPA). Vessel operators are required to complete and submit a prescribed application form for a COFR and, if other than a self-insurer, a prescribed form, completed by their guarantors, evidencing acceptable financial responsibility. A similar requirement was imposed under preexisting 33 CFR parts 130, 131, and 132, and subpart D of part 137. This rule not only adopts these former application procedures but actually reduces the paperwork burden by requiring that only one application be submitted under OPA 90/CERCLA, rather than separate applications under the FWPCA, TAPAA, and OCSLAA, which was the case.

Small Entities

This rule will have minimal direct economic impact on small business. The rule retains procedures presently in effect and, through consolidation, eliminates duplication of effort on the part of the regulated industry. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains collection-of-information requirements. The Coast Guard has submitted these 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 has approved them. The information collection requirements under this rule continue previous requirements. OMB Control Number 2115–0545 was assigned to 33 CFR parts 130, 131, 132,

and 137. The collection-of-information requirements in these four parts have been consolidated into part 138. Under this rule, the need to apply for separate Certificates under separate laws is eliminated, along with the associated paperwork. Because of the phase-in provisions in this rule, the constantly decreasing information collection requirements in 33 CFR part 130 remain in effect until December 27, 1997, when they will end entirely. The table in 33 CFR part 4 was amended to show this approval number. Due to the removal of 33 CFR parts 131, 132, and 137, the table in 33 CFR part 4 has been amended to remove the approval number for these parts. Therefore, 33 CFR part 4 shows the approval number for 33 CFR parts 130 and 138.

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612. Section 1018 of OPA 90 specifically allows States to enact their own liability laws, and many States have indeed established their own requirements. Therefore, the Coast Guard has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This rulemaking is administrative in nature and has no environmental impact. This rule provides the procedure by which a vessel operator establishes evidence of financial responsibility.

A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects

33 CFR Part 4

Reporting and recordkeeping requirements.

33 CFR Part 130

Insurance, Maritime carriers, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 131

Alaska, Insurance, Maritime carriers, Oil pollution, Pipelines, Reporting and recordkeeping requirements.

33 CFR Part 132

Continental shelf, Insurance, Maritime carriers, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 137

Claims, Harbors, Insurance, Oil pollution, Reporting and recordkeeping requirements, Vessels.

33 CFR Part 138

Insurance, Maritime carriers, Reporting and recordkeeping requirements, Water pollution control.

For the reasons set out in the preamble, the Coast Guard adopts, as a final rule, the interim rule which was published at 59 FR 34210 on July 1, 1994, and in addition, the Coast Guard is amending 33 CFR Parts 4, 130, 131, 132, 137 and 138 as follows:

Dated: February 29, 1996.

Robert E. Kramek,

Admiral, U.S. Coast Guard Commandant.

PART 4—OMB CONTROL NUMBERS ASSIGNED PURSUANT TO THE PAPERWORK REDUCTION ACT

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

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

§ 4.02 [Amended]

2. In § 4.02, remove the following entries from the table:

Part 131	2115–0545
Part 132	2115–0545
Part 137	2115–0545

PART 131—[REMOVED]

3. Part 131 is removed.

PART 132—[REMOVED]

4. Part 132 is removed.

PART 137—[REMOVED]

5. Part 137 is removed.

PART 138—FINANCIAL RESPONSIBILITY FOR WATER POLLUTION (VESSELS)

6. The authority citation for part 138 continues to read as follows:

Authority: 33 U.S.C. 2716; 42 U.S.C. 9608; sec. 7(b), E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 198; 49 CFR 1.46; § 138.30 also issued under the authority of 46 U.S.C. 2103; 46 U.S.C. 14302; 49 CFR 1.46.

§ 138.10 [Amended]

7. In § 138.10(b), remove the word ''Senate'' and add, in its place, the word ''Section''.

§ 138.12 [Amended]

8. In § 138.12, in paragraph (c), remove the word ''For'' and add, in its place, the words ''In addition to a non-self-propelled barge over 300 gross tons that carries hazardous substances as cargo, for''.

§ 138.20 [Amended]

9. In § 138.20(b), at the end of definition for *fuel,* add the new sentence ''A hand-carried pump with not more than five gallons of fuel capacity, that is neither integral to nor regularly stored aboard a non-self-propelled barge, is not equipment.''; in the definition for *operator,* after the word ''scrapper,'' add the word ''lessor,''; and, in the definition for *tank vessel,* after the word ''gross'', add the word ''tons''.

10. In § 138.80, in paragraph (b)(2), remove the word ''four'' and add, in its place, the number ''10''; in paragraph (b)(3)(i) introductory text, remove the words ''with the associated notes, certified'' and add, in their place, the words ''prepared in accordance with Generally Accepted Accounting Principles, and audited''; in the same paragraph, following the first sentence, add the sentence ''These financial statements must be audited in accordance with Generally Accepted Auditing Standards.''; in the same paragraph, remove the words ''certifying to'' and add, in their place, the word ''verifying''; in paragraph (b)(3)(i)(B), remove the word ''certified'' and add, in its place, the word ''verified''; in paragraph (c)(1) introductory text, in the second sentence, remove the word ''Four'' and add, in its place, the word ''Ten''; in paragraph (f)(1)(i) introductory text, after the words ''tank vessel'', add the words ''(except a tank vessel on which no liquid hazardous material in bulk is being carried as cargo or cargo residue, and on which the only oil carried as cargo or cargo residue is an animal fat or vegetable oil, as those terms are used in section 2 of the Edible Oil Regulatory Reform Act (Pub. L. 104–55))''; and paragraph (f)(1)(ii) is revised to read as follows:

§ 138.80 Financial Responsibility, how established.

* * * * *

(f) * * *

(1) * * *

(ii) For a vessel other than a tank vessel under paragraph (f)(1)(i) of this section that is over 300 gross tons or that is 300 gross tons or less using the waters of the Exclusive Economic Zone of the United States to transship or lighter oil destined for a place subject to the jurisdiction of the United States, the

greater of $500,000 or $600 per gross ton.

* * * * *

§ 138.110 [Amended]

11. In § 138.110, in paragraph (a), in the first sentence, remove the words ''a scrapper'' and add, in their place, the words ''scrapper, lessor,''; in the same paragraph, in the second sentence, after the word ''scrapping,'' add the word ''lease,''; in the same paragraph, in the third sentence, after the word ''scrapping,'' add the word ''leasing,''; and, in paragraph (c)(1), after the word ''scrapper,'' add the word ''lessor,''.

Appendices B, C, D, E, and F to Part 138 [Amended]

12. Appendices B, C, D, E, and F to part 138 are revised to read as follows:

BILLING CODE 4910–14–M

Appendix B to Part 138 - Insurance Guaranty Form

Insurance Co. Form No._____

DEPARTMENT OF TRANSPORTATION
U.S. COAST GUARD
CG-5586

INSURANCE GUARANTY FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY UNDER THE OIL POLLUTION ACT OF 1990 AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED

The undersigned insurer or insurers ("Insurer") hereby certifies that for purposes of complying with the financial responsibility provisions of the Oil Pollution Act of 1990 ("OPA 90") and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), (referred to collectively as the "Acts"), the vessel owners and operators ("Assured" or "Assureds") of each respective vessel named in the schedules below ("covered vessel") are insured by it against liability for costs and damages to which the Assureds may be subject under either section 1002 of OPA 90, as limited by section 1004(a), or section 107(a)(1) of CERCLA, as limited by sections 107(c)(1)(A) and (B), or both, in an amount equal to the total applicable amount determined in accordance with the Applicable Amount Table below, respecting each covered vessel.

The amount and scope of insurance coverage hereby provided by the Insurer is not conditioned or dependent in any way upon any contract, agreement, or understanding between an Assured and the Insurer. Coverage hereunder is for purposes of evidencing financial responsibility under each of the Acts, separately, at the levels in effect at the time of the incident(s), release(s) or threatened release(s) giving rise to claims.

_____,
(Name of Agent)

with offices at _____

_____,

is designated as the Insurer's agent in the United States for service of process for the purposes of this guaranty and for receipt of notices of designation and presentations of claims under the Acts. If the designated agent cannot be served due to death, disability, or unavailability, the Director, Coast Guard National Pollution Funds Center ("Center"), is the agent for these purposes.

The Insurer consents to be sued directly with respect to any claim, including any claim by right of subrogation, for costs and damages arising under section 1002 of OPA 90, as limited by section 1004(a), or section 107(a)(1) of CERCLA, as limited by sections 107(c)(1)(A) and (B), or both, against any Assured. However, in any direct action under OPA 90 the Insurer's liability per vessel per incident shall not exceed the amount determined under part I of the Applicable Amount Table below and, in any direct action under CERCLA,

the Insurer's liability per vessel per release or threatened release shall not exceed the amount determined under part II of the Applicable Amount Table below. The Insurer's obligation hereunder with respect to any one incident or release or threatened release shall be reduced by all payments or succession of payments for costs and damages, to one or more claimants, made by or on behalf of the Assured under OPA 90 or CERCLA or both, as applicable, for which the Assured is liable. The Insurer shall be entitled to invoke only the following rights and defenses in any direct action:

(1) The incident, release, or threatened release was caused by the willful misconduct of the Assured.

(2) Any defense that the Assured may raise under the Acts.

(3) A defense relating to the amount of a claim or claims, filed in any action in any court or other proceeding, that exceeds the amount of this guaranty with respect to an incident or with respect to a release or threatened release.

(4) A defense relating to the amount of a claim or claims that exceeds the amount of this guaranty, which amount is based on the gross tonnage of a covered vessel as entered on the vessel's International Tonnage Certificate or other official, applicable certificate of measurement, except where the guarantor knew or should have known that the applicable tonnage certificate was incorrect.

(5) The claim is not one made under either of the Acts.

No more than four Insurers (including lead underwriters) may execute this guaranty. If more than one Insurer executes this guaranty, each Insurer binds itself jointly and severally for the purpose of allowing joint action or actions against any or all of the Insurers, and for all other purposes each Insurer is bound for the payment of sums only in accordance with the percentage of participation set forth opposite the name of the Insurer below. If no percentage of participation is indicated for an Insurer or Insurers, the liability of such Insurer or Insurers shall be joint and several for the total of the unspecified portions.

_____

(Name of lead guarantor)

is designated as the lead guarantor having authority to bind all guarantors for actions of guarantors under the Acts, including but not limited to receipt of designation of source, advertisement of a designation, and receipt and settlement of claims (inapplicable if only one Insurer executes this guaranty).

The insurance evidenced by this guaranty shall be applicable only in relation to each incident, release, and threatened release occurring on or after the effective date and before the termination date of this guaranty and shall be applicable only in relation to each incident, release and threatened release giving rise to claims

under section 1002 of OPA 90 or section 107(a)(1) of CERCLA, or both, with respect to any of the covered vessels.

The effective date of this guaranty for each covered vessel is the date the vessel is named in or added to the schedules below. For each covered vessel, the termination date of this guaranty is 30 days after the date of receipt by the Center of written notice that the Insurer has elected to terminate the insurance evidenced by this guaranty and has so notified the vessel operator identified on the schedule below.

Termination of this guaranty as to any covered vessel shall not affect the liability of the Insurer in connection with an incident, release, or threatened release occurring prior to the date the termination becomes effective.

If, during the currency of this guaranty, an Assured requests that an additional vessel be made subject to this guaranty and if the Insurer accedes to that request and so notifies the Center, then that vessel is considered included in the schedules below as a covered vessel.

Title 33 CFR part 138 governs this guaranty.

Effective date of coverage for vessels originally named in this guaranty:

_____
(day/month/year)

_____
(Name of Insurer)

_____
(Percentage of Participation)

_____
(Mailing Address)

_____

_____

By: _____
(Signature of Official Signing
On Behalf of Insurer)

_____
(Typed Name and Title of Signer)

[NOTE: For each additional Insurer, provide information in the same manner as for Insurer above.]

CG–5586

APPLICABLE AMOUNT TABLE

(I) Applicable Amount Under the Oil Pollution Act of 1990

VESSEL TYPE	VESSEL'S GROSS TONS	APPLICABLE AMOUNT
Tank vessel (except a tank vessel on which no liquid hazardous material in bulk is being carried as cargo or cargo residue, and on which the only oil carried as cargo or cargo residue is an animal fat or vegetable oil, as those terms are used in section 2 of the Edible Oil Regulatory Reform Act (Pub. L. 104-55))	Over 300 gross tons* but not to exceed 3,000 gross tons.	The greater of $2,000,000 or $1,200 per gross ton.
Tank vessel (except a tank vessel on which no liquid hazardous material in bulk is being carried as cargo or cargo residue, and on which the only oil carried as cargo or cargo residue is an animal fat or vegetable oil, as those terms are used in section 2 of the Edible Oil Regulatory Reform Act (Pub. L. 104-55))	Over 3,000 gross tons.	The greater of $10,000,000 or $1,200 per gross ton.
Vessel other than a tank vessel (specified above)	Over 300 gross tons.*	The greater of $500,000 or $600 per gross ton.

* This minimum gross ton limit does not apply to any vessel using the waters of the U.S. Exclusive Economic Zone to transship or lighter oil destined for a place subject to the jurisdiction of the United States (as specified in 33 CFR 138.12(a)(1)).

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(II) Applicable Amount Under the Comprehensive Environmental Response, Compensation, and Liability Act, as Amended.

VESSEL TYPE	APPLICABLE AMOUNT
Vessel over 300 gross tons carrying hazardous substance as cargo	The greater of $5,000,000 or $300 per gross ton.
Any other vessel over 300 gross tons	The greater of $500,000 or $300 per gross ton.

(III) Total Applicable Amount = Maximum applicable amount calculated under (I) plus maximum applicable amount calculated under (II).

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SCHEDULE OF VESSELS

VESSEL	GROSS TONS	ASSURED OPERATOR

Insurance Guaranty Form CG–5586 No._____

SCHEDULE OF VESSELS
ADDED TO ABOVE VESSELS

VESSEL	GROSS TONS	ASSURED OPERATOR	DATE ADDED

Insurance Guaranty Form CG–5586 No._____

Appendix C to Part 138 - Master Insurance Guaranty Form

Insurance Co. Form No._____

DEPARTMENT OF TRANSPORTATION
U.S. COAST GUARD
CG-5586-1

MASTER INSURANCE GUARANTY FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY FOR BUILDERS, REPAIRERS, SCRAPPERS, LESSORS, OR SELLERS OF VESSELS UNDER THE OIL POLLUTION ACT OF 1990 AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED

The undersigned insurer or insurers ("Insurer") hereby certifies that for purposes of complying with the financial responsibility provisions of the Oil Pollution Act of 1990 ("OPA 90") and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), (referred to collectively as the "Acts"),

_____
(Name of Assured Operator)

and any owner (collectively referred to as "Assured") of each vessel covered hereunder are insured by it against liability for costs and damages to which the Assured may be subject under either section 1002 of OPA 90, as limited by section 1004(a), or section 107(a)(1) of CERCLA, as limited by sections 107(c)(1)(A) and (B), or both, in an amount equal to the total applicable amount determined in accordance with the Applicable Amount Table below, respecting each covered vessel. This guaranty is applicable in relation to any vessel for which either or both Acts require financial responsibility and which the Assured holds for purposes of construction, repair, scrapping, lease, or sale.

The amount and scope of insurance coverage hereby provided by the Insurer is not conditioned or dependent in any way upon any contract, agreement, or understanding between the Assured and the Insurer. Coverage hereunder is for purposes of evidencing financial responsibility under each of the Acts, separately, at the levels in effect at the time of the incident(s), release(s), or threatened release(s) giving rise to claims.

_____
(Name of Agent)

with offices at _____

_____,

is designated as the Insurer's agent in the United States for service of process for purposes of this guaranty and for receipt of notices of designation and presentations of claims under the Acts. If the designated agent cannot be served due to death, disability, or unavailability, the Director, Coast Guard National

Pollution Funds Center ("Center"), is the agent for these purposes.

The Insurer consents to be sued directly with respect to any claim, including any claim by right of subrogation, for costs and damages arising under section 1002 of OPA 90, as limited by section 1004(a), or section 107(a)(1) of CERCLA, as limited by sections 107(c)(1)(A) and (B), or both, against the Assured. However, in any direct action under OPA 90, the Insurer's liability per vessel per incident shall not exceed the amount determined under part I of the Applicable Amount Table below and, in any direct action under CERCLA, the Insurer's liability per vessel per release or threatened release shall not exceed the amount determined under part II of the Applicable Amount Table below. The Insurer's obligation hereunder with respect to any one incident or release or threatened release shall be reduced by all payments or succession of payments for costs and damages, to one or more claimants, made by or on behalf of the Assured under OPA 90 or CERCLA or both, as applicable, for which the Assured is liable. The Insurer shall be entitled to invoke only the following rights and defenses in any direct action:

(1) The incident, release, or threatened release was caused by the willful misconduct of the Assured.

(2) Any defense that the Assured may raise under the Acts.

(3) A defense relating to the amount of a claim or claims, filed in any action in any court or other proceeding, that exceeds the amount of this guaranty with respect to an incident or with respect to a release or threatened release.

(4) A defense relating to the amount of a claim or claims that exceeds the amount of this guaranty, which amount is based on the gross tonnage of a covered vessel as entered on the vessel's International Tonnage Certificate or other official, applicable certificate of measurement, except where the guarantor knew or should have known that the applicable tonnage certificate was incorrect.

(5) The claim is not one made under either of the Acts.

No more than four Insurers (including lead underwriters) may execute this guaranty. If more than one Insurer executes this guaranty, each Insurer binds itself jointly and severally for the purpose of allowing joint action or actions against any or all of the Insurers, and for all other purposes each Insurer is bound for the payment of sums only in accordance with the percentage of participation set forth opposite the name of the Insurer below. If no percentage of participation is indicated for an Insurer or Insurers, the liability of such Insurer or Insurers shall be joint and several for the total of the unspecified portions.

_____

(Name of lead guarantor)

is designated as the lead guarantor having authority to bind all guarantors for actions of guarantors under the Acts, including but not limited to receipt of designation of source, advertisement of a designation, and receipt and settlement of claims (inapplicable if only one Insurer executes this guaranty).

The insurance evidenced by this guaranty shall be applicable only in relation to each incident, release, or threatened release occurring on or after the effective date of this guaranty and before the termination date of this guaranty and shall be applicable only in relation to each incident, release and threatened release giving rise to claims under section 1002 of OPA 90 or section 107(a)(1) of CERCLA, or both, with respect to any covered vessel. The termination date is 30 days after the date of receipt by the Center of written notice that the Insurer has elected to terminate the insurance evidenced by this guaranty and has so notified the above named Assured operator.

Termination of this guaranty does not affect the liability of the Insurer in connection with an incident, release, or threatened release occurring prior to the date the termination becomes effective.

Title 33 CFR part 138 governs this guaranty.

Effective Date: _____
(day/month/year)

_____
(Name of Insurer)

_____
(Percentage of Participation)

_____
(Mailing Address)

_____

_____

By: _____
(Signature of Official Signing
On Behalf of Insurer)

_____
(Typed Name and Title of Signer)

[NOTE: For each additional Insurer, provide information in the same manner as for Insurer above.]

APPLICABLE AMOUNT TABLE

(I) Applicable Amount Under the Oil Pollution Act of 1990

VESSEL TYPE	VESSEL'S GROSS TONS	APPLICABLE AMOUNT
Tank vessel (except a tank vessel on which no liquid hazardous material in bulk is being carried as cargo or cargo residue, and on which the only oil carried as cargo or cargo residue is an animal fat or vegetable oil, as those terms are used in section 2 of the Edible Oil Regulatory Reform Act (Pub. L. 104-55))	Over 300 gross tons* but not to exceed 3,000 gross tons.	The greater of $2,000,000 or $1,200 per gross ton.
Tank vessel (except a tank vessel on which no liquid hazardous material in bulk is being carried as cargo or cargo residue, and on which the only oil carried as cargo or cargo residue is an animal fat or vegetable oil, as those terms are used in section 2 of the Edible Oil Regulatory Reform Act (Pub. L. 104-55))	Over 3,000 gross tons.	The greater of $10,000,000 or $1,200 per gross ton.
Vessel other than a tank vessel (specified above)	Over 300 gross tons. *	The greater of $500,000 or $600 per gross ton.

* This minimum gross ton limit does not apply to any vessel using the waters of the U.S. Exclusive Economic Zone to transship or lighter oil destined for a place subject to the jurisdiction of the United States (as specified in 33 CFR 138.12(a)(1)).

CG-5586-1

(II) Applicable Amount Under the **Comprehensive Environmental Response, Compensation, and Liability Act**, as Amended.

VESSEL TYPE	APPLICABLE AMOUNT
Vessel over 300 gross tons carrying hazardous substance as cargo	The greater of $5,000,000 or $300 per gross ton.
Any other vessel over 300 gross tons	The greater of $500,000 or $300 per gross ton.

(III) Total Applicable Amount = Maximum applicable amount calculated under (I) plus maximum applicable amount calculated under (II).

CG-5586-1

Appendix D to Part 138 - Surety Bond Guaranty Form

Surety Co. Bond No._____

DEPARTMENT OF TRANSPORTATION
U.S. COAST GUARD
CG-5586-2

SURETY BOND GUARANTY FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY UNDER THE OIL POLLUTION ACT OF 1990 AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED

_____
(Name of Vessel Operator)

of _____,
(City, State and Country)

("Principal"), and the undersigned surety company or companies ("Surety" or "Sureties"), each authorized by the United States Department of the Treasury to do business in the United States as an approved surety, are held and firmly bound unto the United States of America and other claimants in the penal sum of

$_____

for costs and damages for which the Principal is liable under the Oil Pollution Act of 1990 ("OPA 90") and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA") (referred to collectively as the "Acts"). "Principal" includes, in addition to the vessel operator and the owner of each vessel covered by this guaranty ("covered vessel").

The Principal has elected to file with the Director, Coast Guard National Pollution Funds Center ("Center") this surety bond guaranty as evidence of financial responsibility to obtain from the Coast Guard a Certificate, or Certificates, of Financial Responsibility (Water Pollution) under 33 CFR part 138, to meet any liability for costs and damages incurred in connection with a covered vessel under section 1002 of OPA 90, as limited by section 1004(a), or section 107(a)(1) of CERCLA, as limited by sections 107(c)(1)(A) and (B), or both.

The Surety agrees that the penal sum of this surety bond guaranty shall be available to pay to the United States of America or other claimants under the Acts any sum or sums for which the Principal may be held liable under the Acts. The penal sum shall be the total applicable amount, determined in accordance with the Applicable Amount Table below, for which payment we, the undersigned, bind ourselves and our heirs, executors, administrators, successors and assigns, jointly and severally.

No more than 10 Sureties (including lead Sureties) may execute this guaranty. If there is more than one surety company executing this guaranty, we, the Sureties, bind ourselves in the penal sum jointly and severally for the purpose of allowing a

joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of the percentage of the penal sum only as is set forth opposite the name of each Surety.

If no percentage is indicated for a Surety or Sureties, the liability of such Surety or Sureties shall be joint and several for the total of the unspecified portions.

_____
(Name of lead guarantor)

is designated as the lead guarantor having authority to bind all guarantors for actions of guarantors under the Acts, including but not limited to receipt of designation of source, advertisement of a designation, and receipt and settlement of claims (inapplicable if only one Surety executes this guaranty).

Principal and the Surety or Sureties agree that if all or a portion of the penal sum is paid, the penal sum is considered reinstated to its full amount until 30 days after receipt from the Surety of written notice to the Director, NPFC, that the penal sum has not been reinstated. Principal and the Surety or Sureties further agree that if at the time of an incident, release, or threatened release a covered vessel is a tank vessel or is carrying a hazardous substance as cargo, the penal sum of this surety bond guaranty automatically increases, if necessary, to the total applicable amount appropriate for such vessel as determined in accordance with the Applicable Amount Table below. In no case, however, shall the penal sum be increased to an amount greater than the total applicable amount.

The penal sum is not further conditioned or dependent in any way upon any contract, agreement or understanding between the Principal and Surety. If the Principal is responsible for more than one vessel covered by this guaranty, then the penal sum is the total applicable amount for the vessel having the greatest liability under the Acts.

The liability of the Surety as guarantor under OPA or CERCLA, or both, shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments amount in the aggregate to the penal sum of this bond guaranty.

Any claim, including any claim by right of subrogation, against the Principal for costs and damages arising under either section 1002 of OPA 90, as limited by section 1004(a), or section 107(a)(1) of CERCLA, as limited by sections 107(c)(1)(A) and (B), or both, may be brought directly against the Surety, and the Surety consents to suit with respect to these claims. However, in any direct action under OPA 90 the Surety's liability shall not exceed the amount determined under part I of the Applicable Amount Table below and, in any direct action under CERCLA the Surety's liability shall not exceed the amount determined under part II of the Applicable Amount Table below. The Surety's obligation hereunder with respect to any one incident or release or threatened release shall be reduced by all payments or succession of payments for costs and damages, to one or more claimants, made by or on behalf of the Principal under OPA 90 or CERCLA or both, as applicable, for which the Principal is liable. In the event of a direct claim, the Surety may invoke only the following rights and defenses:

(1) The incident, release, or threatened release was caused by the willful misconduct of the Principal.

(2) Any defense that the Principal may raise under the Acts.

(3) A defense relating to the amount of a claim or claims, filed in any action in any court or other proceeding, that exceeds the amount of this guaranty with respect to an incident or with respect to a release or threatened release.

(4) A defense relating to the amount of a claim or claims that exceeds the amount of this guaranty, which amount is based on the gross tonnage of the vessel as entered on the vessel's International Tonnage Certificate or other official, applicable certificate of measurement, except where the surety knew or should have known that the applicable tonnage certificate was incorrect.

(5) The claim is not one made under either of the Acts.

This bond is effective the _____ day of _____, _____, 12:01 a.m., standard time at the address of the Surety first named herein, and shall continue in force until discharged or terminated as herein provided. The above named Vessel Operator or the Surety may at any time terminate this bond guaranty by written notice sent by certified mail, registered mail, overnight delivery, or other comparable service to the other party, with a copy (showing that the original notice was sent to the other party by certified mail, registered mail, overnight delivery, or other comparable service) to the Center. The termination is effective thirty (30) days after the Center receives the written notice of termination. The Surety shall not be liable hereunder in connection with an incident, release, or threatened release occurring after the termination of this bond guaranty as herein provided, but the termination shall not affect the liability of the Surety in connection with an incident, release, or threatened release occurring prior to the date the termination becomes effective. Nor shall the Surety be liable hereunder in connection with a non-covered vessel, which is a vessel specifically named in other evidence of financial responsibility, which is applicable to that vessel on behalf of the above named Vessel Operator, and which is accepted by and on file with the Center during an incident, release, or threatened release giving rise to a claim against the Surety or Principal.

The Surety designates _____
(Name of Agent)

with offices at _____

_____

as the Surety's agent in the United States for service of process for the purposes of this surety bond guaranty and for receipt of notices of designation and presentations of claims under the Acts. If the designated agent cannot be served due to death, disability, or unavailability, the Director, Coast Guard National Pollution Funds Center, is the agent for these purposes.

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Title 33 CFR part 138 governs this bond guaranty.

In witness whereof, the Vessel Operator, for itself and owners, and Surety have executed this instrument on the _____ day of _____, _____.

VESSEL OPERATOR

_____ (Signature of Sole Proprietor or Partner)

_____ (Business Address)

_____

_____ (Typed)

_____ (Signature of Sole Proprietor or Partner)

_____ (Business Address)

_____

_____ (Typed)

_____ (Signature of Sole Proprietor or Partner)

_____ (Business Address)

_____

_____ (Typed)

_____ (Corporation)

_____ (Business Address)

_____

(Affix Corporate Seal)

_____ (Signature)

_____ (Typed Name and Title)

CG-5586-2

SURETY

(Name) (Percentage of Participation)

(Address) (Affix Corporate Seal)

(Signature(s))

(State of Incorporation)

(Typed Name(s) and Title(s))

[NOTE: For every co-Surety, provide information in the same manner as for Surety above.]

CG–5586–2

APPLICABLE AMOUNT TABLE

(I) Applicable Amount Under the Oil Pollution Act of 1990

VESSEL TYPE	VESSEL'S GROSS TONS	APPLICABLE AMOUNT
Tank vessel (except a tank vessel on which no liquid hazardous material in bulk is being carried as cargo or cargo residue, and on which the only oil carried as cargo or cargo residue is an animal fat or vegetable oil, as those terms are used in section 2 of the Edible Oil Regulatory Reform Act (Pub. L. 104-55))	Over 300 gross tons* but not to exceed 3,000 gross tons.	The greater of $2,000,000 or $1,200 per gross ton.
Tank vessel (except a tank vessel on which no liquid hazardous material in bulk is being carried as cargo or cargo residue, and on which the only oil carried as cargo or cargo residue is an animal fat or vegetable oil, as those terms are used in section 2 of the Edible Oil Regulatory Reform Act (Pub. L. 104-55))	Over 3,000 gross tons.	The greater of $10,000,000 or $1,200 per gross ton.
Vessel other than a tank vessel (specified above)	Over 300 gross tons. *	The greater of $500,000 or $600 per gross ton.

* This minimum gross ton limit does not apply to any vessel using the waters of the U.S. Exclusive Economic Zone to transship or lighter oil destined for a place subject to the jurisdiction of the United States (as specified in 33 CFR 138.12(a)(1)).

CG-5586-2

(II) Applicable Amount Under the Comprehensive Environmental Response, Compensation, and Liability Act, as Amended.

VESSEL TYPE	APPLICABLE AMOUNT
Vessel over 300 gross tons carrying hazardous substance as cargo	The greater of $5,000,000 or $300 per gross ton.
Any other vessel over 300 gross tons	The greater of $500,000 or $300 per gross ton.

(III) Total Applicable Amount = Maximum applicable amount calculated under (I) plus maximum applicable amount calculated under (II).

CG-5586-2

Appendix E to Part 138 - Financial Guaranty Form

Financial Guaranty No._____

DEPARTMENT OF TRANSPORTATION
U.S. COAST GUARD
CG-5586-3

FINANCIAL GUARANTY FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY UNDER THE OIL POLLUTION ACT OF 1990 AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED

1. _____,
(Name of Vessel Operator)
the operator of each vessel named in the annexed schedules ("covered vessel"), desires to establish evidence of financial responsibility for the owner and operator (referred to collectively as "Operator") of each covered vessel in accordance with the Oil Pollution Act of 1990 ("OPA 90") and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA") (referred to collectively as the "Acts"). The undersigned Financial Guarantor or Guarantors ("Guarantor") hereby guarantees, subject to the provisions hereof, to discharge the Operator's liability with respect to each covered vessel for costs and damages under section 1002 of OPA 90, as limited by section 1004(a), or section 107(a)(1) of CERCLA, as limited by sections 107(c)(1)(B) and (A), or both, in an amount equal to the total applicable amount determined in accordance with the Applicable Amount Table below. The Operator and the Guarantor agree that if at the time of an incident, release, or threatened release a covered vessel is a tank vessel or is carrying a hazardous substance as cargo, the limit of liability of the Guarantor hereunder shall be the total applicable amount appropriate for such a vessel determined in accordance with the Applicable Amount Table below. The amount and scope of the Guarantor's liability are not further conditioned or dependent in any way upon any contract, agreement, or understanding between the Operator and the Guarantor. The Guarantor shall furnish written notice to the Director, Coast Guard National Pollution Funds Center ("Center"), of all judgments rendered and payments made by the Guarantor under this Financial Guaranty.

2. Any claim, including any claim by right of subrogation, against the Operator for costs and damages arising under either section 1002 of OPA 90 as limited by section 1004(a), or section 107(a)(1) of CERCLA as limited by sections 107(c)(1)(A) and (B), or both, may be brought directly against the Guarantor and the Guarantor consents to suit with respect to these claims. However, in any direct action under OPA 90 the Guarantor's liability per vessel per incident shall not exceed the amount determined under part I of the Applicable Amount Table below and, in any direct action under CERCLA the Guarantor's liability per vessel per release or threatened release shall not exceed the

FINANCIAL GUARANTY NO. _____

amount determined under part II of the Applicable Amount Table below. The Guarantor's obligation hereunder with respect to any one incident or release or threatened release shall be reduced by all payments or succession of payments for costs and damages, to one or more claimants, made by or on behalf of the Operator under OPA 90 or CERCLA or both, as applicable, for which the Operator is liable. The Guarantor shall be entitled to invoke only the following rights and defenses in any direct action:

(1) The incident, release, or threatened release was caused by the willful misconduct of the Operator.

(2) Any defense that the Operator may raise under the Acts.

(3) A defense relating to the amount of a claim or claims, filed in any action in any court or other proceeding, that exceeds the amount of this Guaranty with respect to an incident or with respect to a release or threatened release.

(4) A defense relating to the amount of a claim or claims that exceeds the amount of this Guaranty, which amount is based on the gross tonnage of the covered vessel as entered on the Vessel's International Tonnage Certificate or other official, applicable certificate of measurement, except where the guarantor knew or should have known that the applicable certificate was incorrect.

(5) The claim is not one made under either of the Acts.

3. The Guarantor's liability under this Guaranty shall attach only in relation to each incident, release, or threatened release occurring on or after the effective date and before the termination date of this Guaranty. The effective date of this Guaranty for each covered vessel listed below is the date the vessel is named in or added to the schedules below. For each covered vessel, the termination date of the Guaranty is 30 days after the date of receipt by the Center of written notice that the Guarantor has elected to terminate this Guaranty, with respect to any of the covered vessels, and has so notified the vessel Operator identified above on the schedule below. Termination of this Guaranty as to any vessel does not affect the liability of the Guarantor in connection with an incident, release, or threatened release occurring prior to the date the termination becomes effective.

4. If, during the currency of this Guaranty, the Operator requests that a vessel become subject to this Guaranty, and if the Guarantor accedes to that request and so notifies the Center in writing, then that vessel shall be considered included in Schedule B as a covered vessel and subject to this Guaranty.

CG-5586-3

FINANCIAL GUARANTY NO. _____

5. The Guarantor designates _____
(Name of Agent)
with offices at _____

_____
as the Guarantor's agent in the United States for service of process for purposes of this Guaranty and for receipt of notices of designation and presentations of claims under the Acts. If the designated agent cannot be served due to death, disability or unavailability, the Director, Coast Guard National Pollution Funds Center, is the agent for service of process.

6. No more than four Financial Guarantors may execute this Guaranty. If more than one Guarantor executes this Guaranty, each Guarantor binds itself jointly and severally for the purpose of allowing a joint action or actions against any or all of the Guarantors, and for all other purposes each Guarantor binds itself, jointly and severally with the Operator, for the payment of the percentage of sums only as is set forth opposite the name of the Guarantor. If no limit is indicated for a Guarantor or Guarantors, the liability of such Guarantor or Guarantors shall be joint and several for the total of the unspecified portions.

_____
(Name of Lead Guarantor)
is designated as the lead guarantor having authority to bind all guarantors for actions of guarantors under the Acts, including but not limited to receipt of designation of source, advertisement of a designation, and receipt and settlement of claims (inapplicable if only one Financial Guarantor executes this Guaranty).

7. Title 33 CFR part 138 governs this Financial Guaranty.

EFFECTIVE DATE: _____
(Month/Day/Year and Place of Execution)

_____
(Typed Name of Guarantor)

_____
(Address of Guarantor)

_____

_____
(Percentage of Participation)

By: _____
(Signature)

_____
(Type Name and Title of Person Signing Above)

[NOTE: For each co-Guarantor, provide information in the same manner as for Guarantor above.]

APPLICABLE AMOUNT TABLE

(I) Applicable Amount Under the Oil Pollution Act of 1990

VESSEL TYPE	VESSEL'S GROSS TONS	APPLICABLE AMOUNT
Tank vessel (except a tank vessel on which no liquid hazardous material in bulk is being carried as cargo or cargo residue, and on which the only oil carried as cargo or cargo residue is an animal fat or vegetable oil, as those terms are used in section 2 of the Edible Oil Regulatory Reform Act (Pub. L. 104-55))	Over 300 gross tons* but not to exceed 3,000 gross tons.	The greater of $2,000,000 or $1,200 per gross ton.
Tank vessel (except a tank vessel on which no liquid hazardous material in bulk is being carried as cargo or cargo residue, and on which the only oil carried as cargo or cargo residue is an animal fat or vegetable oil, as those terms are used in section 2 of the Edible Oil Regulatory Reform Act (Pub. L. 104-55))	Over 3,000 gross tons.	The greater of $10,000,000 or $1,200 per gross ton.
Vessel other than a tank vessel (specified above)	Over 300 gross tons. *	The greater of $500,000 or $600 per gross ton.

* This minimum gross ton limit does not apply to any vessel using the waters of the U.S. Exclusive Economic Zone to transship or lighter oil destined for a place subject to the jurisdiction of the United0 States (as specified in 33 CFR 138.12(a)(1)).

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(II) Applicable Amount Under the Comprehensive Environmental Response, Compensation, and Liability Act, as Amended.

VESSEL TYPE	APPLICABLE AMOUNT
Vessel over 300 gross tons carrying hazardous substance as cargo	The greater of $5,000,000 or $300 per gross ton.
Any other vessel over 300 gross tons	The greater of $500,000 or $300 per gross ton.

(III) Total Applicable Amount = Maximum applicable amount calculated under (I) plus maximum applicable amount calculated under (II).

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SCHEDULE A

VESSELS INITIALLY LISTED

VESSEL	GROSS TONS	OPERATOR

SCHEDULE B

VESSELS ADDED IN ACCORDANCE WITH CLAUSE 4

VESSEL	GROSS TONS	OPERATOR	DATE ADDED

Appendix F to Part 138 - Master Financial Guaranty Form

Financial Guaranty No._____

DEPARTMENT OF TRANSPORTATION
U.S. COAST GUARD
CG-5586-4

MASTER FINANCIAL GUARANTY FURNISHED AS EVIDENCE OF FINANCIAL RESPONSIBILITY FOR BUILDERS, REPAIRERS, SCRAPPERS, LESSORS, OR SELLERS OF VESSELS UNDER THE OIL POLLUTION ACT OF 1990 AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, AS AMENDED

1. _____
(Name of Builder, Repairer, Scrapper, Lessor, or Seller)
is in, or from time to time may come into, possession of a vessel or vessels ("Vessel" or "Vessels") held for purposes of construction, repair, scrapping, lease, or sale, and desires to establish evidence of financial responsibility for itself and any owner (collectively referred to as "Operator") of each Vessel in accordance with the Oil Pollution Act of 1990 ("OPA 90") and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA") (referred to collectively as the "Acts"). The undersigned Financial Guarantor or Guarantors ("Guarantor") hereby guarantees, subject to the provisions hereof, to discharge the Operator's liability with respect to each Vessel for costs and damages under section 1002 of OPA 90, as limited by section 1004(a), or section 107(a)(1) of CERCLA, as limited by sections 107(c)(1)(A) and (B), or both, in an amount equal to the total applicable amount determined in accordance with the Applicable Amount Table below. The Operator and the Guarantor agree that if at the time of an incident, release, or threatened release a covered vessel is a tank vessel or is carrying a hazardous substance as cargo, the limit of liability of the Guarantor hereunder shall be the total applicable amount appropriate for such vessel determined in accordance with the Applicable Amount Table below. The amount and scope of liability are not further conditioned or dependent in any way upon any contract, agreement or understanding between the Operator and the Guarantor. The Guarantor shall furnish written notice to the Director, Coast Guard National Pollution Funds Center ("Center"), of all judgments rendered and payments made by the Guarantor under this Financial Guaranty.

2. Any claim, including any claim by right of subrogation, against the Operator for costs and damages arising under either section 1002 of OPA 90 as limited by section 1004(a), or section 107(a)(1) of CERCLA as limited by sections 107(c)(1)(A) and (B), or both, may be brought directly against the Guarantor and the Guarantor consents to suit with respect to these claims. However, in any direct action under OPA 90 the Guarantor's

liability per vessel per incident shall not exceed the amount determined under part I of the Applicable Amount Table below and, in any direct action under CERCLA the Guarantor's liability per vessel per release or threatened release shall not exceed the amount determined under part II of the Applicable Amount Table below. The Guarantor's obligation hereunder with respect to any one incident or release or threatened release shall be reduced by all payments or succession of payments for costs and damages, to one or more claimants, made by or on behalf of the Operator under OPA 90 or CERCLA or both, as applicable, for which the Operator is liable. The Guarantor shall be entitled to invoke only the following rights and defenses in any direct action:

(1) The incident, release, or threatened release was caused by the willful misconduct of the Operator.

(2) Any defense that the Operator may raise under the Acts.

(3) A defense relating to the amount of a claim or claims, filed in any action in any court or other proceeding, that exceeds the amount of this Guaranty with respect to an incident or with respect to a release or threatened release.

(4) A defense relating to the amount of a claim or claims that exceeds the amount of this Guaranty, which amount is based on the gross tonnage of the covered vessel as entered on the Vessel's International Tonnage Certificate or other official, applicable certificate of measurement, except where the guarantor knew or should have known that the applicable tonnage certificate was incorrect.

(5) The claim is not one made under either of the Acts.

3. The Guarantor's liability under this Guaranty shall attach only in relation to each incident, release, or threatened release occurring on or after the effective date and before the termination date of this Guaranty. The termination date is 30 days after the date of receipt by the Center of written notice that the Guarantor has elected to terminate this Guaranty and has so notified the Operator. Termination of this Guaranty shall not affect the liability of the Guarantor in connection with an incident, release, or threatened release occurring prior to the date the termination becomes effective.

4. The Guarantor designates _____,
(Name of Agent)

with offices at _____

_____,

as the Guarantor's agent in the United States for service of process for purposes of this Guaranty and for receipt of notices

of designation and presentations of claims under the Acts. If the designated agent cannot be served due to death, disability, or unavailability, the Director, National Pollution Funds Center, is the agent for these purposes.

5. No more than four Financial Guarantors may execute this Guaranty. If more than one Guarantor executes this Guaranty, each Guarantor binds itself jointly and severally for the purpose of allowing a joint action or actions against any or all of the Guarantors, and for all other purposes each Guarantor binds itself, jointly and severally with the Operator, for the payment of the percentage of sums only as is set forth opposite the name of the Guarantor. If no percentage is indicated for a Guarantor or Guarantors, the liability of such Guarantor or Guarantors shall be joint and several for the total of the unspecified portions.

_____
(Name of lead guarantor)

is designated as the lead guarantor having authority to bind all guarantors for actions of guarantors under the Acts, including but not limited to receipt of designation of source, advertisement of a designation, and receipt and settlement of claims (inapplicable if only one Financial Guarantor executes this Guaranty).

6. Title 33 CFR part 138 governs this Financial Guaranty.

EFFECTIVE DATE: _____
(Month/Day/Year and Place of Execution)

_____
(Typed Name of Guarantor)

_____
(Address of Guarantor)

_____

_____
(Percentage of Participation)

By: _____
(Signature)

_____
(Type Name and Title of Person Signing Above)

[NOTE: For each co-Guarantor, provide information in the same manner as for Guarantor above.]

CG-5586-4

APPLICABLE AMOUNT TABLE

(I) Applicable Amount Under the Oil Pollution Act of 1990

VESSEL TYPE	VESSEL'S GROSS TONS	APPLICABLE AMOUNT
Tank vessel (except a tank vessel on which no liquid hazardous material in bulk is being carried as cargo or cargo residue, and on which the only oil carried as cargo or cargo residue is an animal fat or vegetable oil, as those terms are used in section 2 of the Edible Oil Regulatory Reform Act (Pub. L. 104-55))	Over 300 gross tons* but not to exceed 3,000 gross tons.	The greater of $2,000,000 or $1,200 per gross ton.
Tank vessel (except a tank vessel on which no liquid hazardous material in bulk is being carried as cargo or cargo residue, and on which the only oil carried as cargo or cargo residue is an animal fat or vegetable oil, as those terms are used in section 2 of the Edible Oil Regulatory Reform Act (Pub. L. 104-55))	Over 3,000 gross tons.	The greater of $10,000,000 or $1,200 per gross ton.
Vessel other than a tank vessel (specified above)	Over 300 gross tons. *	The greater of $500,000 or $600 per gross ton.

* This minimum gross ton limit does not apply to any vessel using the waters of the U.S. Exclusive Economic Zone to transship or lighter oil destined for a place subject to the jurisdiction of the United States (as specified in 33 CFR 138.12(a)(1)).

CG-5586-4

(II) Applicable Amount Under the Comprehensive Environmental Response, Compensation, and Liability Act, as Amended.

VESSEL TYPE	APPLICABLE AMOUNT
Vessel over 300 gross tons carrying hazardous substance as cargo	The greater of $5,000,000 or $300 per gross ton.
Any other vessel over 300 gross tons	The greater of $500,000 or $300 per gross ton.

(III) Total Applicable Amount = Maximum applicable amount calculated under (I) plus maximum applicable amount calculated under (II).

CG-5586-4

[FR Doc. 96–5238 Filed 3–6–96; 8:45 am]
BILLING CODE 4910–14–C

federal register

Thursday
March 7, 1996

Part V

Department of Health and Human Services

Food and Drug Administration

International Conference on Harmonisation; Draft Guideline for the Photostability Testing of New Drug Substances and Products; Availability; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96D–0010]

International Conference on Harmonisation; Draft Guideline for the Photostability Testing of New Drug Substances and Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a draft guideline entitled ''Guideline for the Photostability Testing of New Drug Substances and Products.'' The draft guideline was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft guideline describes the basic testing protocol for photostability testing of new drug substances and products in original new drug application (NDA) submissions. The draft guideline is an annex to the ICH guideline entitled ''Stability Testing of New Drug Substances and Products.''

DATES: Written comments by June 5, 1996.

ADDRESSES: Submit written comments on the draft guideline to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Copies of the draft guideline are available from the Division of Communications Management (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1012. An electronic version of this draft guideline is also available via Internet by connecting to the CDER file transfer protocol (FTP) server (CDVS2.CDER.FDA.GOV).

FOR FURTHER INFORMATION CONTACT:

Regarding the guideline: Robert J. Wolters, Center for Drug Evaluation and Research (HFD–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5300.

Regarding the ICH: Janet J. Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for tripartite harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products among three regions: The European Union, Japan, and the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations (IFPMA).

The ICH Steering Committee includes representatives from each of the ICH sponsors and the IFPMA, as well as observers from the World Health Organization, the Canadian Health Protection Branch, and the European Free Trade Area.

At a meeting held on November 29, 1995, the ICH Steering Committee agreed that a draft guideline entitled ''Guideline for the Photostability Testing of New Drug Substances and Products'' should be made available for public comment. The draft guideline is the product of the Quality Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Quality Expert Working Group. Ultimately, FDA intends to adopt the ICH Steering Committee's guideline.

In the Federal Register of September 22, 1994 (59 FR 48754), the agency published a guideline entitled ''Stability Testing of New Drug Substances and Products.'' The guideline addresses the generation of stability information for submission to FDA in NDA's for new molecular entities and associated drug products. In the discussion of ''stress testing'' for both drug substances and drug products, the guideline states that ''light testing'' should be an integral part of stress testing and will be considered in a separate ICH document.

This draft guideline is an annex to that guideline and describes the basic testing protocol for photostability testing of new drug substances and products in original NDA submissions.

In the past, guidelines have generally been issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to state procedures or standards of general applicability that are not legal requirements but are acceptable to FDA. The agency is now in the process of revising § 10.90(b). Although this guideline does not create or confer any rights on or for any person and does not operate to bind FDA in any way, it does represent the agency's current thinking on photostability testing of new drug substances and products.

Interested persons may, on or before June 5, 1996, submit written comments on the draft guideline to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guideline and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the draft guideline follows:

Guideline for the Photostability Testing of New Drug Substances and Products

I. General

The ICH Harmonized Tripartite Guideline covering the Stability Testing of New Drug Substances and Products (hereafter referred to as the parent guideline) notes that light testing should be an integral part of stress testing. This document is an annex to the parent guideline and addresses the recommendations for photostability testing.

A. Preamble

The intrinsic photostability characteristics of new drug substances and products should be evaluated to demonstrate that, as appropriate, light exposure does not result in unacceptable change. Normally, photostability testing is carried out on a single batch of material selected as described under ''Selection of Batches'' in the parent guideline. Under some circumstances, these studies should be repeated if certain variations and changes are made to the product (e.g., formulation, packaging). Whether these studies are repeated depends on the photostability characteristics determined at the time of initial filing and the type of variation and/or change made, but photostability testing is not part of stability studies for marketed products.

The guideline seeks to describe the basic testing protocol for photostability testing of

new drug substances and products at the time of the first submission. Alternative approaches are acceptable if they are scientifically sound and justification is provided.

A systematic approach to photostability testing is recommended covering, as appropriate, studies such as:

(i) Tests on the drug substance;

(ii) Tests on the exposed drug product outside of the immediate pack; and if necessary,

(iii) Tests on the drug product in the immediate pack; and if necessary,

(iv) Tests on the drug product in the marketing pack.

The extent of drug product testing should be established by assessing whether or not acceptable change has occurred at the end of the light exposure testing as described in the Decision Flow Chart for Photostability Testing of Drug Products. Acceptable change is change within limits justified by the applicant.

The formal labeling requirements for photolabile drug substances and drug products are established by national/regional requirements.

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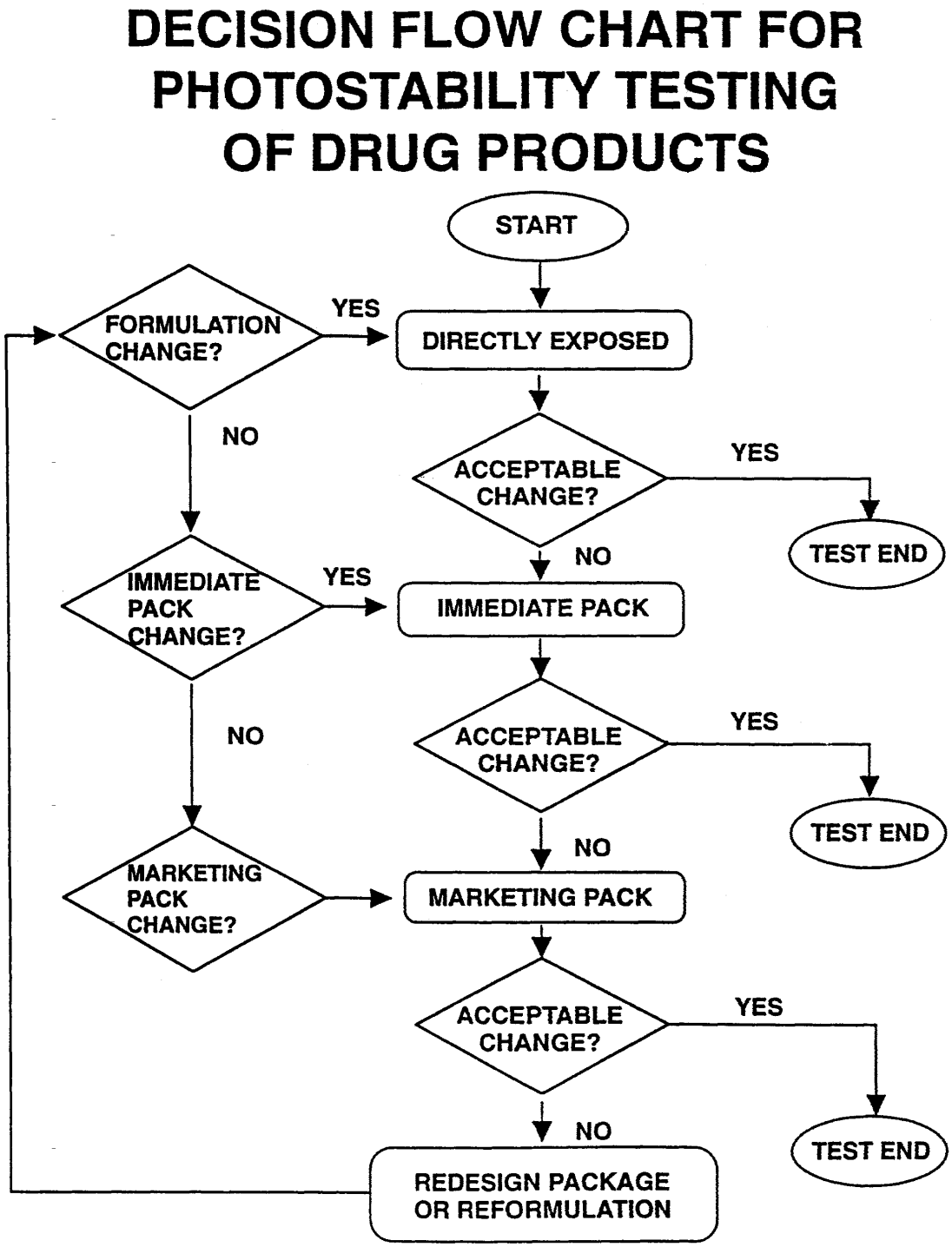

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B. Light Sources

The light sources described below may be used for photostability testing. To minimize the effect of localized temperature changes, the applicant should either maintain an appropriate control of temperature or include a dark control in the same environment unless otherwise justified. For both options 1 and 2, a pharmaceutical manufacturer/applicant may rely on the spectral distribution specification of the light source manufacturer.

Option 1

Any light source that is designed to produce an output similar to the D65/ID65 emission standard, such as an artificial daylight fluorescent lamp combining visible and ultraviolet (UV) outputs, xenon, or metal halide lamp. D65 is the internationally recognized standard for outdoor daylight as defined in ISO 10977 (1993). ID65 is the equivalent indoor indirect daylight standard. For a light source emitting significant radiation below 320 nanometers (nm), a window glass filter may be fitted to eliminate such radiation.

Option 2

1. A cool white fluorescent lamp as defined in ISO 10977 (1993); and
2. A near UV fluorescent lamp having a spectral distribution from 320 nm to 400 nm with a maximum energy emission between 350 nm and 370 nm; a significant proportion of UV should be in both bands of 320 to 360 nm and 360 to 400 nm.

C. Procedure

For confirmatory studies, samples should be exposed to light providing an overall illumination of not less than 1.2 million lux hours and an integrated near ultraviolet energy of not less than 200 watt hours/square meter to allow direct comparisons to be made between the drug substance and drug product.

Samples may be exposed side-by-side with a validated chemical actinometric system (e.g., quinine for near UV region) to ensure the specified light exposure is obtained, or for the appropriate duration of time when conditions have been monitored using calibrated radiometers/lux meters.

Any protected samples (e.g., wrapped in aluminum foil) used as dark controls should be placed alongside the authentic sample.

II. Drug Substance

For drug substances, photostability testing should consist of two parts: Forced degradation testing and confirmatory testing.

The purpose of forced degradation testing studies is to evaluate the overall photosensitivity of the material for method development purposes and/or degradation pathway elucidation. This testing may involve the drug substance alone and/or in simple solutions/suspensions to validate the analytical procedures. In these studies, the samples should be in chemically inert and transparent containers. In these forced degradation studies, a variety of exposure conditions may be used, depending on the photosensitivity of the drug substance involved and the intensity of the light sources used. For development and validation purposes, it is appropriate to limit exposure and end the studies if extensive decomposition occurs. For photostable materials, studies may be terminated after an appropriate exposure level has been used. The design of these experiments is left to the applicant's discretion although the exposure levels used should be justified.

Under forcing conditions, decomposition products may be observed that are unlikely to be formed under the conditions used for confirmatory studies. This information may be useful in developing and validating suitable analytical methods. If in practice it has been demonstrated they are not formed in the confirmatory studies, these degradation products need not be examined further.

Confirmatory studies should then be undertaken to provide the information necessary for handling, packaging, and labeling (see section I.C., Procedure, and II.A., Presentation, for information on the design of these studies).

Normally, only one batch of drug substance is tested during the development phase, and then the photostability characteristics should be confirmed on a single batch selected as described in the parent guideline if the drug is clearly photostable or photolabile. If the results of the confirmatory study are equivocal, testing of up to two additional batches should be conducted. Samples should be selected as described in the parent guideline.

A. Presentation of Samples

Care should be taken to ensure that the physical characteristics of the samples under test are taken into account and efforts should be made, such as cooling and/or placing the samples in sealed containers, to ensure that the effects of the changes in physical states such as sublimation, evaporation, or melting are minimized. All such precautions should be chosen to provide minimal interference with the exposure of samples under test. Possible interactions between the samples and any material used for containers or for general protection of the sample should also be considered and eliminated wherever not relevant to the test being carried out.

As a direct challenge for samples of solid drug substances, an appropriate amount of sample should be taken and placed in a suitable glass or plastic dish and protected with a suitable transparent cover if considered necessary. Solid drug substances should be spread across the container to give a thickness of typically not more than 3 millimeters. Drug substances that are liquids should be exposed in chemically inert and transparent containers.

B. Analysis of Samples

At the end of the exposure period, the samples should be examined for any changes in physical properties (e.g., appearance, clarity, or color of solution) and for assay and degradants by a method suitably validated for products likely to arise from photochemical degradation processes.

Where solid drug substance samples are involved, sampling should ensure that a representative portion is used in individual tests. Similar sampling considerations, such as homogenization of the entire sample, apply to other materials that may not be homogeneous after exposure. The analysis of the exposed sample should be performed concomitantly with that of any protected samples used as dark control if these are used in the test.

C. Judgment of Results

The forced degradation studies should be designed to provide suitable information to develop and validate test methods for the confirmatory studies. These test methods should be capable of resolving and detecting photolytic degradants that appear during the confirmatory studies. When evaluating the results of these studies, it is important to recognize that they form part of the stress testing and are not therefore designed to establish qualitative or quantitative limits for change.

The confirmatory studies should identify precautionary measures needed in manufacturing or in formulation of the drug product, and if light resistant packaging is needed. When evaluating the results of confirmatory studies to determine whether change due to exposure to light is acceptable, it is important to consider the results from other formal stability studies in order to assure that the drug will be within justified limits at time of use (see the relevant ICH Stability and Impurity Guidelines).

III. Drug Product

Normally, the studies on drug products should be carried out in a sequential manner starting with testing fully exposed product then progressing as necessary to product in the immediate pack and in the marketing pack. Testing should progress until the results demonstrate that the drug product is adequately protected from exposure to light. The drug product should be exposed to the light conditions described under the procedure in section I.C.

Normally, only one batch of drug product is tested during the development phase, and then the photostability characteristics should be confirmed on a single batch selected as described in the parent guideline if the product is clearly photostable or photolabile. If the results of the confirmatory study are equivocal, testing of up to two additional batches should be conducted.

For some products where the immediate pack is completely impenetrable to light, such as aluminum tubes or cans, which are intended for direct dispensing to the patient, testing should normally only be conducted on directly exposed drug product.

It may be appropriate to test certain products such as infusion liquids, and dermal creams, to support their photostability in-use. The extent of this testing should depend on and relate to the directions for use, and is left to the applicant's discretion.

The analytical procedures used should be suitably validated.

A. Presentation of Samples

Care should be taken to ensure that the physical characteristics of the samples under test are taken into account and efforts, such as cooling and/or placing the samples in sealed containers, should be made to ensure

that the effects of the changes in physical states are minimized, such as sublimation, evaporation, or melting. All such precautions should be chosen to provide minimal interference with the irradiation of samples under test. Possible interactions between the samples and any material used for containers or for general protection of the sample should also be considered and eliminated wherever not relevant to the test being carried out.

Where practicable when testing samples of the drug product outside of the primary pack, these should be presented in a way similar to the conditions mentioned for the drug substance. The samples should be positioned to provide maximum area of exposure to the light source. For example, tablets and capsules, should be spread in a single layer.

If direct exposure is not practical (e.g., due to oxidation of a product), the sample should be placed in a suitable protective inert transparent container (e.g., quartz).

If testing of drug product in the immediate container or as marketed is needed, the samples should be placed horizontally or transversely with respect to the light source, whichever provides for the most uniform exposure of the samples. Some adjustment of testing conditions may have to be made when testing large volume containers (e.g., dispensing packs).

B. Analysis of Samples

At the end of the exposure period, the samples should be examined for any changes in physical properties (e.g., appearance, clarity, or color of solution, dissolution/disintegration) and for assay and degradants by a method suitably validated for products likely to arise from photochemical degradation processes.

When powder samples are involved, sampling should ensure that a representative portion is used in individual tests. For solid oral dosage form products, testing should be conducted on an appropriately sized composite of, for example, 20 tablets or capsules. Similar sampling considerations, such as homogenization or solubilization of the entire sample, apply to other materials that may not be homogeneous after exposure (e.g., creams, ointments, suspensions). The analysis of the exposed sample should be performed concomitantly with that of any protected samples used as dark controls if these are used in the test.

C. Judgment of Results

Depending on the extent of change, special labeling or packaging may be necessary to mitigate exposure to light. When evaluating the results of photostability studies to determine whether change due to exposure to light is acceptable, it is important to consider the results obtained from other formal stability studies in order to assure that the product will be within proposed specifications during the shelf life (see the relevant ICH Stability and Impurity Guidelines).

IV. Annex

A. Quinine Chemical Actinometry

The following provides details of the primary actinometric procedure for monitoring exposure to the near UV region of the light source. The actinometric systems should be calibrated for the type of sources used.

Prepare a sufficient quantity of a 2 percent weight/volume aqueous solution of quinine monohydrochloride dihydrate (if necessary dissolve by heating). Put 10 milliliters (mL) of the solution into a 20 mL colorless ampoule, seal it hermetically, and use this as the sample. Separately, put 10 mL of the solution into a 20 mL colorless ampoule (see Note 1), seal it hermetically, wrap in aluminum foil to protect completely from light, and use this as the control. Expose the sample and control to the light source for an appropriate number of hours. After exposure, determine the absorbances of the sample (A_T) and the control (A_O) at 400 nm using a 1 centimeter (cm) pathway. Calculate the change in absorbance, $\Delta A = A_T - A_O$.

For near UV lamps, the length of the exposure should be sufficient to ensure a change in absorbance observed of at least 0.8.

Alternative packaging configurations (e.g., use of a 1 cm fused silica cell) may be used if appropriately validated. Alternative validated chemical actinometers may be used.

Note 1: Shape and Dimensions

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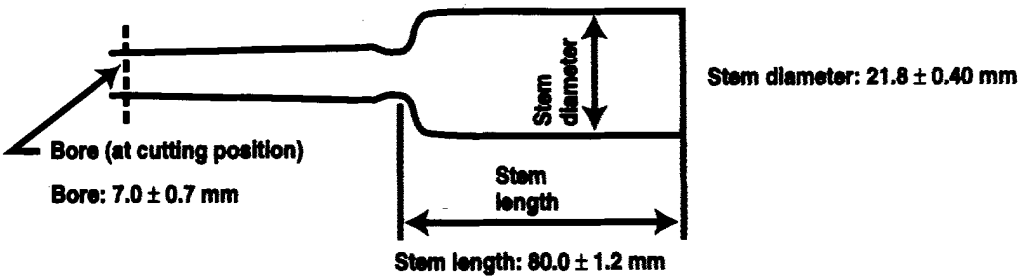

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V. Glossary

• Immediate (primary) pack is that constituent of the packaging that is in direct contact with the drug substance or drug product, and includes any appropriate label.

• Marketing pack is the combination of immediate pack and other secondary packaging such as a carton.

• Forced degradation testing studies are those undertaken to degrade the sample deliberately. These studies, which may be undertaken in the development phase normally on the drug substance, are used to evaluate the overall photosensitivity of the material for method development purposes and/or degradation pathway elucidation.

• Confirmatory studies are those undertaken to establish photostability characteristics under standardized conditions. These studies are used to identify precautionary measures needed in manufacturing or formulation and whether light-resistant packaging and/or special labeling is needed to mitigate exposure to light.

VI. Reference

Yoshioka, S. et al., ''Quinine Actinometry as a Method for Calibrating Ultraviolet Radiation Intensity in Light-Stability Testing of Pharmaceuticals,'' *Drug Development and Industrial Pharmacy*, 20(13):2049–2062, 1994.

Dated: February 27, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–5295 Filed 3–6–96; 8:45 am]

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federal register

Thursday
March 7, 1996

Part VI

Department of Health and Human Services

Food and Drug Administration

International Conference on Harmonisation; Draft Guideline on the Validation of Analytical Procedures: Methodology; Availability; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96D–0030]

International Conference on Harmonisation; Draft Guideline on the Validation of Analytical Procedures: Methodology; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a draft guideline entitled ''Validation of Analytical Procedures: Methodology.'' The draft guideline was prepared under the auspices of the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH). The draft guideline provides recommendations on how to consider various validation characteristics for each analytical procedure. The draft guideline is an extension to the ICH guideline entitled ''Text on Validation of Analytical Procedures.''

DATES: Written comments by June 5, 1996.

ADDRESSES: Submit written comments on the draft guideline to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Copies of the draft guideline are available from the Division of Communications Management (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1012. An electronic version of this draft guideline is also available via Internet by connecting to the CDER file transfer protocol (FTP) server (CDVS2.CDER.FDA.GOV).

FOR FURTHER INFORMATION CONTACT:

Regarding the guideline: Eric B. Sheinin, Center for Drug Evaluation and Research (HFD–830), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2001.

Regarding ICH: Janet J. Showalter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0864.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

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At a meeting held on November 29, 1995, the ICH Steering Committee agreed that a draft guideline entitled ''Validation of Analytical Procedures: Methodology'' should be made available for public comment. The draft guideline is the product of the Quality Expert Working Group of the ICH. Comments about this draft will be considered by FDA and the Quality Expert Working Group. Ultimately, FDA intends to adopt the ICH Steering Committee's final guideline.

In the Federal Register of March 1, 1995 (60 FR 11260), the agency published a final guideline entitled ''Text on Validation of Analytical Procedures.'' The guideline presents a discussion of the characteristics that should be considered during the validation of the analytical procedures included as part of registration applications submitted in Europe, Japan, and the United States. The guideline discusses common types of analytical procedures and defines basic terms, such as ''analytical procedure,'' ''specificity,'' and ''precision.'' These terms and definitions are meant to bridge the differences that often exist between various compendia and regulators of the European Union, Japan, and the United States.

This draft guideline provides guidance and recommendations on how to consider the various validation characteristics for each analytical procedure. In some cases (for example, the demonstration of specificity), the overall capabilities of a number of analytical procedures in combination may be investigated to ensure the quality of the drug substance or drug product.

In the past, guidelines have generally been issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to state procedures or standards of general applicability that are not legal requirements but are acceptable to FDA. The agency is now in the process of revising § 10.90(b). Although this draft guideline does not create or confer any rights for or on any person and does not operate to bind FDA, it does represent the agency's current thinking on the validation of analytical procedures.

Interested persons may, on or before June 5, 1996, submit written comments on the draft guideline to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The draft guideline and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

The text of the draft guideline follows:

Extension of ICH Text on Validation of Analytical Procedures: Methodology

Introduction

This document is complementary to the ICH guideline entitled ''Text on Validation of Analytical Procedures,'' which presents a discussion of the characteristics that should be considered during the validation of analytical procedures. Its purpose is to provide some guidance and recommendations on how to consider the various validation characteristics for each analytical procedure. In some cases, for example, demonstration of specificity, the overall capabilities of a number of analytical procedures in combination may be investigated in order to ensure the quality of the drug substance or drug product. In addition, the document provides an indication of the data that should be presented in a new drug application.

All relevant data collected during validation and formulae used for calculating

validation characteristics should be submitted and discussed as appropriate.

Approaches other than those set forth in this guideline may be applicable and acceptable. It is the responsibility of the applicant to choose the validation procedure and protocol most suitable for their product. However, it is important to remember that the main objective of validation of an analytical procedure is to demonstrate that the procedure is suitable for its intended purpose. Due to their complex nature, analytical procedures for biological and biotechnological products in some cases may be approached differently than in this document.

Well-characterized reference materials, with documented purity, should be used throughout the validation study. The degree of purity required depends on the intended use.

In accordance with the parent document, and for the sake of clarity, this document considers the various validation characteristics in distinct sections. The arrangement of these sections reflects the process by which an analytical procedure may be developed and evaluated.

In practice, it is usually possible to design the experimental work such that the appropriate validation characteristics can be considered simultaneously to provide a sound, overall knowledge of the capabilities of the analytical procedure, for instance: Specificity, linearity, range, accuracy, and precision.

1. Specificity

An investigation of specificity should be conducted during the validation of identification tests, the determination of impurities, and the assay. The procedures used to demonstrate specificity will depend on the intended objective of the analytical procedure.

It is not always possible to demonstrate that an analytical procedure is specific for a particular analyte (complete discrimination). In this case, a combination of two or more analytical procedures is recommended to achieve the necessary level of discrimination.

1.1. Identification

Suitable identification tests should be able to discriminate between compounds of closely related structures which are likely to be present. The discrimination of a procedure may be confirmed by obtaining positive results (perhaps by comparison with a known reference material) from samples containing the analyte, coupled with negative results from samples which do not contain the analyte. In addition, the identification test may be applied to materials structurally similar to or closely related to the analyte to confirm that a positive response is not obtained. The choice of such potentially interfering materials should be based on sensible scientific judgment with a consideration of the interferences that could occur.

1.2. Assay and Impurity Test(s)

For chromatographic procedures, representative chromatograms should be used to demonstrate specificity, and individual components should be appropriately labeled. Similar considerations should be given to other separation techniques.

Critical separations in chromatography should be investigated at an appropriate level. For critical separations, specificity can be demonstrated by the resolution of the two components which elute closest to each other.

In cases where a nonspecific assay is used, other supporting analytical procedures should be used to demonstrate overall specificity. For example, where a titration is adopted to assay the drug substance, the combination of the assay and a suitable test for impurities can be used.

The approach is similar for both assay and impurity tests:

1.2.1. Impurities are available

• For the assay, this should involve demonstration of the discrimination of the analyte in the presence of impurities and/or excipients; practically, this can be done by spiking pure substances (drug substance or drug product) with appropriate levels of impurities and/or excipients and demonstrating that the assay result is unaffected by the presence of these materials (by comparison with the assay result obtained on unspiked samples).

• For the impurity test, the discrimination may be established by spiking drug substance or drug product with appropriate levels of impurities and demonstrating the separation of these impurities individually and/or from other components in the sample matrix. Alternatively, for less discriminating procedures, it may be acceptable to demonstrate that these impurities can still be determined with appropriate accuracy and precision.

1.2.2. Impurities are not available

If impurity or degradation product standards are unavailable, specificity may be demonstrated by comparing the test results of samples containing impurities or degradation products to a second well-characterized procedure, e.g., pharmacopoeial method or other validated analytical procedure (independent procedure). As appropriate, this should include samples stored under relevant stress conditions: Light, heat, humidity, acid/base hydrolysis, and oxidation.

• For the assay, the two results should be compared.

• For the impurity tests, the impurity profiles should be compared.

Peak purity tests may be useful to show that the analyte chromatographic peak is not attributable to more than one component (e.g., diode array, mass spectrometry).

2. Linearity

Linearity should be established across the range (see section 3) of the analytical procedure. It may be demonstrated directly on the drug substance (by dilution of a standard stock solution) and/or separate weighings of synthetic mixtures of the drug product components, using the proposed procedure. The latter aspect can be studied during investigation of the range.

Linearity should be established by visual evaluation of a plot of signals as a function of analyte concentration or content. If there is a linear relationship, test results should be evaluated by appropriate statistical methods, for example, by calculation of a regression line by the method of least squares. In some cases, to obtain linearity between assays and sample concentrations, the test data may have to be subjected to a mathematical transformation prior to the regression analysis. Data from the regression line itself may be helpful to provide mathematical estimates of the degree of linearity. The correlation coefficient, y-intercept, slope of the regression line, and residual sum of squares should be submitted. A plot of the data should be included. In addition, an analysis of the deviation of the actual data points from the regression line may also be helpful for evaluating linearity.

Some analytical procedures such as immunoassays do not demonstrate linearity after any transformation. In this case, the analytical response should be described by an appropriate function of the concentration (amount) of an analyte in a sample.

For the establishment of linearity, a minimum of 5 concentrations is recommended. Other approaches should be justified.

3. Range

The specified range is normally derived from linearity studies and depends on the intended application of the procedure. It is established by confirming that the analytical procedure provides an acceptable degree of linearity, accuracy, and precision when applied to samples containing amounts of analyte within or at the extremes of the specified range of the analytical procedure.

The following minimum specified ranges should be considered:

• For the assay of a drug substance or a finished product, from 80 to 120 percent of the test concentration;

• For the determination of an impurity, from the quantitation limit (QL) or from 50 percent of the specification of each impurity, whichever is greater, to 120 percent of the specification; and

• For impurities known to be unusually potent or to produce toxic or unexpected pharmacological effects, the detection/quantitation limit should be commensurate with the level at which the impurities must be controlled.

Note: For validation of impurity test procedures carried out during development, it may be necessary to consider the range around a suggested (probable) limit;

• If assay and purity are performed together as one test and only a 100 percent standard is used, linearity should cover the range from QL or from 50 percent of the specification of each impurity, whichever is greater, to 120 percent of the assay specification;

• For content uniformity, covering a minimum of 70 to 130 percent of the test concentration, unless a wider more appropriate range based on the nature of the dosage form (e.g. metered dose inhalers) is justified;

• For dissolution testing, +/-20 percent over the specified range. For example, if the specifications for a controlled released product cover a region from 20 percent, after

1 hour, up to 90 percent, after 24 hours, the validated range would be 0–110 percent of the label claim.

4. Accuracy

Accuracy should be established across the specified range of the analytical procedure.

4.1. Assay

4.1.1. Drug substance:

Several methods of determining accuracy are available:

(a) Application of an analytical procedure to an analyte of known purity (e.g., reference material);

(b) Comparison of the results of the proposed analytical procedure with those of a second well-characterized procedure, the accuracy of which is stated and/or defined (independent procedure, see section 1.2.);

(c) Accuracy may be concurrently determined when precision, linearity, and specificity data are acquired.

4.1.2. Drug product:

Several methods for determining accuracy are available:

(a) Application of the analytical procedure to synthetic mixtures of the drug product components to which known quantities of the drug substance to be analyzed have been added;

(b) In cases where it is impossible to obtain samples of all drug product components, it may be acceptable either to add known quantities of the analyte to the drug product or to compare the results obtained from a second, well-characterized procedure, the accuracy of which is stated and/or defined (independent procedure, see section 1.2).

(c) Accuracy may be concurrently determined when precision, linearity, and specificity data are acquired.

4.2. Impurities (Quantitation)

Accuracy should be assessed on samples (drug substance/drug product) spiked with known amounts of impurities.

In cases where it is impossible to obtain samples of certain impurities and/or degradation products, it is acceptable to compare results obtained by an independent procedure (see section 1.2.). The response factor of the drug substance can be used.

4.3. Recommended Data:

Accuracy should be assessed using a minimum of 9 determinations over a minimum of 3 concentration levels covering the specified range (e.g., 3 concentrations/3 replicates each).

Accuracy should be reported as percent recovery by the assay of known added amount of analyte in the sample or as the difference between the mean and the accepted true value together with the confidence intervals.

5. Precision

Validation of tests for assay and for quantitative determination of impurities includes an investigation of precision.

5.1. Repeatability

Repeatability should be assessed using:

(a) A minimum of 9 determinations covering the specified range for the procedure (e.g., 3 concentrations/3 replicates each); or

(b) A minimum of 6 determinations at 100 percent of the test concentration.

5.2. Intermediate Precision

The extent to which intermediate precision should be established depends on the circumstances under which the procedure is intended to be used. The applicant should establish the effects of random events on the precision of the analytical procedure. Typical variations to be studied include days, analysts, equipment, etc. It is not necessary to study these effects individually. The use of an experimental design (matrix) is encouraged.

5.3. Reproducibility

Reproducibility is assessed by means of an interlaboratory trial. Reproducibility should be considered in case of the standardization of an analytical procedure, for instance, for inclusion of procedures in pharmacopoeias. These data are not part of the marketing authorization dossier.

5.4. Recommended Data

The standard deviation, relative standard deviation (coefficient of variation), and confidence interval should be reported for each type of precision investigated.

6. Detection Limit

Several approaches for determining the detection limit are possible, depending on whether the procedure is noninstrumental or instrumental. Approaches other than those listed below may be acceptable.

6.1. Based on Visual Evaluation

Visual evaluation may be used for non-instrumental methods but may also be used with instrumental methods.

The detection limit is determined by the analysis of samples with known concentrations of analyte and by establishing the minimum level at which the analyte can be reliably detected.

6.2. Based on Signal-to-Noise

This approach can only be applied to analytical procedures which exhibit baseline noise. Determination of the signal-to-noise ratio is performed by comparing measured signals from samples with known low concentrations of analyte with those of blank samples and establishing the minimum concentration at which the analyte can be reliably detected. A signal-to-noise ratio between 3 or 2:1 is generally acceptable.

6.3 Based on the Standard Deviation of the Response and the Slope

The detection limit (DL) may be expressed as:

$$DL = \frac{3.3\,\sigma}{S}$$

where σ = the standard deviation of the response

S = the slope of the calibration curve

The slope S may be estimated from the calibration curve of the analyte. The estimate of σ may be carried out in a variety of ways, for example:

6.3.1. Based on the Standard Deviation of the Blank

Measurement of the magnitude of analytical background response is performed by analyzing an appropriate number of blank samples and calculating the standard deviation of these responses.

6.3.2. Based on the Calibration Curve

A specific calibration curve should be studied using samples containing an analyte in the range of DL. The residual standard deviation of a regression line or the standard deviation of y-intercepts of regression lines may be used as the standard deviation.

6.4. Recommended Data

The detection limit and the method used for determining the detection limit should be presented.

In cases where an estimated value for the detection limit is obtained by calculation or extrapolation, this estimate may subsequently be validated by the independent analysis of a suitable number of samples known to be near or prepared at the detection limit.

7. Quantitation Limit

Several approaches for determining the quantitation limit are possible, depending on whether the procedure is non-instrumental or instrumental. Approaches other than those listed below may be acceptable.

7.1. Based on Visual Evaluation

Visual evaluation may be used for non-instrumental methods, but may also be used with instrumental methods.

The quantitation limit is generally determined by the analysis of samples with known concentrations of analyte and by establishing the minimum level at which the analyte can be quantified with acceptable accuracy and precision.

7.2. Based on Signal-to-Noise

This approach can only be applied to analytical procedures which exhibit baseline noise. Determination of the signal-to-noise ratio is performed by comparing measured signals from samples with known low concentrations of analyte with those of blank samples and by establishing the minimum concentration at which the analyte can be reliably quantified. A typical signal-to-noise ratio is 10:1.

7.3. Based on the Standard Deviation of the Response and the Slope

The quantitation limit (QL) may be expressed as:

$$QL = \frac{10\,\sigma}{S}$$

where σ = the standard deviation of the response

S = the slope of the calibration curve

The slope S may be estimated from the calibration curve of the analyte. The estimate of σ may be carried out in a variety of ways, for example:

7.3.1. Based on Standard Deviation of the Blank

Measurement of the magnitude of analytical background response is performed by analyzing an appropriate number of blank samples and calculating the standard deviation of these responses.

7.3.2. Based on the Calibration Curve

A specific calibration curve should be studied using samples, containing an analyte in the range of QL. The residual standard deviation of a regression line or the standard deviation of y-intercepts of regression lines may be used as the standard deviation.

7.4 Recommended Data

The quantitation limit and the method used for determining the quantitation limit should be presented.

The limit should be subsequently validated by the analysis of a suitable number of samples known to be near or prepared at the quantitation limit.

8. Robustness

The evaluation of robustness should be considered during the development phase and depends on the type of procedure under study. It should show the reliability of an analysis with respect to deliberate variations in method parameters.

If measurements are susceptible to variations in analytical conditions, the analytical conditions should be suitably controlled or a precautionary statement should be included in the procedure. One consequence of the evaluation of robustness should be that a series of system suitability parameters (e.g., resolution test) is established to ensure that the validity of the analytical procedure is maintained whenever used.

Typical variations are:

- Stability of analytical solutions
- Different equipment
- Different analysts

In the case of liquid chromatography, typical variations are:

- Influence of variations of pH in a mobile phase
- Influence of variations in mobile phase composition
- Different columns (different lots and/or suppliers)
- Temperature
- Flow rate

In the case of gas-chromatography, typical variations are:

- Different columns (different lots and/or suppliers)
- Temperature
- Flow rate

9. System Suitability Testing

System suitability testing is an integral part of many analytical procedures. The tests are based on the concept that the equipment, electronics, analytical operations, and samples to be analyzed constitute an integral system that can be evaluated as such. System suitability test parameters to be established for a particular procedure depend on the type of procedure being validated. See Pharmacopoeias for additional information.

Dated: February 27, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–5296 Filed 3–6–96; 8:45 am]

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H.R. 1718/P.L. 104–112

To designate the United States courthouse located at 197 South Main Street in Wilkes-Barre, Pennsylvania, as the ''Max Rosenn United States Courthouse''. (Mar. 5, 1996; 110 Stat. 774)

Last List February 15, 1996